

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 09-170

2010 CORE ENERGY EFFICIENCY PROGRAMS

Core Energy Efficiency Programs

Order Approving Settlement Agreement

ORDER NO. 25,062

January 5, 2010

APPEARANCES: Gerald M. Eaton, Esq., on behalf of Public Service Company of New Hampshire; Orr & Reno P.A. by Susan S. Geiger, Esq., on behalf of Unitil Energy Systems, Inc.; McLane, Graf, Raulerson & Middleton by Sarah B. Knowlton, Esq., on behalf of Granite State Electric Company d/b/a National Grid, Inc.; Devine, Millimet & Branch, P.A. by Robert E. Dunn, Jr., Esq., on behalf of New Hampshire Electric Cooperative; New Hampshire Legal Assistance by Alan Linder, Esq., on behalf of The Way Home; Dana Nute on behalf of the Community Action Association; D. Dickinson Henry, Jr. on behalf of The Jordan Institute; Russ Aney on behalf of US Energy Savers, LLC; Eric Steltzer on behalf of the Office of Energy and Planning; Elizabeth Fischer on behalf of the Home Builders & Remodelers Association of New Hampshire; Office of Consumer Advocate by Meredith A. Hatfield, Esq., on behalf of residential ratepayers; and Suzanne G. Amidon, Esq., on behalf of the Staff of the Public Utilities Commission.

I. PROCEDURAL HISTORY

On September 30, 2009, Granite State Electric Company d/b/a National Grid (National Grid), New Hampshire Electric Cooperative, Inc. (NHEC), Public Service Company of New Hampshire (PSNH) and Unitil Energy Systems, Inc. (UES) (collectively the “Utilities”) filed a joint proposal for the 2010 Core energy efficiency programs. The Core energy efficiency programs are funded through the System Benefits Charge (SBC) paid by electric customers and authorized by RSA 374-F:3, VI and through ISO-NE Forward Capacity Market (FCM) proceeds. In this filing, the Utilities seek to continue, with certain modifications, the statewide programs

previously approved in Docket No. DE 08-120, Order No. 24,930 (January 5, 2009) and implemented during calendar year 2009.

On October 1, 2009, the Commission issued an Order of Notice scheduling a prehearing conference and technical session for October 14, 2009. On October 6, 2009, the Office of Consumer Advocate (OCA) entered an appearance on behalf of residential ratepayers pursuant to RSA 363:28. On October 7, 2009, the Commission received a petition for intervention from the New Hampshire Office of Energy and Planning (OEP). The Commission received petitions to intervene from the Community Action Association (CAA) and the Home Builders and Remodelers Association of New Hampshire (HBRANH) on October 8, 2009. On October 9, 2009, the Jordan Institute and The Way Home (TWH) filed petitions to intervene.

The pre-hearing conference took place as scheduled and all pending requests for intervention were granted. The Parties and Staff met in a technical session following the pre-hearing conference and agreed to a procedural schedule for the duration of the docket. By Secretarial Letter dated October 23, 2009, the Commission adopted the proposed procedural schedule noting that if an order is not issued in this docket by December 31, 2009, the utilities are authorized to continue their programs.

On October 27, 2009, US Energy Savers, LCC (USES), filed a petition for intervention that was granted at the hearing. On October 30, 2009, the Parties and Staff met for a technical session. On November 6, 2009, Staff filed the testimony of James J. Cunningham Jr., the OCA filed the testimony of Stephen R. Eckberg, and TWH filed the testimony of Roger D. Colton. On November 12, 2009, the Parties and Staff met to discuss the Audit Reports prepared by the Commission Audit Staff. The Parties and Staff also met in technical sessions on November 13, December 1, and December 14, 2009.

