

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 07-064

ELECTRIC UTILITIES

Energy Efficiency Rate Mechanisms

Order Resolving Investigation

ORDER NO. 24,934

January 16, 2009

APPEARANCES: EnergyNorth Natural Gas, Inc. by Steven V. Camerino, Esq. of McLane, Graf, Raulerson & Middleton. P.A.; Campaign for Ratepayers Rights by Robert A. Backus, Esq. and Patrick J. Arnold; New Hampshire Office of Energy and Planning by Amy Ignatius, Esq.; Wal-Mart, Stores East, L.P. by Robert D. Shapiro, Esq. of Rubin and Rudman; The Way Home by Alan Linder, Esq. of New Hampshire Legal Assistance; Conservation Law Foundation by Thomas F. Irwin, Esq. and Kristine E. Draushaar, Esq.; Office of Sustainability Southern New Hampshire University by Pentti J. Aalto; The Jordan Institute by D. Dickinson Henry, Jr.; New Hampshire Department of Environmental Services by Robert R. Scott; Business & Industry Association of New Hampshire by Michael S. Giaimo; Public Service Company of New Hampshire by Gerald M. Eaton, Esq.; Granite State Electric Company d/b/a National Grid by Alexandra Blackmore, Esq.; Until Energy Systems, Inc. by Gary Epler, Esq.; Northern Utilities, Inc. by Patricia M. French and by Susan S. Geiger, Esq. of Orr & Reno; Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. by Lisa M. Decker, Esq.; New Hampshire Sustainable Energy Association by Carolyn A. Demorest and Paul Levielle; New Hampshire Sierra Club by Arthur B. Cunningham and Catherine M. Corkery; Environment Northeast by Roger E. Koontz, Esq. and Jeremy C. McDiarmid, Esq.; the Office of Consumer Advocate by Meredith Hatfield, Esq. on behalf of residential ratepayers; and F. Anne Ross, Esq. on behalf of Staff of the Public Utilities Commission.

I. PROCEDURAL HISTORY

On May 14, 2007, an order of notice was issued commencing this investigation into the merits of instituting, for electric utilities, appropriate rate mechanisms that would have the effect of removing obstacles to, and encouraging investment in, energy efficiency. The order of notice scheduled a prehearing conference for June 18, 2007.

On May 23, 2007, the Office of Consumer Advocate (OCA) entered its appearance on behalf of residential ratepayers pursuant to RSA 363:28. The following parties filed motions to intervene: EnergyNorth Natural Gas, Inc. d/b/a KeySpan Energy Delivery New England (KeySpan); Campaign for Ratepayers' Rights (CRR); the Office of Energy and Planning (OEP); Wal-Mart Stores East L.P.(Wal-Mart); The Way Home (TWH); Southern New Hampshire University Office of Sustainability(SNHU); Conservation Law Foundation (CLF); The Jordan Institute (TJI); Department of Environmental Services (DES); Business and Industry Association (BIA); Public Service Company of New Hampshire (PSNH); Granite State Electric Company d/b/a National Grid (National Grid); Unitil Energy Systems, Inc. (UES); Northern Utilities, Inc. (NU); Constellation Energy Commodities Group, Inc. and Constellation NewEnergy, Inc. (collectively CEG Companies).

On June 21, 2007, Staff filed a letter with the Commission that: (1) recommended the scope of the proceeding be expanded to include natural gas companies; (2) proposed that any party with comments on the scope of the proceeding file its recommendation by June 29, 2007; and (3) suggested that the utilities make a baseline presentation on the issues.

On June 29, 2007, UES filed a motion seeking clarification of the scope of the investigation. Comments regarding the scope of the proceeding were received from CLF, CRR, Northern, OCA, and OEP. The Commission issued Order No. 24,774 (July 12, 2007) granting all petitions to intervene, including the natural gas companies, and broadening the scope of the docket to include distributed generation and other "displacement" technologies and practices. A baseline presentation by the utilities was set for July 30, 2007.

