STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

DE 08-120

2009 CORE ENERGY EFFICIENCY PROGRAMS

Core Energy Efficiency Programs

Order Approving Settlement Agreement

O R D E R N O. 24,930

January 5, 2009

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I. PROCEDURAL HISTORY

On October 7, 2008, 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 “CORE” energy efficiency programs to be made available in 2009. The CORE energy efficiency programs are funded through the Systems Benefit Charge (SBC) paid by electric customers and authorized by RSA 374-F:3, VI. In this filing, the Utilities seek to continue, with certain modifications, the statewide programs previously approved in Docket No. DE 07-106, Order No. 24,815 (December 28, 2007) and implemented during calendar year 2008.

On October 10, 2008, the Commission issued an Order of Notice scheduling a pre-hearing conference and technical session for October 24, 2008. On October 10, 2008, the Office of Consumer Advocate (OCA) entered an appearance on behalf of residential ratepayers pursuant to RSA 363:28. On October 15, 2008, the Commission received a petition for intervention from The Way Home, a non-profit organization which helps low income households maintain affordable housing and prevent homelessness. On October 17, 2008, a petition for intervention was received from the Jordan Institute, Inc., a non-profit organization working to reduce the use of electricity and fossil fuels in buildings to help alleviate the effects of climate change. Petitions for intervention were received from the Home Builders and Remodelers Association of New Hampshire (HBRANH) and the New Hampshire Office of Energy and Planning (OEP) on October 20, 2008. The Commission also received petitions for intervention from Wal-Mart Stores East, L.P (Wal-Mart), the Community Action Association (CAA), representing the state's community action programs, and the Department of Environmental Services (DES).

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 as well as a list of issues to defer to a separate docket. These issues were filed with the Commission on October 28, 2008, which included the monitoring and evaluation of the program, the shareholder incentive mechanism, the total resource cost test, the Staff audit of the program and the evaluation of the energy efficiency report being conducted by the Commission through its contractor, GDS Associates. By Secretarial Letter dated October 30, 2008, the Commission adopted the proposed procedural schedule and recommended that the first three issues above be considered as part of the CORE quarterly meetings and that Staff's audit of the program and the GDS energy efficiency report proceed independently.

On November 13, 2008, the Parties and Staff met for an additional technical session and additional meetings were held to discuss settlement. On November 7, 2008, PSNH, on behalf of the Utilities, filed a Motion for Protective Order with respect to two data requests from the Commission Staff: Data Request 1-12, which, among other things, asked the Utilities to identify the customers receiving incentives under the Small Business program and Data Request 1-13, which asked the Utilities to identify the customers receiving incentives under the New Equipment program. The Utilities seek a protective order only with respect to the specific identification of individual utility customers.[1]

On December 3, 2008, Staff filed its notice of Settlement Agreement stating that Staff and the Parties had agreed upon the terms of a settlement agreement but had not executed a written document. Staff requested that the Commission allow the late filing of the settlement agreement pursuant to Puc 203.20(f). The Settlement Agreement was filed on December 10, 2008, and the hearing took place as scheduled on December 11, 2008.

Also on December 11, PSNH filed a memorandum in support of using $2 million in the Home Energy Solutions program to subsidize weatherization of homes heated by fossil fuels (Fuel Blind Program). At hearing, the Commission allowed interested parties to file statements or briefs with the Commission by December 17, 2008, regarding whether RSA 374-F:3, VI prevented the use of SBC revenue for non-electric energy efficiency benefits. Comments were received from Staff, the OCA, NHLA and OEP regarding the fuel blind pilot program.

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[1] A separate order will be issued to address the Motion for Protective Order.

II. SUMMARY OF THE 2009 CORE PROPOSAL

The Utilities note that the CORE programs are designed to be consistent throughout the State with equal access for any eligible customer, subject to available funds. In the 2009 CORE Proposal, the Utilities propose collectively to continue offering the current menu of efficiency programs as follows: 1) the Energy Star Homes program, 2) the Home Energy Solutions program, 3) the Energy Star Lighting program, 4) the Energy Star Appliance program, 5) the Home Energy Assistance Program for low income customers, 6) the New Equipment and Construction program for large commercial and industrial customers (C&I), 7) the Large C&I Retrofit program, 8) the Small Business Energy Solutions Program, and 9) general educational programs.