On December 9, 2009, PSNH filed a motion for protective treatment of customer specific information provided in response to data request Staff-01, Q-STAFF-053-REV01. The data request asked for customer-specific information regarding participants in PSNH's Commercial and Industrial (C&I) Request for Proposals program. The following parties filed rebuttal testimony on December 9, 2009: Roger D. Colton, on behalf of TWH; Thomas Palma for UES; Jeremy Newberger for National Grid; Carol Woods for NHEC; Gilbert E. Gelineau Jr. for PSNH; Stephen R. Eckberg and Kenneth E. Traum, for the OCA; and Data Nute, for the CAA. Also on December 9, 2009, Staff filed the supplemental testimony of James J. Cunningham, Jr.

On December 16, 2009, Staff filed a letter informing the Commission that the Parties and Staff had reached an agreement in principle for the 2010 Core programs and requested a waiver of Puc 203.20 to allow for the late filing of the agreement. Staff filed the Settlement Agreement on December 18, 2009. In the cover letter, Staff said that the Parties were aware of a legislative proposal to increase the low income portion of the SBC and commensurately reduce the energy efficiency portion for a limited period of time. Staff explained that the Settlement Agreement did not take into account the potential statutory change that would reduce energy efficiency funds by about \$3.5 million.

The hearing took place as scheduled on December 22, 2009. At the hearing, the Commission granted Staff's request for waiver from the filing requirements in Puc 203.20(f).

II. INITIAL FILING

The Utilities noted that the Core programs are designed to be consistent throughout the State with equal access for any eligible customer, subject to available funds. In 2010, the Utilities proposed collectively to continue offering the current menu of efficiency programs as follows: 1) the Energy Star Homes program, 2) the Home Performance with Energy Star

program, 3) the Energy Star Lighting program, 4) the Energy Star Appliance program, 5) the Home Energy Assistance (HEA) program for low income customers, 6) the New Equipment and Construction program for large C&I customers, 7) the large C&I Retrofit program, 8) the Small Business Energy Solutions program, and 9) educational programs. The Utilities also proposed to continue certain utility-specific programs available only in their individual utility service territories as follows: 1) NHEC's Load Management System, Smart Start program and High Efficiency Heat Pump program; 2) PSNH's specific adaptations of programs for C&I customers as well as its Smart Start program, Geothermal and Air Source Heat Pump program enhancements for Energy Star Homes program, and educational programs targeted to C&I customers; and 3) UES' Energy Efficiency Website.

As recited in the proposal, the Core energy efficiency programs were originally funded solely from a portion of the System Benefits Charge paid by electric ratepayers. The filing stated that, consistent with prior years, the Core program budget funds have been supplemented by Forward Capacity Market (FCM) proceeds from the Independent System Operator–New England (ISO–NE). Through the FCM, all demand resources installed after June 16, 2006 are eligible to receive capacity payments in accordance with ISO–NE's market rules. As of the time of the filing, the Utilities stated that they expect to receive approximately \$1,537,400 in FCM proceeds to support the 2010 Core programs. As filed, the Utilities proposed to devote the first 14.0 percent of FCM payments to the HEA program and allocate the remaining funds as follows: 70 percent for C&I programs, and 30 percent for residential programs. Overall, the Utilities asked the Commission for authority to spend \$20.8 million on statewide Core and utility-specific programs.

The Utilities proposed to continue the Core management team to oversee all Core program activities and to resolve problems as they arise. The management team will continue to be comprised of representatives from each utility and will make decisions by consensus with one member specifically designated as the liaison with Parties and Staff.

The proposal notes that, pursuant to a settlement agreement approved by the Commission in *Granite State Electric Company et al.*, Order No. 24,599 (91 NH PUC 117) (March 17, 2006), Staff has the primary responsibility for monitoring and evaluating (M&E) the Core programs, taking into account the recommendations of the Utilities. The filing proposed several M&E undertakings for 2010 including the following priority activities: (1) Multi-Year Evaluation Plan, (2) Energy Star Lighting Program Impact Evaluation, (3) Small Business Energy Solutions Program Impact Evaluation, (4) C&I New Equipment and Construction Program Impact evaluation, (5) Home Energy Solutions Fuel-Neutral Pilot Program evaluation, and (6) regional projects including NEEP Regional Evaluation, Measurement and Verification Forum activities.

