



OFFICE OF THE CONSUMER ADVOCATE

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September 2, 2022

New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301

Re: Docket No. IR 22-042
Investigation of Energy Efficiency, Planning, Programming, and Evaluation
“Motion to Schedule a Commissioner-Attended Technical Session”

To the Commission:

Please treat this letter as the response of the Office of the Consumer Advocate (“OCA”) to the motion filed on August 29, 2022 captioned “Motion to Schedule a Commissioner-Attended Technical Session.” The motion was submitted on behalf of the state’s electric and natural gas utilities in their joint capacities as administrators of the state’s ratepayer-funded NHSaves energy efficiency programs. They are referred to in this letter as the “Program Administrators.”

The Office of the Consumer Advocate takes no position on this motion, in light of our August 17, 2022 request for rehearing of the Commission’s Order of Notice. As we explained in our rehearing motion, we are concerned about a proceeding before the Commission that is an odd amalgam, not explicitly or implicitly authorized by statute, of an adjudicative proceeding and a general investigation. We are also concerned about the extent to which the Commission is straining against the directives of House Bill 549, enacted as Chapter 5 of the 2022 New Hampshire Laws and codified as RSA 374-F:3, VI-a(d).

These concerns notwithstanding, we agree with the Program Administrators that it could be helpful for there to be one or more informal workshops, attended by PUC commissioners, that would supplement or even supplant the requests for written information that have been emanating from the Commission in both this proceeding and its antecedent (the now-closed Docket No. DE 20-092).

In particular, we believe it is time for some open dialogue among the Program Administrators, the OCA and other interested stakeholders, and Commissioners about the state of benefit-cost testing in light of House Bill 549. The Commission made plain its skepticism about the previously approved Granite State Test in its order rejecting the proposed 2021-2023 triennial energy efficiency plan. See Order No. 26,553 (Nov. 12, 2021, Docket No. DE 20-092) at 39 (describing the Granite State Test as “overly dependent upon subjective factors such that any desired outcome could potentially be obtained from its application”). Nevertheless, via House Bill 549, the General Court declared that the Commission “shall . . . use the Granite State Test as

the primary test, with the addition of the Total Resource Cost [T]est as the secondary test.” *See* RSA 374-F:3, VI-a(d)(4).

The Commission’s skepticism about the Granite State Test has continued to find voice, notably in Order No. 26,621, entered on April 29, 2022 in Docket No. DE 20-092. In that order, which approved the Program Administrators’ energy efficiency plan for the remainder of the current triennium, the Commission announced an intention to “balanc[e]” the “structure and inputs” of the primary and secondary tests and consider “many factors” in discharging what the Commission identified as a “duty to ensure rational assumptions are being made and that the parameters applied are well justified.” *Id.* at 24-25 (observing that “[n]o model is perfect” and expressing concerns in particular with both models’ use of discount rates).

The OCA is concerned that the Commission may be misapprehending the role played by secondary tests in the evaluation of whether an energy efficiency program or measure is cost-effective. The Commission has stated an intention to “further analyze” the cost-effectiveness of the relevant program when there is a “significant variance” between the results of the primary and secondary tests. *Id.* at 24. We believe that what the General Court intended, in specifying both a primary and a secondary test, was perpetuation of the previously agreed upon view that recourse to the secondary test *only* becomes appropriate in two circumstances: when an otherwise desirable program does not screen as cost effective under the Granite State Test, or when one or more programs that are cost-effective under the Granite State Test must compete for funding. *See* Order No. 26,322 in Docket No. DE 17-136 (Dec. 30, 2019) (approving the use of the Granite State Test) at 8-9 (noting that a secondary test exists “to aid the Commission and other stakeholders in decisions relating to resource allocation and treatment of marginally cost effective programs”).

Therefore, the OCA suggests a reframing of the dialogue before the Commission on the future of benefit-cost testing of NHSaves programs. The General Court has conclusively resolved the question of when and how the Granite State Test must govern. What remains subject to resolution in the future is what inputs should drive the application of the primary test. In particular, the question of what discount rate is appropriate looms large. To date, the choice appears to have been a somewhat arbitrary one. *See* Donald M. Kreis, “Time as a Moral Illusion in the State Energy Strategy” (July 22, 2022)¹ (arguing that the current discount rate of 3.25 percent is “a completely made up number, based on the dubious assumption that this is how you, the consumer, value future benefits in present terms”).

It further appears to the OCA that the Commission wishes to ‘get under the hood’ of the Granite State test. That, at least, is how we interpret the Commission’s Procedural Order of August 19, 2022 (tab 9) and the detailed submissions (spreadsheets) requested therein. We urge caution.

To the extent the Commission wishes to track how specific measures or programs are evaluated under the Granite State Test, in our respectful opinion this is a laborious task best undertaken through some kind of audit process at the staff level of either the Commission or the Department of Energy (or both). We take that position based on experience, having made an effort (with the help of the Program Administrators) earlier this year to guide our advisory board (the RSA

¹ Available at <https://indepthnh.org/2022/07/27/time-as-a-moral-illusion-in-the-state-energy-strategy/>.

363:28-a Residential Ratepayers Advisory Board) through a detailed explanation of how a brief list of example measures is screened under the Granite State Test. Resources are limited, at the Commission as well as the Program Administrators and stakeholders, and whatever resources are expended come at the expense of ratepayers.

On the other hand, as we suggested above, a thorough and thoughtful discussion of what inputs drive the use of the Granite State Test would likely be a useful exercise indeed. A Commission that understands, and is comfortable with, the inputs and assumptions that drive the Granite State Test will be in a better position to make wise choices when the 2024-2026 triennial energy efficiency plan is subject to adjudication at the Commission beginning on July 1, 2023. We are eager to cooperate with the Commission's efforts in that regard.

Consistent with our pending motion for rehearing, the OCA believes the Commission should clarify that this docket is strictly an information gathering exercise and that no binding determinations will be made in IR 22-042. We hope that the Commission will be mindful of the fact that the agency is investigating at the same time that stakeholders, especially the Program Administrators, are embarked upon an exhaustive and comprehensive effort to develop a 2024-2026 triennial energy efficiency plan that will meet the expectations of the General Court and the Commission. And we hope the Commission will continue to acknowledge that the General Court, and by extension the citizens and ratepayers of New Hampshire, believe that ratepayer-funded energy efficiency plays a critical role in our state's energy future.

Sincerely,

A handwritten signature in blue ink, appearing to read 'Donald M. Kreis', written in a cursive style.

Donald M. Kreis
Consumer Advocate

cc: Service List, via e-mail