On July 13, 2007, SNHU filed a report by Pentti Aalto and Roy Morrison entitled "Appropriate Rate Mechanisms for Utilities." On August 2, 2007, Staff filed a letter indicating

that the parties sought to hold a one-day presentation by several experts representing divergent interests on the application of various rate mechanisms and regulatory approaches to promoting energy efficiency. The Commission scheduled expert presentations for November 7, 2007, by Jeffrey D. Makholm, PhD of NERA Economic Consulting; David Dismukes, PhD of the LSU Center for Energy Studies; and Richard Sedano or Frederick Weston of the Regulatory Assistance Project. The presentations were made on November 7, 2007.

On August 27, 2007, the New Hampshire Sustainable Energy Association (NHSEA) filed a petition to intervene. On February 6, 2008, the New Hampshire Sierra Club (NHSC) filed a petition to intervene to which PSNH objected on February 15, 2008. On April 3, 2008, the Commission granted the petitions, determining that no party would be prejudiced by the late interventions.

On March 13, 2008, the Commission requested additional comments on the issues initially raised in the Order of Notice and stated that the next step in the investigation would require the filing of information from the electric and natural gas utilities concerning whether they had experienced, or expected to experience, declining sales attributable to energy conservation, energy efficiency, or demand response programs. The Commission sought comments on: (1) whether existing utility rate treatment poses an obstacle to investment in energy efficiency; (2) whether a different rate treatment would promote such investment; (3) the procedural question of whether these issues should be pursued further in this docket, through utility-specific rate cases, as part of a rulemaking, or through some other means; and (4) whether decoupling would constitute an alternative form of regulation under RSA 374:3-a. Environment Northeast (ENE), CLF, UES, National Grid, PSNH, CRR, TWH, Northern, Wal-Mart, SNHU, OEP and OCA all filed comments.

On May 30, 2008, ENE petitioned to intervene out-of-time. On June 30, 2008, CLF filed a motion for a scheduling order, stating that there is an urgent need to reduce greenhouse gas emissions that cause global warming.

II. POSITIONS OF THE PARTIES AND STAFF

On April 11, 2007, the Parties filed comments regarding the following four questions:

- (1) whether existing rate treatment poses an obstacle to investment in energy efficiency;
- (2) whether a different rate treatment would promote such investment;
- (3) whether these issues should be pursued further in this docket, through utility-specific rate cases, as part of a rulemaking, or through some other procedure; and
- (4) whether decoupling constitutes an alternative form of regulation under RSA 374:3-a.

A. Unitil Energy Systems

Question (1).

UES stated that, under traditional ratemaking practices, electric and gas distribution companies have a strong incentive to maintain and increase sales in order to generate the revenues necessary to offset increasing operations and maintenance (O&M) expenses and fund needed system reliability and capital expansion projects. As long as utility profits are linked to selling more electricity or natural gas, UES contended, New Hampshire is unlikely to fully realize the economic and environmental benefits from the utility's participation in reducing demand.

UES asserted that the removal of disincentives alone may not be sufficient to engage the capital resources necessary to realize the potential of energy efficiency and demand response measures. A well-designed revenue decoupling mechanism incorporating an inflation and investment cost tracker mechanism is necessary, as well as allowing the utility the opportunity to

place capital investments in demand resources into rate base and earn a return on those investments. UES asserted that revenue decoupling is not a substitute for traditional ratemaking approaches and is more in the nature of a revenue recovery mechanism, rather than a cost recovery mechanism because it does not ensure that a distribution utility can recover its “prudently incurred, just and reasonable costs” over time. While decoupling may provide increased rate stability and revenue certainty, UES stated it appears to be focused on the recovery of a target level of revenue that only grows with increases in the number of customers which, in UES’s experience, is not highly correlated with increases in distribution costs and capital investments.

Question (2).

UES emphasized that fully aligning a distribution utility’s financial interests with the State’s policy interests in energy efficiency and energy displacement technologies requires: (a) eliminating the disincentives caused by reductions in distribution revenues and earnings attributable to avoidance or displacement of energy consumption; and (b) providing a positive incentive to utilities for investing in energy efficiency and energy displacement. The result of this alignment would be that the financial interests of utilities would cause them to pursue initiatives that are preferred from a public policy standpoint. UES pointed out that the better the alignment and the stronger the incentives, the greater the level of utility investment.