The Utilities also proposed to continue certain utility-specific programs available only in their individual utility service territories: 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 Option program enhancement for Energy Star Homes, low income energy efficiency enhancement, Heatsmart, educational program partnerships targeted to C&I customers, and pilot program to promote a competitive market in energy efficiency delivery 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 notes that, in recent years, the CORE program budgets have been supplemented by the Independent System Operator—New England (ISO-NE) Forward Capacity Market (FCM). See *2008 CORE Energy Efficiency Program*, Order No. 24,815 (December 28, 2007) slip op. at 4. 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. The Utilities expect to receive approximately $600,000 in FCM proceeds to support the 2009 CORE programs. For 2009, the Utilities propose to devote the first 13.5% of FCM payments to the Home Energy Assistance program and, of the remainder, 70% will be directed to programs for C&I customers and 30% to residential programs. Overall, the Utilities seek authority to spend $19,573,527 on statewide CORE programs in 2009.

In addition, the Utilities note that the budgets for NHEC and PSNH have been reduced by $86,112 and $935,077 respectively, one third of the amount used for the Special Winter Electric Assistance Program created by Senate Bill 228 (2005 N.H. Laws Ch. 298). The 2009 budget will be the last to be impacted by Senate Bill 228.

The Utilities propose to continue the CORE Program management team to coordinate and oversee all CORE program activities, receive quarterly reports, participate in meetings with parties and Staff, and resolve problems as they arise. The management team will continue to comprise representatives from each utility and will make decisions by consensus with one member specifically designated as the liaison with the 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. According to the Utilities, Staff and the Utilities work together to prioritize the M&E needs of the CORE programs. For 2009, the Utilities have identified two areas as a priority for review: 1) establishing a multi-year evaluation plan that addresses the needs of New Hampshire as well as the FCM, and 2) a study to characterize the New Hampshire market for Energy Star appliances. In 2008, the Utilities said that the focus of M&E activities would be a study to evaluate the potential for cost-effective energy efficiency investments in the residential, small commercial, large commercial and industrial classes in New Hampshire. Finally, at hearing Staff indicated that the Commission would participate in a study conducted by the Northeast Energy Efficiency Partnership (NEEP) in 2009 and also evaluate the quality of energy efficiency in the FCM.

The Utilities recommend that they continue to earn a “performance incentive” for utility shareholders, consistent with *Electric Utility Restructuring Energy Efficiency Progra*ms, Order No. 23,574, 85 NH PUC 684 (November 1, 2000) and *Energy Efficiency Programs for Gas and Electric Utilities*, Order No. 24,203, 88 NH PUC 401 (September 5, 2003). The Utilities contend that the performance incentive fosters efficient program implementation efforts and the achievement of program goals, and serves as a motivating factor for the Utilities while holding them accountable for meeting their individual program goals. The Utilities state that three factors influence the incentive: 1) the size of the budget, 2) the ratio of the actual benefit-to-cost ratio achieved to the predicted benefit-to-cost ratio, and 3) the ratio of the kWh savings achieved to the predicted kWh savings. For purposes of this calculation, the Utilities use a single avoided cost methodology approved by the Commission in Core Energy Efficiency Programs, Order No. 23,850, 86 NH PUC 804 (November 29, 2001). For the 2009 filing, the Utilities used the 2007 *Avoided Energy Supply Costs in New England* report. The Utilities indicated that they have set aside a portion of their budgets for the estimated performance incentive payment.

In the 2009 CORE proposal, the Utilities seek to continue multi-year approval and they specifically request authorization to make customer commitments during 2009 for projects to be completed in 2010 and 2011. The Utilities state that all customer classes currently eligible to participate in the CORE programs would be eligible for multi-year project approval. The Utilities’ proposal would allow them to make commitments to customers who have presented definitive plans for projects to be completed in subsequent years. The energy efficiency measures would include those that are approved under the then existing CORE programs and utility-specific programs. All 2009 program guidelines and rules would apply to the 2010 and 2011 commitments. Customers receiving commitments in 2009 would not be barred from participating in any new programs introduced in 2010 or 2011. The funds would be paid out of the 2010 and 2011 budgets, respectively; however, the commitment to the customer would be made contingent upon the continuation of funding.

