

DE 02-034

STATEWIDE LOW-INCOME ELECTRIC ASSISTANCE PROGRAM

Tiered Discount Program

Order Denying Motion for Rehearing of  
Save Our Homes Organization

O R D E R    N O.    24,013

July 24, 2002

I.    PROCEDURAL HISTORY

On May 30, 2002, the New Hampshire Public Utilities Commission (the Commission) issued an order approving the so-called Tiered Discount Program (TDP), a statewide electric bill assistance program for low-income customers funded through the low income portion of the system benefits charge (SBC). *Statewide Low-Income Electric Assistance Program/Tiered Discount Program*, Order No. 23,980 (May 30, 2002) (the Order). Among other things, the Order directed the six jurisdictional electric utilities to implement the TDP no later than October 1, 2002. The Order authorized the Community Action Agencies (CAA) to administer the TDP on behalf of the Commission and directed Staff to work with the Governor's Office of Energy and Community Services (GOECS) in identifying the respective roles of the Commission and GOECS in program monitoring and evaluation. The Order further directed the utilities, CAA and GOECS to submit

budgets for start-up and first year administrative costs within thirty days.<sup>1</sup>

Subsequent to the Order, the program participants have submitted various compliance filings resulting from the Order, including certain budget information and other data called for in the Order.

By letter dated June 12, 2002, the Legislative Budget Assistant notified the Commission that the legislative Fiscal Committee had approved, pursuant to Chapter 158:46, Laws of 2001,<sup>2</sup> the "plans for the administration of funds" as specified in the Order.

On June 13, 2002, Save Our Homes Organization (SOHO), an intervenor, filed a Motion for Rehearing of the Order on three grounds: (i) the Commission's alleged refusal to require prior review and approval of annual budgets for program administrative costs is unreasonable and unjust; (ii) the Commission's refusal to impose a cap on program administrative costs is unreasonable and unjust; and (iii) it would be unlawful for the Commission to fail to complete its investigation of TDP administrative costs.

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<sup>1</sup> Under the Order, budgets for subsequent program years must be submitted within sixty days of the start of each program year.

<sup>2</sup> Chapter 158:46, Laws of 2001, amended RSA 6:12-b regarding maintenance of funds collected pursuant to electric utility restructuring orders.

On June 25, 2002, GOECS filed comments in support of SOHO's Motion for Rehearing.

## II. POSITIONS OF THE PARTIES AND STAFF

### A. SOHO

Regarding the question of budgets for start-up and first year administrative costs, SOHO argues that the Commission's ruling in this docket is contrary to the Commission's prior ruling in *Electric Utility Restructuring/Low Income Electric Assistance Program*, Order No. 23,945 (April 5, 2002, Docket 96-150),<sup>3</sup> and that the reasons for the Commission's prior ruling are still valid. SOHO further argues that the importance of the cost issues and the substantial public interest at stake weigh in favor of a Commission-conducted budget pre-approval process.

SOHO notes that in Order No. 23,945, which was an order on motions for clarification and other pending motions involving the so-called electric assistance program (EAP), the Commission required program participants to submit annual budgets for Commission review and approval in advance of each program year. SOHO asserts that the reasons given for this ruling are directly applicable to the TDP, including advantages

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<sup>3</sup> See slip op. at 21-23.

related to improving the coordinated management of funding issues and customer enrollments, establishing a process for collecting information on program costs, helping remove uncertainty over costs chargeable to the low income portion of the SBC, and helping ensure that recoverable start-up and ongoing administrative costs are proper and reasonable.

Regarding the question of imposing a cap on program administrative costs, SOHO basically reiterates arguments it and GOECS made in their post-hearing briefs. See Order No. 23,980, slip op. at 23-24, 27-28. SOHO alleges that the Commission's own consultant recommended a cost cap and suggested a cap of 10%. SOHO states that a cost cap need not be made so tight that it cannot be temporarily lifted on a case by case basis when a party subject to a cost cap demonstrates "necessity and good cause."

Regarding the question of the Commission's investigation of program administrative costs, SOHO argues that the Commission should continue to analyze the administrative cost estimates for the TDP in order to ensure that the program furthers the legislative purpose of having a low-income program with a "high operating efficiency" as specified in RSA 369-B:1,XIII. SOHO says the public interest will be served by determining the true administrative costs of the program and the

failure to pursue and complete the review of administrative costs would be unlawful, unreasonable and unjust.

#### **B. GOECS**

GOECS supports SOHO's requests that the Commission establish a process for prior review and approval of all administrative costs for the TDP, impose an initial cap on administrative costs for each entity seeking reimbursement from the SBC, and complete a thorough review of the estimated administrative costs of the TDP now rather than waiting until the TDP has been in effect for one year.

GOECS says it remains concerned that the Commission's reasons cited in Order No. 23,945 for "review and approval" of administrative expenditures prior to program implementation still exist. Noting its requests to the Commission for explicit clarification of recoverable administrative costs, thorough up-front review of all administrative costs, and a reasonable cap of those costs, GOECS says it continues to believe that ratepayer funded programs should be as administratively efficient as possible.

#### **III. COMMISSION ANALYSIS**

SOHO's Motion for Rehearing and GOECS' comments reflect their concern that TDP costs charged to the low-income portion of the systems benefit charge be carefully controlled.