UES suggested several techniques: (a) aligning rate design to provide for fixed cost recovery in fixed charges; (b) revenue requirement adjustments, an automated adjustment to revenue requirements, and corresponding rates to account for changes in costs over time; (c) performance-based ratemaking, an alternative to revenue requirement adjustments that generally provides flexibility to the distribution utility to increase rates annually for inflation, net of a

productivity factor, without a specific revenue requirements analysis; (d) forecasted test year, addressing inflation by setting future rates based on forecasted test year cost data; (e) step increases, a method of providing for cost recovery after an abbreviated regulatory review of increases for specific items, most notably capital investment programs; (f) tracking mechanisms, an approach to providing cost recovery for highly variable cost items or reconciling rate components; (g) financial incentives for implementation of energy efficiency programs; (h) rate of return incentive, a premium on the rate of return on equity for specific investments; and (i) allowing alternative investments.

Question (3).

UES recommended that the issues raised in this docket continue to be addressed in this docket, while allowing for utility-specific dockets to accommodate the particular circumstances of that utility.

Question (4).

UES stated that it does not believe that decoupling would constitute an alternative form of regulation under the statute. De-linking profits to sales through decoupling, it contends, may be accomplished without disturbing the traditional rate of return regulation formula for arriving at a periodically established revenue requirement.

B. National Grid

Question (1).

National Grid observed that existing rate treatment poses an obstacle to investment in energy efficiency because a utility that aggressively pursues energy efficiency may jeopardize its ability to provide excellent service to customers and the company would be working against itself financially. National Grid asserts that ratemaking should be reformed to decouple the

revenues that a utility needs to serve its customers from the volume of natural gas or electricity it delivers.

Question (2).

National Grid stated that it believes a different rate treatment would promote energy efficiency investment without eroding the revenues that utilities need to provide excellent customer service. National Grid contended that the link between utility sales and revenues must be broken in order to encourage investment in energy efficiency.

Question (3).

National Grid stated that decoupling utility revenues from sales is critical to the expansion of cost-effective energy efficiency opportunities in New Hampshire. National Grid indicated that decoupling should be employed at the time of a ramp-up in efficiency programs, or when a utility files its next base rate case.

Question (4).

National Grid asserted that decoupling would not necessarily constitute an alternative form of regulation under RSA 374:3-a. It theorized that decoupling can be designed based on cost of service principles using a forecasted test year rather than an historic test year, which is not an alternative form of regulation.

C. Public Service of New Hampshire

Question (1).

PSNH stated that, under current regulatory policies, the rate case process is extensive and lengthy and that “regulatory lag” creates a disincentive for any significant increases in energy efficiency investments because the shortfall in revenue attributable to energy efficiency measures cannot be recovered until a rate case is filed and new rates are implemented. Elimination of the

disincentive would remove the financial obstacle faced by utilities and is sound regulatory policy. PSNH asserted that utilities should not be faced with making decisions between increasing energy efficiency and maintaining profitability.

Question (2).

PSNH claimed that there are a variety of approaches that could be used to eliminate the disincentive for energy efficiency investment. The objective in selecting an approach should be to provide the greatest incentive to engage in energy efficiency while minimizing potential negative consequences. Some of the approaches PSNH suggests the Commission consider are: (a) modification of rate design; (b) incentives for engaging in energy efficiency; (c) placing energy efficiency spending on equal footing with other investments; (d) lost fixed cost recovery; and (e) revenue decoupling.

Question (3).

PSNH stated that the Commission should evaluate each utility's circumstances individually and determine the approach to be used on a utility-by-utility basis, using common approaches where feasible.

Question (4).

PSNH stated that an alternative form of regulation necessitates a divergence from "the traditional methods which are based upon cost of service, rate base and rate of return." Unless decoupling is combined with an incentive mechanism, it does not appear that it would be an alternative form of regulation under RSA 374:3-a.