The filing stated that the Commission authorized PSNH and UES to conduct a fuel-neutral pilot program for 2009. Order No. 24,974 (June 4, 2009). PSNH and UES proposed to continue the fuel-blind approach to the Home Performance with Energy Star program and requested that the Commission approve the program as a Core offering with no limits on the number of participants. With respect to funding for the HEA program, the Utilities presented budgets that allocated approximately 14 percent of the Core funds to support the program.

As they have done in the past, the Utilities requested authority in this filing to continue multi-year approval of customer projects so that the Utilities are able to make commitments to customers who have presented definitive plans for projects to be completed in subsequent years. The Utilities stated that all customer classes currently eligible to participate in the Core programs

would be eligible for multi-year project approval. The Utilities proposed that the multi-year authority apply to the state-wide Core programs and utility-specific programs.

The Utilities also proposed that the Commission approve the continuation of the budget adjustment guidelines currently in place, which preclude movement of funds between the residential and commercial sectors unless specifically approved by the Commission. Pursuant to this policy, budget transfers between individual programs within a customer sector of up to 20 percent of the individual program's budget may be made without Commission approval provided that Staff and interested parties are notified. In addition, budget transfers between individual programs within a single customer sector of greater than 20 percent of the individual program's budget must be filed with the Commission. Staff and interested parties may file comments with the Commission within two weeks of the Utilities' filing. If no action has been taken by Staff and interested parties, the budget transfer requests shall be deemed approved unless the Commission notifies the company of the need for a more in-depth review within 30 days of the filing. The policy provides that no funds may be transferred out of the HEA Program without the prior approval of the Commission.

The Utilities recommend that they be allowed to continue to calculate performance incentives in accordance with Commission Order No. 24,203 (September 5, 2003) and Order No. 23,574, 85 NH PUC 684 (November 1, 2000). The Utilities stated that the current incentive mechanism fosters efficient program implementation efforts and the achievement of program goals while retaining most funding for program efforts and holds each utility accountable for meeting their individual program goals.

III. TESTIMONY OF THE PARTIES AND STAFF

A. The Way Home

In his testimony on behalf of The Way Home, Roger Colton recommended that the HEA program be funded by a formula that would allow the HEA program to reach 50 percent of all remaining low income customers within a 10-year period. To implement this funding principle, Mr. Colton provided additional recommendations as follows: a 14 percent budget allocation to low income programs for 2010; a ramp-up of the low income budget over five years (2011 to 2015); and a formula-based approach for the subsequent five years (2016-2020).

In his rebuttal testimony, Mr. Colton criticized Staff's proposed formula for setting the HEA program budget, observing that the formula was not developed with the goal of serving low income customers, but only to establish a dollar limit for the program.

B. Community Action Association

In rebuttal testimony, the CAA took no position on Staff's original and revised formula for the HEA program budget; however, the CAA stated support for the Utilities' filing, which would use 14 percent of the 2010 Core funds for the HEA program.

C. Public Service Company of New Hampshire

In his rebuttal testimony, Gilbert E. Gelineau, Jr. addressed several issues that had been raised in the testimony of Staff, the Commission Staff Audit and the OCA. Mr. Gelineau stated that the Commission Staff Audit found that PSNH had not been collecting interest on FCM revenues and the 2 percent of SBC funds that PSNH set aside for its own energy efficiency use pursuant to RSA 125-O:5. According to Mr. Gelineau PSNH did not collect interest on these funds because the Commission had not ordered the collection of interest. He testified, however,

that PSNH would begin collecting interest on the FCM and SBC set-aside funds if so ordered by the Commission.