The Utilities further propose 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. 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 but Staff and interested parties must be notified. 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 any comments with the Commission within two weeks of the filing. If no action has been taken by Staff and interested parties, the budget transfer request shall be deemed approved unless the Commission notifies the company of the need for a more in-depth review within thirty (30) days of the filing. Notwithstanding the above, the Settling Parties agreed that funds may not be transferred out of the Home Energy Assistance Program without prior approval by the Commission.

III. SETTLEMENT AGREEMENT

The Settlement Agreement entered into among National Grid, NHEC, PSNH, UES, OCA, the New Hampshire Community Action Association, OEP, DES, the Jordan Institute, The

Way Home, HBRANH (Settling Parties) and Staff resolves the outstanding issues in the 2009 CORE programs, with the exception of a proposed fuel-blind Home Energy Solutions pilot program and the use of Renewable Energy and Regional Greenhouse Gas Initiative (RGGI) funds. The Settling Parties and Staff noted that approval of the Settlement Agreement by the Commission would permit the energy efficiency programs funded by New Hampshire electric customers by the System Benefits Charge, pursuant to RSA 374-F:3, VI, to be implemented for 2009.

The Settling Parties and Staff agreed to continue to meet at least quarterly to review the CORE programs. These meetings will take place after the quarterly reports have been received and reviewed, and will include analysis and discussion of topics including but not limited to: (1) a review of program performance, as reported in the quarterly reports; (2) coordination of program delivery with the gas utilities' energy efficiency programs; (3) carryover funds issues; (4) education and outreach, including exploration of innovative marketing approaches; (5) discussion of activities planned for the future; and (6) an opportunity for the Parties and Staff to provide input and suggestions to the Utilities. In addition, as directed by the Commission in an October 30, 2008 Secretarial Letter, the Settling Parties agree to address the following issues at the quarterly meetings: 1) monitoring and evaluation of the CORE programs; 2) shareholder/performance incentives; 3) the total resource cost test; 4) the results of Staff's financial audit when available; and 5) the results of the Commission's energy efficiency potential study. The Settlement Agreement also states that it is appropriate to create working groups to address specific issues.

The Settlement Agreement recognizes that it may be necessary for the CORE management team to hold meetings in addition to the quarterly meetings to consider the issues that need to be resolved in the first six months of 2009 as follows: 1) the appropriate method of allocating the FCM payments to the CORE programs beyond 2009; 2) Low Income HEA budgets; 3) methods for evaluating market transformation and market demand; and 4) the possibility of multi-year program filings.

The Settling Parties and Staff agree that the Jordan Institute would continue to meet with the Utilities to discuss financing of energy efficiency projects. The discussions will focus on Smart Start as well as other on-bill financing alternatives. The goal of those meetings will be to develop consensus recommendations on expanded project financing alternatives. The meetings will be open to all interested parties and Staff. The New Hampshire gas utilities are also invited to attend these discussions.

The Utilities agreed to continue to meet with the natural gas utilities that offer efficiency programs to develop recommendations to improve coordination of energy efficiency services to New Hampshire customers with both gas and electric services. The Utilities will provide a progress report at the first quarterly meeting for 2009.

The budgets for the low income Home Energy Assistance Program ("HEA") were discussed by the Settling Parties and Staff. By a Secretarial Letter dated November 13, 2008, the Commission approved PSNH's request to transfer $500,000 from the 2008 Home Energy Solutions ("HES") budget to the 2008 HEA budget, as well as to bring forward $360,000 from the 2009 and 2010 HEA budgets to the 2008 HEA budget. Additionally, the Commission approved NHEC's October 24, 2008 request to transfer $45,000 to its HEA budget from commercial sector programs.