D. Northern Utilities

Question (1).

NU stated that while growing load through the addition of new customers is consistent with public policy favoring clean-burning natural gas, incentives to grow load by current customers is at odds with other public policy goals that favor reduced energy use. Traditional rate design approaches create a relationship between a utility's cost structure and its revenue structure that is inconsistent with energy conservation. Existing rate structures promote important policy objectives that were designed to expand natural gas service to more customers. Recent industry changes contribute to heightened challenges for utilities and their customers and necessitate a reordering of public policy objectives. NU maintained that utilities are dependent upon consumption by customers in order to earn sufficient revenues to cover costs and permit a return.

Question (2).

NU stated that efficiency and renewable energy resources are key to stabilizing and reducing energy costs for consumers in an environment where overall demand growth is outpacing supply deliverability. Rate design and associated revenue recovery mechanisms are important tools relied upon by regulators and stakeholders to achieve policy objectives over time. NU explained that rate design is instrumental in creating specific operating incentives for a regulated utility. NU maintained that the core objective of a decoupling mechanism is to break the link between sales volume and utility revenues. Aligning the utility's interests with increased energy efficiency through a decoupling ratemaking mechanism sets the stage for important changes, resulting in conservation and energy efficiency. NU contended that modifications to rate design to provide for decoupling would preserve the financial stability of a utility during

times of shifting demand. Decoupling would afford the utility a reasonable opportunity to recover the costs to serve customers while promoting important state energy policy goals.

Question (3).

NU recommended that the Commission adopt an efficient regulatory process for considering changes such as decoupling, including issuing guidelines outlining its view on how ratemaking practices can promote energy efficiency investment. NU also recommended that the Commission consider alternative means of initially establishing a decoupling mechanism for an individual utility or permit one or more utilities to conduct decoupling pilot programs. NU urged that the Commission provide for design flexibility and allow for specific tailoring to each utility.

E. Office of Energy and Planning, Department of Environmental Services, and Office of Consumer Advocate,

Question (1).

The OEP, DES Air Resource Division and OCA, (together, the Agencies), stated that they believe current rate design may create barriers to utility investment in energy efficiency. The Agencies theorized that decoupling utility revenue from sales volume would only remove one obstacle to investment in energy efficiency. Other obstacles faced by utilities may include lack of knowledge and capacity, uncertainty about risk and rewards, and institutional inertia. The Agencies asserted that rate mechanisms such as decoupling could be part of an important policy shift away from traditional models of rewarding utilities for selling more energy and toward selling other services such as energy efficiency. The Agencies noted that it is appropriate to distinguish between the sales impacts of energy conservation and efficiency measures and the sales impact of DSM. The Commission must ensure that any new rate treatments do not

compensate utilities for taking steps that they would otherwise take for their own financial interests.

Question (2).

The Agencies stated that it is possible that a different rate treatment would promote energy efficiency investments, but that any rate design to remove barriers must be coupled with incentives to motivate such investments. The Agencies asserted that the critical issues to be resolved include: (a) ensuring that utilities are not compensated more than once for activities that are required in the normal course of business; (b) making sure accounting guidelines are in place for exogenous factors; (c) assuring that the rate treatment aligns the utility incentives for the provision of services with the customer benefit from the services; (d) setting a high standard of monitoring and verifying; (e) assuring that services are efficiently and effectively delivered; and (f) assuring that services are comprehensive to minimize lost opportunities.

Question (3).

The Agencies contended that the basic issue of whether throughput-based rates impact investments in energy efficiency should be pursued through this docket, which should fully explore a range of different rate treatments. This docket should also consider removing barriers to energy efficiency and various types of incentives to increase efficiency.

Question (4).

The Agencies stated that decoupling may be part of an alternative form of regulation as defined in RSA 374:3-a.

F. The Way Home

Question (1).