Mr. Gelineau noted that the Commission Staff Audit had suggested that penalties could be assessed against PSNH because it had exceeded the per-customer rebate cap with respect to two C&I customers, resulting in total overpayment of \$29,029. Mr. Gelineau said that the penalties are not warranted because the rebates delivered energy savings consistent with the Core program goals.

He also requested that the Commission revisit its decision in Order No. 24,974 (June 4, 2009) which calculates the performance incentive that PSNH or UES can earn in the fuel-blind pilot on the basis of electric savings only. He urged that PSNH and UES be allowed to earn a performance incentive for expenditures for non-electric benefits as part of the pilot program. Finally, Mr. Gelineau stated that it was appropriate to pay the Utilities' costs of the Commission Staff Audit from the SBC.

D. Granite State Electric Company d/b/a National Grid

In rebuttal testimony, Jeremy Newberger of National Grid recommended that the Commission authorize the inclusion of the 15% discount pertaining to customer lump sum payments as part of the Small Business Energy Solutions (SBES) Core program cost. His recommendation was made in response to the Commission Staff Audit, which reported that the SBES program discounts had not been formally approved by the Commission. In addition, Mr. Newberger recommended that certain recycling services be included in the SBES Core program cost.

E. New Hampshire Electric Cooperative, Inc.

In rebuttal testimony, NHEC addressed OCA's recommendation that SBC funds not be used to support the NHEC Load Management program. Ms. Woods requested that the SBC funding of the Load Management program continue as provided in the Core filing. She also stated that NHEC would provide information to support the benefits of the Load Management Program.

F. Unitil Energy Systems, Inc.

Thomas Palma of UES filed rebuttal testimony in which he recommended, among other things, that the Commission allow performance incentives on the non-electric portion of the 2010 budget for the Home Performance with Energy Star fuel neutral program. He agreed with the Commission Staff audit recommendations concerning the accounting for FCM revenue and expenses, including the recommendation that interest on FCM revenues should be calculated and included with the Core programs. He also agreed with PSNH's recommendation that the recovery of costs associated with Utilities' responses to Commission Staff audit requests be paid for by SBC funds. Finally, UES recommended that the expenses related to its website tools be included with Core programs for cost recovery.

G. Office of Consumer Advocate

In prefiled testimony, Stephen R. Eckberg recommended that the Commission approve the Utilities' proposed allocation of 14 percent of the 2010 SBC funds for the HEA program. Regarding NHEC's Load Management Program, OCA stated that that the program should not be supported by SBC monies because NHEC has not provided evidence that the program produced benefits. He also recommended that the Commission authorize the continuation of the proposed fuel-neutral version of the Home Performance with Energy Star during 2010. Regarding the

2009 Commission Staff Audit, OCA opined that any costs incurred by the Core utilities directly attributable to these audits should not be paid for with SBC funds.

OCA recommended that performance incentives be reviewed and revised to reflect the development of more advanced metrics and goals, which could focus on program achievements. In addition, Mr. Eckberg stated that the Utilities need to design residential programs that present the customer with a package of improvements that could qualify for Core or other funding or tax credits. Finally, he recommended that the Commission direct the Parties and Staff to engage an M&E consultant to develop a general framework for M&E for the Core programs as early as practicable in 2010.

In rebuttal testimony, the OCA recommended that the Commission fine PSNH for failing to file reports as pursuant to RSA 125-O:5, II. According to the law, PSNH can use up to 2 percent of SBC funds that are not encumbered in the prior year for PSNH's own energy efficiency projects. PSNH did use money as authorized by the statute but failed to file the necessary reports to the Commission. With respect to the unspent SBC balances, the OCA also recommended that PSNH be required to accrue interest on the balances and to credit such interest to the Core program fund.