The Settlement Agreement noted that a working group had been established with respect to the HEA program. The working group concluded that the eligible population for the HEA program exceeded the currently available funds. In addition, the CORE management team agreed at a quarterly meeting that the allocation of funds to the HEA program should be made uniform among the Electric Utilities and should be increased to 13.5% of the overall CORE Program budget for 2009. The Settlement Agreement noted that, due to an increase in costs for weatherization materials, resulting in a higher job costs average, fewer homes will be able to be served in 2009 than in 2008, even with an increased budget. The Parties and Staff agreed that the HEA budget allocation should be reviewed again in 2009.

Energy Star Homes are built to operate at less than 80% of the energy consumed by comparable code compliant homes. The Settling Parties and Staff agreed that allocation of additional funds to this program is not advisable due to the extraordinary downturn in home construction. The Settlement Agreement recommends that the Electric Utilities be prepared to consider shifting funds for allocation to the Energy Star Home should demand recover in the building sector.

The Settlement Agreement noted that the principal 2008 M&E project is the study entitled "Additional Opportunities for Electric Energy Efficiency Opportunities in New Hampshire" being conducted by GDS Associates. The Settling Parties and Staff agreed that the study would provide useful information for future CORE programs and other efficiency planning and that it expected to use the study in preparing the 2010 CORE filing.

The Settling Parties and Staff agreed that the M&E activities should be reviewed at quarterly meetings and Staff agreed to post the executive summaries of all M&E studies since March 17, 2006 on the Commission's website. Additionally, Staff will work with the Utilities to assure that the Commission is the central repository for all M&E studies funded in whole or in part with SBC funds. Finally, Staff agreed to file a plan for 2009 M&E activities, after consultation with the Utilities and no later than January 31, 2009.

The Settlement Agreement provided that a working group will be established for the purpose of reviewing and proposing improvements to the NH Saves website, www.nhsaves.com, in order to increase the educational material and resources available on the website. This will include increased coordination with natural gas and other efficiency programs.

The Settling Parties and Staff agreed that the "2009 Core New Hampshire Energy Efficiency Programs" proposal filed on October 7, 2008, and revised on November 10, 2008, would be marked as an exhibit at the hearing on the 2009 CORE program. The Settling Parties and Staff acknowledge that the 2009 CORE Proposal will be modified by the Settlement Agreement and by subsequent decisions by the Commission on any contested issues. The Settling Parties and Staff anticipate a final version of the 2009 CORE Proposal, including updated appendices, if needed, will be submitted following a final decision on the merits by the Commission. Finally, the Settling Parties agreed that the application of the Total Resource Cost Test used by the Electric Utilities in the 2009 CORE program filing was reasonable.

The Settlement Agreement acknowledges that the Settling Parties and Staff did not agree to a proposal offered by PSNH and UES to conduct a fuel blind HES pilot program in 2008. PSNH and UES agreed to provide additional information on these programs and the other Parties and Staff agreed to file statements of position related to this issue for the Commission's consideration.

The final unresolved issue in the Settlement Agreement relates to the use of the Renewable Energy Fund and the Greenhouse Gas Emissions Reduction Fund (RGGI Fund). In their 2009 CORE Proposal, the Electric Utilities acknowledged that these funds would be available in 2009 to fund renewable energy and energy efficiency programs but they did not make any specific proposals for their use. The Settling Parties and Staff concluded it would be more appropriate for the Utilities to make separate filings to the extent that they seek such funds.

At the hearing, a panel of witnesses representing the Utilities, the OCA and Staff presented testimony on the Settlement Agreement. All of the Settling Parties recommended approval of the Settlement Agreement. Wal-Mart, however, stated that it had not signed the Settlement Agreement, but it did not oppose its adoption by the Commission.

IV. FUEL BLIND PILOT PROPOSAL

A. Program Description

At the hearing on December 11, 2008, PSNH offered an exhibit (Ex. 4) which provided the proposed implementation details for the fuel blind pilot program. In testimony, PSNH said that the program would offer the same services currently provided under the Home Energy Solutions (HES) program. The services would include a "comprehensive home energy audit, air sealing, insulation, duct sealing, blower door test, thermostats, pipe & tank wrap, aerators, low flow showerheads, CFL bulbs & fixtures and refrigerator vouchers." Ex. 4. PSNH explained that, like the HES program, customers participating in the fuel blind pilot program would receive an incentive of 75% of the installed cost of recommended measures, up to $4,000.