TWH claimed that low-income residential households continue to face persistent market barriers to energy efficiency investment. TWH stated that substantial demand exists for energy efficiency from low-income residential households, which constitutes the consumer group most vulnerable to price volatility and to the shifting of risk from utilities to consumers. TWH opined that it is likely that decoupling can create a disincentive to the utility to operate efficiently, resulting in greater operating expenses and creating lost revenues.

Question (2).

TWH asserted that, while decoupling can remove disincentives for utilities to promote efficiency, decoupling alone does not create an incentive for energy efficiency and does not encourage investment in energy efficiency. Decoupling, it states, could be put in place in conjunction with a mandate for substantial energy efficiency investments and could carry with it distinct regulatory, policy and legal implications. TWH argued, however, that decoupling can expose consumers to significant market risk. TWH also contended that, even assuming energy efficiency investments increase, most low-income families, disabled persons and senior citizens, would not immediately benefit so as to offset the likely price increases. As a result, these groups will likely be exposed to increased energy prices they can little afford. TWH maintained that it is unclear at this time whether decoupling is in the best interest of consumers and whether it will in fact promote energy efficiency.

Question (3).

TWH recommended that the Commission undertake a thorough investigation of the merits of decoupling and revenue guarantee mechanisms in this docket and include in the investigation analyses of the various implementation strategies.

Question (4).

TWH suggested that the parties would be better able to brief the issue of whether decoupling would constitute an alternative form of regulation under RSA 374:3-a after a thorough investigation of the issues in this docket.

G. Conservation Law Foundation

Question (1).

CLF stated that existing rate treatment poses an obstacle to investment in energy efficiency because it links utilities' revenue to the volume of electricity and natural gas sold, providing utilities with a strong incentive to increase sales in order to maximize revenues and profit. CLF claimed that an equally strong disincentive exists to promote energy efficiency or other measures that reduce the volume of electricity and gas sales, creating a situation where it is rarely in the utilities' financial best interest to implement measures that reduce demand. CLF contended that new utility regulation can help meet the challenges of maintaining a stable and reliable power grid and address adverse environmental impacts like air quality and greenhouse gas emissions that effect global warming, by aligning utility interests with the public's interest in lower cost and cleaner, more reliable power.

Question (2).

CLF asserted that decoupling paired with aggressive policies to promote demand-side management (DSM) would result in increased investment in energy efficiency, and described

“decoupling” as a rate treatment that removes the disincentive for utility investment in energy efficiency by breaking the link between utility revenue and energy sales. CLF recommended the following: (a) strong DSM targets with enhanced performance incentives; (b) utility funding of additional DSM recovered through rates; (c) establishment of a preferred “loading order” for new resources to meet New Hampshire’s needs; (d) inverted block rates for some or all customer classes; and (e) update and strengthen least cost integrated planning (LCIP).

Question (3).

CLF urged the Commission to pursue these issues through this docket to a resolution of the policy questions, with the adoption of orders or rules as necessary. CFL stated that the structure for decoupling would be best handled as a compliance filing in this docket.

Question (4).

CLF contended that decoupling could, but need not, constitute an alternative form of regulation pursuant to RSA 374:3-a.

H. Campaign for Ratepayer Rights

CRR agreed with the comments submitted by CLF and stated that energy efficiency is the least expensive form of energy. CRR asserted that greater incentives are necessary in order to promote efficiency efforts and that significant attention must be given to additional measures for promoting efficiency. CRR stated that decoupling will remove the disincentive to efficiency, but added that the additional measures to promote efficiency through DSM or direct incentives are needed to best serve the interests of consumers.

I. Wal-Mart

Question (2).

Wal-Mart stated that it supports a well-designed decoupling mechanism in cases where

the utility has invested its own capital resources in the implementation of energy efficiency measures. Wal-Mart recommended that the Commission also consider other models that may aid in the advancement of energy efficiency, such as a competitive bid process to afford utilities, businesses, and other third parties the opportunity to develop and implement energy efficiency programs for customers at the company's expense. Wal-Mart submitted that a properly designed revenue decoupling mechanism must include conditions requiring the utility to meet objectives for each energy efficiency program and should not provide utilities with special protection from decreased sales resulting from competition or variances in sales volumes due to natural causes not directly related to the promotion of energy efficiency programs.