We share the concern for maintaining a high level of operating efficiency and maximizing the dollars available for assistance to the intended beneficiaries of the TDP. See e.g., *Electric Utility Restructuring-Energy Assistance Program*, 85 NH PUC 676, 681-682 (2000); Order No. 23,945, slip op. at 17-18, 22); Order No. 23,980, slip op. at 45-46, 50-52, 55-57. However, we think the Order and the subsequent actions to implement the Order effectively address these concerns.

For example, regarding the question of budgets, the Commission stated,

For the purpose of identifying the level of funds available for program benefits, we will require the utilities, GOECS and CAA to submit budgets 30 days from the date of this order for the start-up and administrative costs projected for the TDP... During the first year of the program, each utility shall file a quarterly report with the Commission detailing its actual start-up and administrative costs as well as low-income related SBC revenues to date. At the end of the program year, we will review the filings made and determine the appropriate level for recovery at that time...

For subsequent program years, as provided for in Order No. 23,945, utilities shall submit annual budgets no later than 60 days prior to the start of the program year. GOECS and CAA shall also submit budgets for subsequent program years no later than 60 days prior to the start of the program year. Order No. 23,980, slip op. at 51-52.

The approach set forth requires the utilities, GOECS and CAA to submit budgets of projected start-up and administrative costs in advance of the TDP's operation.<sup>4</sup> We specifically decided against pre-approving costs based on the budgets submitted by the utilities. Instead, during the first year of the program, utilities are required to file quarterly reports with the Commission detailing their actual start-up and administrative costs as well as their low-income related SBC revenues. At the end of the program year, we will review the filings made and determine the appropriate level of recovery. During subsequent years, at a time when we will have gained valuable experience with the actual operation of the TDP, we will follow the process laid out in Order No. 23,945, in which the utilities, GOECS and CAA are required to submit budgets in advance for approval, subject to audit. We recognize that the Order adopts a somewhat different approach to budgets and cost recovery for the first program year than that outlined in Order No. 23,945. Nevertheless, we think the reasoning expressed therein applies equally well in support of our ruling in the Order. In addition, we continue to believe

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<sup>4</sup> The utilities are also required to submit their projected SBC collections for the period July 1, 2002 and October 1, 2002 at a 1.2 mil per kilowatt-hour level along with their recommendations for the treatment of any excess interim EAP funds they may hold. Order No. 23,980 slip op. at 52-53.

that the process set forth in the Order will be more effective in achieving the goals we share with SOHO and GOECS than that outlined in Order No. 23,945.

Regarding the related question of the Commission's investigation of program administrative costs, we understand that Staff is now in the process of doing substantially that. We expect Staff to complete its review of projected program revenues and expenses and to keep us informed on a timely basis of any potential issues or problems that are revealed through its review. We encourage SOHO and GOECS to advise Staff of any budget areas requiring particular attention in their opinion. Of course, we also expect the program participants to cooperate with Staff in this endeavor.

SOHO and GOECS argued for a cost cap in their post-hearing briefs. In the Order, we rejected their argument, as follows:

"Capping, or disallowing, administrative costs creates several problems. The TDP is not a program with which the Commission or the utilities have a track record, therefore establishing a reasonable cap at this time is problematic. A cap set too low could result in the subsidization of the TDP through distribution rates. Conversely, a cap set too high may needlessly divert funds that could otherwise be used to provide benefits to customers. We decline to set an arbitrary cap on administrative costs." Order No. 23,980, slip op. at 51.



SOHO and GOECS have not advanced any persuasive new reasons or information in support of their argument. SOHO asserts in effect that the Commission's own consultant recommended a 10% cost cap. From our review of the record, we do not understand this to be the case. The Commission's consultant, Roger Colton, assumed a figure of 10% of total program costs for certain purposes related to modeling the financial operation of the TDP<sup>5</sup> and he testified that placing a cap on administrative costs is a "common policy choice in delivering public benefits programs..."<sup>6</sup> This is different than recommending a 10% cap on the TDP, however.

There is insufficient evidence in the record to determine what would be an appropriate TDP cost cap. Making the cost cap temporarily flexible, as suggested by SOHO, does not give us confidence that an arbitrarily chosen cap can be efficiently and effectively administered.

SOHO and GOECS argue that the Order is unjust, unreasonable or unlawful in respect to the three matters complained about. For the reasons set forth above, we deny the motions. We note our decision is consistent with the

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<sup>5</sup> See Transcript Day 1, page 56, lines 18-19; Exhibit No. 2, Program Data/Expenditures Spreadsheet (page 2 of Program Data Spreadsheets); Exhibit No. 3, page 2.

<sup>6</sup> Transcript Day 1, page 57, lines 2-3.

legislative Fiscal Committee's approval of the program funding mechanism.

**Based upon the foregoing, it is hereby**

**ORDERED**, SOHO's Motion for Rehearing is denied.

By order of the Public Utilities Commission of New Hampshire this twenty-fourth day of July, 2002.

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Thomas B. Getz  
Chairman

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Susan S. Geiger  
Commissioner

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Nancy Brockway  
Commissioner

Attested by:

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Debra A. Howland  
Executive Director & Secretary