PSNH stated that it would offer the program on a first-come, first-served basis starting with customers who have already shown interest in HES but did not meet the electric heat qualifications. According to the company, to be eligible to receive HES services, a residential homeowner would have to heat at least 65% of the home using electricity. PSNH said that, prior to the beginning of the 2009-2010 heating season, it would work with interested parties to develop a lottery for selection of participants that could also be used to determine the level of program interest and potential participation levels. UES intends to market the program through its customer communications, website and in response to customer inquiries. Ex. 4.

PSNH explained that it would track and report kWh and MMBtu savings in quarterly reports, and would include the costs of the fossil savings measures and the associated MMBtu savings in the planned and actual benefit cost ratios. PSNH said it did not plan to convert the MMBtu savings into kWh savings for the performance incentive calculation.

UES plans to include all project costs, including the cost of fossil fuel saving measures, and the associated MMBtu savings in is planned and actual benefit/cost ratios. UES also would incorporate the MMBtu savings into its planned performance incentive as either a separate MMBtu savings metric or converted to kWh and rolled into the kWh savings.

PSNH and UES plan to measure the success of the program as determined by the percentage of customers who receive an audit and go on to have weatherization measures installed. PSNH' and UES' initial target participation rate for the fuel blind pilot is 80%.

B. Positions of the Parties

1. Public Service Company of New Hampshire

PSNH stated that the SBC, which was created under the Electric Utility Restructuring statute, RSA Ch. 374-F, provides that the benefits produced by the SBC need only to be "related to the provision of electricity." According to PSNH, the programs need not be restricted to electric energy efficiency programs and, had the Legislature intended such a restriction, it would have included the restriction in the statutory language.

The Company also argues that the SBC already produces benefits other than electric benefits. For example, PSNH argues that the original cost effectiveness test recognized quantifiable benefits and costs associated with other resources in addition to electricity such as water, gas and oil. PSNH memorandum at 2. PSNH points out that the rebates have been used for Energy Star clothes washers and fuel blind weatherization for low income programs through the Home Energy Assistance program.

PSNH further states that fuel blind program is being proposed only as a pilot. It argues that operating a fuel blind program will give the utilities experience in running such a program as funding from future sources such as the RGGI Fund and Renewable Energy Fund, which will not be restricted to electric energy benefits. PSNH concluded by stating that there is no explicit legal bar to using the SBC revenue for a fuel blind program.

2. The Way Home

The Way Home agreed with the legal arguments set forth in PSNH's memorandum.

3. Office of Energy and Planning

The OEP argues that, through the HEA program, SBC funds have already been used for non-electric benefits and that it is in the public interest for these types of fuel-blind programs to continue. In addition, OEP opines that weatherization improvements to a building heated by a source other than electricity will result in electric savings especially in the case where buildings are cooled by electrically powered air conditioners.

The OEP nevertheless expressed a number of concerns about the program as presented at the December 11, 2008 hearing. The OEP stated that, given the number of questions asked about the HES fuel blind pilot program, it is apparent that there are several issues regarding implementation and evaluation that need to be resolved, including the goals for the pilot project program, the different evaluation methodologies proposed by PSNH and UES, PSNH's concern about the demand for the program if it was offered to the public at large, and how UES and

PSNH would prioritize their customer lists to determine who will be offered the HES fuel blind pilot program services.

OEP described three options for the Commission's consideration. First, the Commission could accept the fuel blind pilot program as presented at the hearing. Second, the Commission could hold funds for the HES program and direct the intervening parties and Staff to provide more detail regarding the prioritization of customers for the program and the evaluation of the program. Third, the Commission could deny the expenditure of SBC funds and direct that the money be reallocated to another residential program at a later time. The OEP said it reservedly supports the second option to address the very present need for weatherization services.

4. Office of Consumer Advocate

The OCA interprets RSA 374-F:3 as authorizing the use of SBC revenue for innovative energy efficiency programs not limited to customers who heat with electricity. However, the OCA stated that it does not support the fuel blind proposal because it is not sufficiently tailored to focus on reducing electric use or to address market barriers to electric customers investing in energy efficiency.