Question (3).

Wal-Mart suggested that the Commission use a generic proceeding to develop uniform decoupling principles. Wal-Mart stated that it believes it is very important to establish a revenue adjustment mechanism and process applicable to all utilities that would involve: (a) determination of an allowed revenue per customer through utility-specific base rate proceedings; (b) a periodic reconciliation of actual and allowed revenues which takes into account deviations in sales volumes due to factors other than the impact of energy efficiency programs; and (c) an adjustment of base rate charges to recover a target level of allowed revenues in a subsequent period.

J. Southern New Hampshire University

Question (1).

SNHU stated that the current regulatory process is based on the needs and values of society a century ago when the perceived need was for economic growth, based on expansion of

industry and exploitation of natural resources. The regulatory system that evolved supported the maximization of investment, a utility's fundamental source of income.

Question (2).

SNHU proposed the following changes to the current regulatory procedures: (a) a rate case should establish the utility's cost of doing business and the corresponding revenue needed; (b) the revenue requirement minus customer charges would be divided by the expected kWh sales looking ahead to the following year; (c) deviations from expected revenues would be trued up quarterly within bounds of rate of change and an absolute level; (d) demand charges would be replaced by variable kWh adjustments up or down that reflect actual feeder loading; (e) the utility would be paid to maintain a larger working capital reserve to cover volatility in revenues; (f) the utility rate of return would be adjusted to reflect risk, service quality, and mutually agreed upon investment utilization targets; and (g) the utility would be expected to make investment in, and adjustments to, its system for customers feeding power to it and to optimize its operations in support of the new social needs.

K. Environment Northeast

Question (1).

ENE stated that existing rate structures pose an obstacle to investments in energy efficiency, and that energy efficiency and DSM are under-utilized energy resources in New Hampshire. A significant contributing factor to under-investment in efficiency, ENE maintained, is the way in which utilities are compensated. Utilities have an economic incentive to sell as much energy to their customers as possible, and the more energy they sell, the more revenue they generate. UNE posits that the inverse is also true. Utilities have an economic disincentive to increase efficiency and DSM because such investments would reduce earnings. ENE

emphasized that decoupling is an essential policy choice that should be accompanied by commitments to invest in all cost-effective energy efficiency.

Question (2).

ENE stated that investments in energy efficiency would be promoted by adopting a decoupling mechanism to eliminate current rate disincentives and a performance incentive mechanism. ENE suggested that, in rate proceedings for each utility, the Commission establish parameters for annual adjustments to allowed revenue requirements to reflect expected changes in costs. In addition, the Commission should determine a decoupling adjustment by comparing the billed revenues to the allowed revenue requirement for the prior period on an annual basis. ENE emphasized that performance incentives should also be adopted to support aggressive implementation of efficiency programs. ENE asserted that the interests of the utilities should be aligned with customer interests for all customers to take advantage of the substantial opportunities which exist to reduce costs through greater investments in efficiency and demand side management (DSM).

Question (3).

ENE urged that the design of the decoupling mechanism be determined in this docket.

Question (4).

ENE stated that decoupling does not appear to be an alternate form of regulation pursuant to RSA 374:3-a since decoupling does not alter the revenue requirement determination.

III. COMMISSION ANALYSIS

A. Background

The New Hampshire electric utilities administer a group of CORE energy efficiency programs for electricity customers. These programs are funded through the system benefits

charge (SBC) assessed on each kWh of electricity consumed and collected as part of distribution rates.¹ The New Hampshire natural gas utilities also administer energy efficiency programs for their customers, which are funded through a per therm charge and included in the local distribution adjustment charge.

As part of the Commission's ongoing supervision of the CORE energy efficiency programs, the Commission contracted with a team of consulting firms to conduct a study of the technical, economic and feasible potential for additional energy efficiency savings to New Hampshire customers. This study includes an analysis of primary data (customer surveys and customer site visits), as well as analysis of existing and emerging energy efficiency technologies. The study is intended to provide a better understanding of the potential for additional energy efficiency investment in New Hampshire.