The OCA repeated its recommendation that the Commission approve the Utilities proposal to allocate 14 percent of the SBC funds to support the HEA Program. In addition, Mr. Eckberg and Mr. Traum recommended the cost-effectiveness of the Home Improvement with Energy Star program include both energy savings from heating fuels as well as electric related kilowatt hour (kWh) savings. Mr. Eckberg also stated that the Utilities' marketing expense should be investigated. Finally, Mr. Eckberg and Mr. Traum recommended that the Commission investigate whether the Utilities are meeting their goals in the overall Core program budgets.

H. Commission Staff

In direct testimony, Staff said that the Commission should not allow a full-scale implementation of the Home Performance with Energy Star program (formerly called the Home Energy Solutions (HES) program). In lieu of that, Staff recommended that the Commission authorize the continuation of the existing 2009 HES program for another year, as well as the 2009 fuel-neutral pilot program, to provide the Utilities greater data on which to measure its effectiveness.

Staff also recommended that, in lieu of approving the proposed 14 percent allocation of SBC funds to the HEA program, the Commission approve a formula developed by Staff that could be used to calculate the HEA budget. According to Staff, its formula results in a 13.5 percent allocation of SBC funds to the HEA program.

Staff also requested that the Commission approve the amounts provided by the Utilities for 2008 performance incentives, modified by certain adjustments reflected in the Commission Staff audit report. Staff also recommended more timely filing of performance incentive reports to facilitate earlier review of those reports.

In his supplemental testimony, Mr. Cunningham provided responsive information regarding the formula he used to calculate the HEA low income budget allocation. Specifically, Staff corrected the starting point of the formula to incorporate a more accurate split between residential and C&I funding sources. Based on this change, Staff recommended an HEA low income budget allocation of 11.68 percent of the total Core budget.

IV. SETTLEMENT AGREEMENT

The Settlement Agreement (Settlement) was entered into among National Grid, NHEC, PSNH UES, OCA, CAA, OEP, TWH, The Home Builders & Remodelers Association of New

Hampshire (together, the Settling Parties) and Staff. The Jordan Institute and USES did not sign the Settlement. The Settling Parties and Staff agree that it is consistent with the public interest for the Commission to approve the Utilities' 2010 Core proposal as modified by the Settlement.

Pursuant to the Settlement, the Core management team will meet monthly instead of quarterly. At the monthly meetings, the Core management team will address the following issues: the selection of a consultant for the development of a multi-year evaluation plan and the review of performance incentives, marketing, education and outreach (including improvement of the NH Saves website), the level of rebates, the vendor selection process, and the findings of the 2009 Commission Staff audits. In addition, the Core management team will consider whether NHEC's Load Management System should be funded by the SBC, and planning for the 2011 integration of program delivery with the New Hampshire natural gas utility energy efficiency programs.

The Settling Parties and Staff agree that the initial monthly meeting in January 2010 will address the Utilities' marketing and education plan for 2010 and the C&I programs for the 2011 Core program filing. Quarterly reports will continue to be filed no later than 45 days after the end of the quarter with the exception of the report for the last quarter of the year, which shall be filed 60 days after the end of the year. Pursuant to the Settlement Agreement, the Core management team will review the quarterly reports once they are issued. In addition, PSNH will include information in its quarterly reports regarding its use of SBC funds as authorized by RSA 125-O:5. The Settling Parties and Staff also agree that the Utilities will file performance incentive reports by June 1 of each year for the prior year, and will include a year-end reconciliation to document and identify any carry forward balances.

The Settling Parties and Staff agree that costs incurred by the Utilities directly attributable to the Commission Staff audits shall be charged to the administrative expense portion of the 2010 Core program budget and that such costs shall be recoverable through funds collected from the SBC. The Utilities will supply the Settling Parties and Staff with an estimate of the incremental costs of complying with an audit in 2010. With respect to the issues raised in the audits, the Settling Parties and Staff agree that this proceeding did not afford the opportunity to fully review all audit findings, and therefore agree to review these findings in the first quarter of 2010. The Settling Parties and Staff recommend that a separate proceeding will be opened outside of the Core process to investigate issues regarding PSNH's compliance with the requirements of RSA 125-O.