The OCA opined that any programs funded by the SBC must have a close nexus to customers' electric consumption. In other words, such programs should include specific electric-related criteria for customers to qualify. According to the OCA, only then are there "public benefits" sufficiently "related to the provision of electricity," citing RSA 374-F:3, IV. An example of such a program suggested by the OCA is to direct energy efficiency to customers who have high use due to the use of electric heat, air conditioning, medical equipment and other circumstances.

The OCA also expressed concern about the lack of details about the program and the absence of any meaningful opportunity to review the information provided at the December 11 hearing. The OCA said it is also concerned about the timing of the deployment of the program in the current economic climate and questions whether it is realistic to assume that non-low income residential customers will take advantage of the program if they have to make an up-front co-payment.

According to the OCA, the Utilities did not consider options other than the proposed pilot program and offered several alternatives that could have been considered including the expansion of the Smart Start program, which allows customers to pay for improvements over time. The OCA also said that the Greenhouse Gas Emissions Reduction Fund is an appropriate source of money to support a fuel blind proposal. The OCA concluded by requesting the Commission to reject the proposal and to direct the utilities to work with the parties to develop new and innovative efficiency programs narrowly tailed to reduce electric usage and to address market barriers faced by electric customers.

5. Commission Staff

Staff argued that, because the SBC was created by the Electric Utility Restructuring Act (RSA 374-F), SBC revenue should be used for only electric energy efficiency measures. According to Staff, the SBC is intended to benefit the electric distribution system and all customers in the system. Staff said that the use of SBC funds to support non-electric energy efficiency measures delivers no benefit to the electric system or to electric customers who pay the SBC through their electric bills. To support this argument, Staff referred to the Report to the New Hampshire Public Utilities Commission from the New Hampshire Energy Efficiency

Working Group (July 6, 1999) filed in Docket No. DR 96-150, *Electric Utility Industry Restructuring*.

Staff distinguished the use of SBC funds for non-electric services for low income electric customers by referring to Restructuring New Hampshire's Electric Utility Industry: Final Plan (February 28, 1997) which encouraged the development of a low income assistance program. Staff pointed out that low income assistance was recognized as a societal goal which the Commission supported to make electric bills affordable, to encourage conservation and to make the most effective use of limited funding. For those reasons, Staff pointed out, the SBC low income assistance program was designed to leverage funds with other programs, such as the low income weatherization program, to provide maximum benefits consistent with the societal goal of providing affordable electric service to low-income customers.

Finally, Staff argues that PSNH's and UES' proposed pilot program was, according to the admission of the two utilities, not cost-effective. According to PSNH's testimony, the benefit/cost ratio for the proposed fuel blind pilot program is 0.9. Staff observed that the program was designed, pursuant to RSA 374:F, to support only cost effective programs with a benefit to cost ratio greater than 1.0 and recommended that the Commission direct the $2 million proposed to fund the HES fuel blind pilot project be directed to cost-effective electric energy efficiency programs.

V. COMMISSION ANALYSIS

A. Settlement Agreement

The CORE programs are funded through the SBC authorized by RSA 374-F:3, VI. Policy guidance on how to allocate funds for energy efficiency programs appears in RSA 374-

F:3,X.[2] On November 1, 2000, the Commission approved recommendations of the Energy Efficiency Work Group for the design and implementation of post-restructuring electric efficiency programs. *See Electric Utility Restructuring Energy Efficiency Programs***,** 85 NH PUC 684 (2000)). The Commission initially approved the CORE energy efficiency programs in *CORE Energy Efficiency Programs*, 86 NH PUC 804 (2001) (endorsing the concept of statewide programs) and in *Concord Electric Co*., 87 NH PUC 378 (2002) (authorizing implementation of specific program proposals on June 1, 2002). In these orders, the Commission made clear that it was acting to advance specific policy goals related to energy efficiency and demand-side management in the Electric Industry Restructuring Act as enumerated in RSA 374-F:3. Following these initial orders, the Commission approved similar programs for 2004, 2005, 2006 2007 and 2008. *See Granite State Electric Co*., 88 NH PUC 624 (2003); *Granite State Electric Co*., 89 NH PUC 676 (2004); *Granite State Electric Co.*, 91 NH PUC 116 (2006), *Granite State Electric Co.*, 91 NH PUC 626 (2006) and *2008 Core Energy Efficiency Programs*, Order No. 24,815 (December 28, 2007).