As a result of passage of the Renewable Portfolio Standard (RPS) in 2007,² the Legislature provided for the collection of alternative compliance payments to fund renewable energy projects. In addition, the Regional Greenhouse Gas Initiative (RGGI)³ mandates the reduction of CO2 emissions through a cap and trade system that will generate funds to be invested in conservation, energy efficiency and demand response. The RPS and RGGI laws require the Commission to oversee the respective Renewable Energy and Greenhouse Gas Emissions Reduction Funds. In response to these legislative initiatives, the Commission created a Sustainable Energy Division that will focus its efforts on administering the two funds to make appropriate investments in energy efficiency and renewable energy. It is also our expectation

¹ RSA 374-F:VIII provides for a 3 mil per kilowatt hour systems benefit charge collected from electric distribution customers which is used to fund energy efficiency programs, new renewable programs and low income programs. The CORE Energy Efficiency programs are offered to all electric customers and are administered by the New Hampshire electric utilities.

² RSA Chapter 362-F.

³ RSA 125-O:19-28.

that significant federal funds may be available to New Hampshire in 2009 for energy efficiency and renewable energy projects as part of a broad federal economic stimulus package.

B. Implementation of Energy Efficiency Rate Mechanisms

We consider energy efficiency rate mechanisms in this docket against the legislative backdrop described above and with a view to the level of energy efficiency attainable in New Hampshire. We point out as well that this proceeding was opened to “investigate the merits of instituting...appropriate rate mechanisms, such as revenue decoupling, which would have the effect of removing obstacles to, and encouraging investment in, energy efficiency” and to determine the appropriate procedural approach for implementing such rate mechanisms.

Having considered the expert presentations, the utility baseline presentations and the discovery and comments by the parties, we conclude that existing rate design and mechanisms, as a conceptual matter, can pose an obstacle to investment in energy efficiency. We conclude as well that there are different rate mechanisms that could be employed to further promote such investment. We also acknowledge that, as indicated by various parties, there are numerous details that would need to be addressed in order to fashion a rate mechanism that appropriately balances risks and benefits among customers and utilities while pursuing legislative policy goals.

We find, therefore, that the best approach to implementing such rate mechanisms is on a company-by-company basis in the context of an examination of company specific costs and revenues inasmuch as each utility has a unique service territory and customer mix as well as company specific operating costs and rate base investment. Energy efficiency rate mechanisms will need to be tailored to the energy efficiency load loss and fixed and variable cost structure of each company. Incentives will need to fit the potential level of investment for each service territory and customer class. As a result, we encourage the utilities to consider the following

when fashioning a proposal for energy efficiency rate mechanisms and incentives in a future rate case filing.

C. Rate Mechanism Options

Energy efficiency rate mechanisms such as revenue decoupling are intended to weaken the link between sales volumes and revenue recovery and lessen the impact on utility revenues associated with reductions in sales volumes from increased efficiency and conservation. There appear to be three primary rate mechanism options: (1) performance incentives, (2) rate design, and (3) reconciling rate adjustment mechanisms.

(1) Performance Incentives

With respect to performance incentives, the Commission has already approved this mechanism in both the electric and natural gas energy efficiency programs. Currently, all electric utilities in New Hampshire participate in the CORE Energy Efficiency Programs. The participating CORE utilities are allowed to earn a shareholder incentive based upon a percentage of the total CORE program budget times a ratio based upon predicted to actual cost benefits and lifetime savings of energy efficiency measures. The CORE shareholder incentive is capped at 12% of program budgets. Natural gas utilities earn a similar shareholder incentive for their performance in the gas energy efficiency programs.

We expect that if utility participation levels increase in the CORE programs, or the natural gas efficiency programs, that utility shareholders will earn larger incentive payments. This formula appears to be working and does not require adjustment at this time. However, should any party propose changes to the incentive formula, those changes should be thoroughly documented and should include an analysis of declining energy use and related revenue impacts

due to energy efficiency programs as well as an analysis of projected energy use and related revenue impacts.