The Utilities will continue to meet with the natural gas utilities that offer energy efficiency programs and develop recommendations to improve coordination of energy efficiency services to customers with both natural gas and electric service.

For purposes of the 2010 budget, the Settling Parties and Staff agree that the HEA program shall comprise 14.5 percent of the total funds available for the 2010 Core programs. The Settling Parties acknowledge the significant time spent by Staff to begin the development of a formulaic approach to establishing the HEA budget. Although a formula was not agreed upon, the Settling Parties and Staff agree that the formula approach for the funding of the HEA Program developed by Staff during this docket should be further explored in future discussions. Further, the Settling Parties and Staff agree to work collaboratively on the development of a formula for the derivation of the HEA low income budget for the 2011 program filing.

The Settling Parties and Staff agree that the Utilities will work with Staff and the Settling Parties to develop a request for proposal for issuance by February 1, 2010, for the purpose of

engaging a consultant by March 31, 2010. The consultant's task shall be the development of a multi-year monitoring and evaluation plan generally consistent with the 2009-2010 New Hampshire Energy Efficiency Program Evaluation Plan. Also during 2010, the Utilities shall conduct impact evaluation on the ENERGY STAR® Lighting Program, the SBES Program and the 2009 fuel-blind pilot program.

The Utilities will, by the end of January 2010, provide a marketing plan for 2010 and a detailed budget allocation for the marketing budget with input from the Settling Parties and Staff. Until completion and filing of the marketing plan, the Utilities will continue to use their existing marketing approach.

The Settling Parties and Staff understand that the 2010 Core Proposal, as filed, is modified by this Settlement and is subject to further modification by the Commission on any contested issues.

Utility-specific programs are addressed in the Settlement as follows.

1) The Core management team will re-evaluate National Grid's SBES program during the 2010 calendar year. The Settlement provides that, as part of the SBES, National Grid is authorized to use SBC funds to provide a 15 percent discount to SBES customers who pay off their 30 percent contribution in single payment. In addition, National Grid is authorized to use SBC funds to remove and dispose of fluorescent lights and ballasts from the facilities of participating SBES customers.

2) The Settling Parties and Staff agree that PSNH and UES will continue the pilot fuel blind program with PSNH serving 200 homes and UES serving 100 homes in 2010 in addition to the homes authorized in the 2009 program under Order No. 24,974. In the event that there are more customers seeking to participate in the program, PSNH and UES shall maintain a wait list

and may petition the Commission for approval to serve additional customers. PSNH and UES will continue to earn a performance incentive only on the portion of the pilot budget related to electric savings. At the end of the 2009 heating season, PSNH and UES shall promptly evaluate the fuel-neutral homes and supply that evaluation to Staff and the parties.

3) The Settling Parties and Staff agree that PSNH will not transfer any 2009 funds into the set-aside funds authorized by RSA 125-O:5 until the methodology used to determine such set-aside has been reviewed in detail with any interested parties and Staff. Also, PSNH agrees that it will not undertake any new projects with the 2 percent set-aside funds until the conclusion of such review. Effective January 1, 2010, PSNH will begin to accrue interest on the set-aside funds and all accrued interest will be added to the Core Programs' fund balance.

4) PSNH will transfer FCM payments, net of FCM expenses, with interest applied, to the SBC revenue balance as of January 1, 2010 to be added to the Core Program fund balance.

5) Staff and the Settling Parties, other than the OCA, agree that NHEC may continue to operate an SBC-supported Load Management System as provided in the Core filing. The Settling parties and Staff recognize that NHEC is beginning the installation and implementation of software that will allow for the collection of more detailed information by the end of the second quarter of 2010 and that such information will provide data necessary to assess the effectiveness of NHEC's load management program. Pursuant to the Settlement, Staff or any Party may make recommendations regarding whether NHEC should recover costs from the SBC for this program after 2010.