The applicable policy principles for the CORE programs remain unchanged. Given the success of these programs since their advent in 2002, it is appropriate, and consistent with the public interest, to maintain the basic approach to the use of SBC energy efficiency funds established in prior Commission orders. It is clear that New Hampshire's electric industry has evolved over the past six years. The parameters of the SBC have been the subject of ongoing legislative debate. *See*, Chapter 298 of the New Hampshire Laws of 2005 and Chapter 389 of the New Hampshire Laws of 2006. Further, there have been significant changes in federal law

[2] RSA 374-F:3, X provides: "Restructuring should be designed to reduce market barriers to investments in energy efficiency and provide incentives for appropriate demand-side management and not reduce cost-effective customer conservation. Utility sponsored energy efficiency programs should target cost-effective opportunities that may otherwise be lost due to market barriers."

including the Energy Policy Act of 2005, Public Law No. 109-58, 119 Stat. 594 (2005), and the development of the Forward Capacity Market in New England. All of these changes require adjustments in the 2009 CORE Programs. We find the changes to the 2009 CORE Programs proposed in the settlement to be appropriate responses to industry and regulatory changes.

In all other respects, the Settlement and the amended 2009 CORE Proposal represent an appropriate use of SBC funds. The 2009 CORE Program will benefit all customers in the form of both electric load reduction and environmental pollution reduction. We therefore find the Settlement and the amended 2009 CORE Program to be in the public interest.

B. Fuel Blind Pilot Program

We have reviewed the filings concerning the legality and merits of PSNH's and UES' proposed use of SBC funds dedicated to the HES program for a fuel blind pilot project that would deliver weatherization services to residential customers who heat their homes with oil, natural gas, or propane. We conclude that we are not precluded as a matter of law from authorizing the use of SBC revenues for energy efficiency programs such as the proposed fuel blind pilot.

RSA 374-F:3, VI states that SBC revenue, as approved by the Commission, "may be used to fund public benefits <u>related to</u> the provision of electricity." (emphasis added). There is no question that electric efficiency measures ancillary to the HES weatherization services, such as the Energy Star appliance rebate and Energy Star lighting programs, relate to the provision of electric service. Furthermore, weatherization of any home which uses electric-powered air conditioning or fans for cooling provides system benefits by reducing electricity usage during the peak summer electric loads that are associated with electric home cooling measures. In addition, most non-electric heating systems, such as fuel oil, propane and wood fired boilers and furnaces, also use electricity to power pumps or fans to circulate water and air. Although energy efficiency measures such as improved insulation and air sealing may primarily save non-electric fuels in non-electrically heated buildings, there can often be significant electric savings from such measures as well.

RSA 374-F:3, X concerns "Energy Efficiency," not just electrical efficiency, calls for reducing "market barriers to investments in energy efficiency," and states that "[u]tility sponsored energy efficiency programs should target cost-effective opportunities that may otherwise be lost due to market barriers." Running programs that attempt to isolate and target energy efficiency to a single fuel source, such as electricity, may in itself be a market barrier when energy efficiency measures delivered as a comprehensive package, such as systematic whole house retrofits that reduce multiple energy uses and costs, including the size and cost of high efficiency replacement HVAC systems, may be the overall most cost-effective approach to achieving energy efficiency and conservation of all fuel sources. We find it consistent with the purpose of RSA 374-F to broadly construe our authority to approve utility sponsored energy efficiency programs in the state of New Hampshire. We also agree with PSNH that the Utilities could benefit from the experience of running a fuel blind pilot program to prepare for the prospect of using RGGI funds to support more energy efficiency measures.

We now turn to the merits of the fuel blind pilot program. It is clear from the comments made at hearing, and the additional written comments, that the pilot program has not been fully developed. There are a number of questions that merit further consideration, among them:

1) Whether PSNH or UES might first modify their existing Home Energy program requirement, which limits participation to customers who use electricity for more than 65% of their heating needs, to target customers who still use electricity for a large or even

majority portion of their heating needs, but less than 65%, or who otherwise have significantly higher than average electric usage, such as might be due to high air conditioning loads.

