

DE 01-080

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE
AND NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

Pilot "Pay As You Save" (PAYS) Energy Efficiency Program

Order of Clarification

O R D E R N O. 24,064

October 11, 2002

On November 29, 2001, the New Hampshire Public Utilities Commission (Commission) entered Order No. 23,851 in this docket, approving a proposed "Pay As You Save" energy efficiency pilot program to be conducted by Public Service Company of New Hampshire (PSNH) and the New Hampshire Electric Cooperative (NHEC). Today we take up a motion, filed on October 3, 2002 by Commission Staff, with regard to our previous determination.

As we noted last year, PAYS is an effort to overcome certain market barriers to energy efficiency measures by allowing customers to obtain such measures from their electric utility and then pay for the measures, over time, through their monthly utility bills. The premise is that the value of the energy savings will exceed the monthly cost of the measure, and thus that the customer's utility bill will achieve a net decrease.

Under the pilot program we approved, PSNH opted to focus on marketing PAYS to municipal customers, including school districts. (For the sake of convenience, we will refer to these

customers collectively as "municipalities" or "municipal customers.") Staff's motion described a problem that had arisen with respect to the municipalities. Specifically, 31 PAYS projects that PSNH had negotiated with such customers, comprising an aggregate value of \$375,982, were "on hold" pending the resolution of an issue that had arisen under the Municipal Finance Act, RSA Chapter 33.

According to Staff's motion, the Department of Revenue Administration (DRA) had advised municipalities that participation in the PAYS pilot would be inconsistent with RSA 33 unless their written PAYS agreements contained a "non-appropriation" clause, providing for the termination of the agreement in the event that adequate funds were not appropriated by the municipality in ensuing years of the agreement. Staff appended to its motion a proposed form for such a clause, and indicated that it had obtained assent to its motion from the active parties in the docket: PSNH, NHEC, the Governor's Office of Energy and Community Services and the Office of Consumer Advocate.

We have considered Staff's request that we permit the inclusion of "non-appropriation" clauses in PAYS agreements between utilities and municipalities, and find that such authority is consistent with the determinations that we originally made in Order No. 23,851. Because all active parties

in the case have assented to this request, and because we are clarifying rather than modifying our previous determination, we enter this Order without conducting a hearing. Cf. RSA 365:28 (providing that Commission may "alter, amend, suspend, annul, set aside, or otherwise modify an order made by it" after hearing, if original order was entered after hearing). Although the non-appropriation clause appended to Staff's motion referred specifically to PSNH, we stress that both PSNH and NHEC may insert such language into PAYS Agreements when entering into them with municipal customers.

Based upon the foregoing, it is hereby

ORDERED, that Staff's motion of October 3, 2002 is hereby granted, to the extent described in the Order herein.

By order of the Public Utilities Commission of New Hampshire this eleventh day of October, 2002.

Thomas B. Getz
Chairman

Susan S. Geiger
Commissioner

Attested by:

Debra A. Howland
Executive Director & Secretary