The Settling Parties and Staff agree that the 2011 Core proposal will be made no later than August 1, 2010 and that any funds from the 2009 Core programs that remain unexpended shall be carried forward to the Core Programs. The Settling Parties and Staff will meet to discuss

the 2011 programs during the spring of 2010 and any Party may file a plan for the 2010 Core programs provided it is in sufficient detail and is provided to the Settling Parties and Staff no later than April 30, 2010. In addition, Staff and the Settling Parties agree to discuss the development of an integrated program proposal for the gas and electric utilities for future Core program years.

At the hearing, all Settling Parties and Staff expressed their support for the Settlement. The Jordan Institute stated that it did not sign the Settlement because of the pending legislation that could affect Core energy efficiency funding.

USES did not support the agreement and recommended that the Commission solicit management of the Core energy efficiency programs through a request for proposals. USES suggested that the performance incentive mechanism needs to be evaluated based on concerns that the performance goals are too easily achieved by the Utilities. USES also expressed concern that issues such as market transformation in the energy efficiency market, market barriers preventing people from participating in the Core programs and performance measurement of program results did not receive adequate attention in the proceeding.

V. COMMISSION ANALYSIS

Pursuant to Puc 203.20, the Commission may approve a settlement agreement if it finds that the result is just and reasonable and in the public interest. N.H. Code of Admin. Rules Puc 203.20 (b). We understand from the statements at hearing that Staff and the Parties worked diligently to resolve the disputed issues in a collaborative manner. For the reasons discussed below, we find the Settlement Agreement to be just and reasonable and in the public interest. We will, therefore, approve it as filed.

The Settlement Agreement addresses numerous procedural as well as substantive issues, and identifies issues to be addressed in the 2011 filing. Procedural improvements include monthly rather than quarterly meetings of the Core Team; identification of issues for each meeting of the Core Team, to focus everyone's efforts; and earlier filing of the 2011 proposal to allow greater time to evaluate its terms. A marketing plan is due to be submitted by the end of January 2010 and an RFP issued for a monitoring and evaluation consultant by the end of February 2010. There will be greater integration of natural gas efficiency with electric efficiency programs, and a continuation of the pilot program to undertake efficiency measures in a fuel-neutral way..

With respect to the HEA programs, the Settlement Agreement provides that 14.5 percent of the SBC fund be devoted to HEA programs, which is a higher percentage than the original filing. We find that the Settlement Agreement reasonably resolves the dispute regarding the level of HEA funding and agree that, given the current economic situation, it is appropriate to increase support for the HEA program for the 2010 program year.

Staff testified that it took a fresh look at HEA funding, which led to its proposal for a formula for setting the HEA budget. While a formula approach may be appropriate conceptually, the formula suggested here resulted in a level of funding for the HEA program that we do not find adequate under the circumstances. The Settlement Agreement provides that the Settling Parties and Staff work together to consider an appropriate formula for establishing the HEA program budget for the 2011 filing. We encourage all participants to assess whether common ground can be found on the purpose of a formula and how a durable formula might be structured. We also encourage all interested stakeholders, whether signatories to the Settlement Agreement or not, to participate in these and other Core discussions.

We find that the Settlement Agreement appropriately addresses the continuation of the Home Performance with Energy Star fuel-neutral program. The Settlement Agreement allows PSNH and UES to add participants in 2010, which will increase the ability of PSNH and UES to measure program results.

The Settlement Agreement recognizes that this proceeding did not afford a full opportunity to review all audit findings and further recommends that a separate proceeding be opened outside of the Core process to investigate issues regarding PSNH compliance with the requirements of RSA 125-O. We encourage the Parties and Staff to continue to examine the audit findings and we will consider opening a compliance proceeding at a later date, which may include the question of whether there should be a consequence to exceeding the annual cap on rebates to an individual customer.