2) Whether the funds in the Home Energy Solutions program that PSNH and UES do not expect to be utilize in 2009 with their present criteria might be better directed into the Home Energy Assistance program with a somewhat higher income eligibility cap such as has been put into place for this year's Fuel Assistance Program.

3) Whether PSNH's use of its waiting list is the most appropriate method to select program participants.

4) The discrepancy between PSNH and UES on the projected benefit to cost ratio for the existing and proposed fuel blind Home Energy Solutions program; where PSNH's ratio is 0.90, below the cost-effectiveness threshold of 1.0, while UES's ratio is 1.9, well above the cost-effectiveness threshold.[3] Ex 1, Attachment A, at 71 and 75, respectively.

5) Whether, in light of a benefit to cost ratio of less than 1.0, the PSNH expanded fuel-blind program merits approval for other reasons, such as the learning value provided by a pilot or the market transformation value that may to lead to a cost-effective program.

6) Whether a broad fuel blind home energy efficiency program should be designed consistent with the national "Home Performance with Energy Star" standards promoted by the U.S. Environmental Protection Agency and Department of Energy and used in neighboring states.

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[3] This discrepancy in the benefit to cost ratio for the Home Energy Solutions Program also extends to National Grid, with a ratio of 0.91 and NHEC with a ratio of 1.24. Ex 1, Attachment A, at 62 and 67.

7) Whether it is appropriate to subsidize 75% of the cost of non-electric weatherization measures for other than low income customers who might otherwise be able to afford the cost of such measures.

8) Whether the 25% up-front customer co-payment might prove to be a market barrier for moderate income customers in light of current economic conditions.

9) Whether the “Smart Start” program might be modified to make it more accessible to customers who might not be able to afford up front co-payments.

10) How “competing” home energy programs might interact in areas where there are both gas and electric utility programs.

11) What results should utility performance incentives be based on and whether PSNH and UES should have different incentive structures.

12) How the programs will be evaluated, quantitatively and qualitatively.

Notwithstanding these concerns, we believe the concept of a fuel-blind pilot has some potential. However, it is clearly not ripe for approval at this point. We encourage the Utilities and the parties to continue to consider these issues. For now, we will approve the 2009 Core program filing without fuel blind pilots for the Home Energy Solutions program and note that PSNH and UES may petition at any time to modify their Home Energy Solutions program when they have a more fully developed proposal.

C. Greenhouse Gas Emissions Reduction Fund

In the 2009 CORE proposal, the Utilities stated, with respect to the expenditure of Regional Greenhouse Gas Initiative (RGGI) funds, that they “stand ready to assist the [Commission] as needed to help deliver services to NH residents.” Consequently, the Order of Notice in this proceeding indicated that the Utilities’ filing raised an issue related to whether the

Commission should make allocations from the Greenhouse Gas Emissions Reduction Fund to expand CORE energy efficiency programs. As noted in the Settlement Agreement, however, the Utilities "did not propose, and the Settling parties and Staff did not review, specific proposals for the use of these funds as part of the 2009 Core programs." The Settlement Agreement also sets forth the view of the Parties and Staff "that it would be more appropriate for the Electric Utilities to make separate filings with the Commission to the extent they wish to seek such funds."

We note that Puc 2604.01, the interim rules for administration of the RGGI Fund, now adopted by the Commission, provides for three paths to the selection of energy efficiency programs to be funded from the RGGI Fund:

> (b) The commission shall select and fund eligible programs through:
> (1) The solicitation of proposals pursuant to Puc 2604.02;
> (2) An adjudicative proceeding for the system benefits charge core efficiency programs approved pursuant to RSA 374-F; or
> (3) Otherwise through an adjudicative proceeding.

Based upon the foregoing, it is hereby

ORDERED, that the 2009 CORE Energy Efficiency Program Settlement Agreement filed on December 10, 2008 is hereby APPROVED.

By order of the Public Utilities Commission of New Hampshire this fifth day of January, 2009.

Thomas B. Getz Chairman	Graham J. Morrison Commissioner	Clifton C. Below Commissioner

Attested by:

Debra A. Howland
Executive Director