(2) Rate Design

Revenue decoupling could be also be implemented through changes in rate design. That is, the Commission could consider changes to the fixed charge component of the rate design to more accurately align cost causation of the utility's actual fixed costs with the fixed charge component of the rate design. Any decoupling proposal to change the rate design needs to consider the impact on small rate classes to ensure that such classes are not unduly impacted by such changes. Consistent with its traditional practice, the Commission would consider rate design changes in the context of a rate case.

(3) Reconciling Rate Adjustments

Another option that can be used to implement revenue decoupling is a rate reconciling adjustment mechanism. This model can be either targeted or comprehensive. If revenue decoupling were to reflect a targeted approach, it would pertain only to specific sales volume reductions, such as volume reductions associated with the implementation of energy efficiency programs.

In the alternative, if revenue decoupling were to reflect a comprehensive model, it would pertain to all or nearly all sales volume fluctuations, such as volume fluctuations associated with energy efficiency programs, price changes, weather changes, economic fluctuations, etc. Under this scenario, the utility should provide a reconciliation of actual revenues against target revenues,⁴ along with detailed explanations of the methodology used to reconcile actual revenues against target revenues.

⁴ For this purpose, target revenues are equivalent to revenues reflected in a base rate proceeding in conjunction with a comprehensive decoupling scenario.

Regardless of the model used, it would be appropriate to propose revenue decoupling in the context of a rate case in order to avoid single-issue ratemaking. Further, depending on the specific company proposal, there could be a potential to inappropriately shift risks. That is, revenue decoupling could enhance the utility's revenue stability and reduce earnings volatility; hence, revenue decoupling may result in a shift of risk away from the utility and toward the customer. Therefore, any revenue decoupling model proposed should be in the context of a rate case so that a utility's return on equity (ROE) can be thoroughly analyzed.

D. Future Energy Efficiency Investments

As discussed above, we expect to learn more about likely future energy efficiency investments in the current energy efficiency study. In considering proposed utility investments we will also look at other available funding sources for such investments including customer initiatives and RGGI funds. We invite utilities in the context of future rate filings to propose energy efficiency investments that are both cost effective and not duplicative of investments of customers or other third parties.

We will analyze each utility proposal and consider implementing appropriate energy efficiency rate mechanisms for New Hampshire utilities in order to promote cost effective energy efficiency measures. We will use the results of the energy efficiency study to assess the potential for additional energy efficiency investment in New Hampshire. We will also consider appropriate utility incentives to the extent that energy efficiency spending has not occurred. We will determine on a case-by-case basis whether utility specific energy efficiency rate mechanisms or incentives constitute alternative regulation pursuant to RSA 374:3-a and will apply appropriate standards of review to proposals that fall within RSA 374:3-a. We do not intend a general departure from cost-based regulation, but commit to finding ways to promote energy

efficiency and demand reduction for the electric and natural gas utilities under the current cost-based regulatory regime..

E. ENE Petition to Intervene Out of Time

ENE describes itself as a non-profit organization that addresses large scale environmental challenges and examines threats to regional ecosystems. ENE has a policy focus relevant to this docket and, as a result, we conclude that it has a substantial interest which may be affected by this docket. We therefore grant ENE's request for intervention.

F. CLF Motion for Scheduling Order

In its motion, CLF asks the Commission to: (1) allow comment on an optimal rate design for promoting energy efficiency in New Hampshire; (2) provide for additional proceedings to implement such a rate design; and (3) issue a final order in this docket. The order we issue today is a final order that addresses the issues outlined by CLF and allows the electric and natural gas utilities to propose rate mechanism to promote energy efficiency in future rate case filings.

Based upon the foregoing, it is hereby

ORDERED, that this investigation is closed.

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

Thomas B. Getz
Chairman

Graham J. Morrison
Commissioner

Clifton C. Below
Commissioner

Attested by:

Lori Davis
Assistant Secretary