We also find that the provisions in the Settlement Agreement regarding National Grid's SBES program and NHEC's Load Management Program are appropriate. We will expect to see a recommendation in the 2011 filing regarding their continuation based on the Core management team's review of these programs. We support the Settlement Agreement provision for interest to be collected on PSNH's 2 percent set-aside from SBC and FCM funds. Other issues related to RSA 125-O:5 will be addressed in future proceedings.

We have considered as well the comments of USES, which is not a party to the Settlement Agreement, urging us to adopt a competitive bidding process for administration of the Core programs. There is insufficient evidence in the record in this proceeding to determine that an outside vendor would be more effective or efficient than the utility model, but expect that the monitoring and evaluation work to be undertaken by a consultant this spring will help to inform this debate.

USES' other concerns relate to its position that greater attention should be paid to performance goals, performance incentives, market barriers and market transformation. The Settlement Agreement provides for the review of performance incentives, as well as program effectiveness, and we fully expect these issues to be addressed in the 2011 proceeding. Reducing market barriers and promoting market transformation are important issues, as supported by RSA 374-F:3, X that provides as a principle that "[r]estructuring should be designed to reduce market barriers to investments in energy efficiency . . ." and thus we encourage the parties to discuss, and the Core management team to better incorporate, to the extent appropriate, market barrier and market transformation issues in the 2011 filing.

Finally, the New Hampshire Legislature is considering legislation, Senate Bill 300, to expand coverage of the low income Electric Assistance Program (EAP) from approximately 29,000 customers to more than 36,000 customers by shifting a portion of the SBC funds from the Energy Efficiency program to the EAP. The impact of this bill would be to increase the funds available for the low income electric assistance program by approximately \$3.5 million and decrease the funds available for the Core programs in 2010 by a corresponding amount.¹

In order to effect implementation of Senate Bill 300, if enacted, we will conduct a second phase to this proceeding to consider methods to reconcile the shift in funds from the 2010 Core program to the EAP. Possible options include implementing a pro-rata reduction across the board for all Core programs and reducing funding on a program by program basis. At the same time, consideration could also be given to allocating funds from the Greenhouse Gas Emissions Reduction Fund to support the planned 2010 Core programs pursuant to N.H. Code of Admin.

¹ Some parties urged us to increase the overall level of SBC funding in order to serve low income needs and keep the energy efficiency programs strong. We had not noticed this docket to address overall levels of SBC funding and, thus, it would be improper to do so in this order.

Rules Puc 2604.01(b)(2). In any event, assuming passage of Senate Bill 300, the interested parties and Staff should immediately reconvene to determine how to address the reduction in Core program funding. We will promptly issue a supplemental order of notice that, among other things, sets a date for filing recommendations concerning the issues described above.

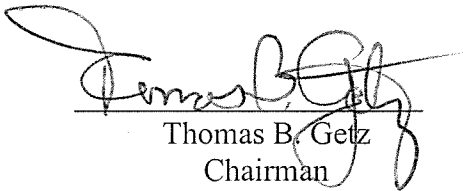
Based upon the foregoing, it is hereby

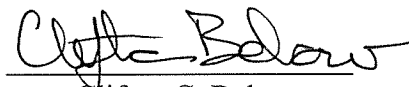
ORDERED, that the Settlement Agreement is hereby approved, as discussed herein, and the Utilities are authorized to implement the 2010 Core programs as amended by the Settlement Agreement, and it is

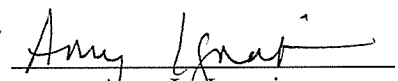
FURTHER ORDERED, that the PSNH commence accrual of interest on Forward Capacity Market and System Benefits Charge set-aside funds as specified in the Settlement Agreement.

By order of the Public Utilities Commission of New Hampshire this fifth day of January,

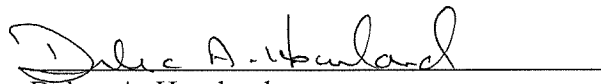
2010.


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