

**STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION**

2009 Core New Hampshire
Electric Energy Efficiency Programs

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Docket No. DE 08-120

SETTLEMENT AGREEMENT

This settlement agreement is entered into by and among Granite State Electric Company d/b/a National Grid ("National Grid"), New Hampshire Electric Cooperative, Inc. ("NHEC"), Public Service Company of New Hampshire ("PSNH"), Until Energy Systems, Inc. ("Unutil") (collectively, "the Electric Utilities"), the Office of Consumer Advocate ("OCA"), the New Hampshire Community Action Association ("CAA"), the Office of Energy and Planning ("OEP"), the Department of Environmental Services ("DES"), the Jordan Institute, the Homebuilders and Remodelers Association of NH ("HBRANH), and the Staff of the New Hampshire Public Utilities Commission (Staff) (all collectively referred to as "the Settling Parties and Staff"). The intent of this settlement agreement is to resolve all outstanding issues in this proceeding except for the issues described in Section III. Approval of this settlement agreement by the New Hampshire Public Utilities Commission ("Commission") will permit the energy efficiency programs funded by New Hampshire electric customers via the RSA 374-F:3, VI System Benefits Charge ("SBC") to be implemented for 2009.

I. PROCEDURAL HISTORY

This proceeding began with the joint filing on October 7, 2008, by the Electric Utilities of a document entitled "2009 Core New Hampshire Energy Efficiency Programs" ("2009 Core Proposal"), setting forth the Electric Utilities' proposed SBC-funded energy efficiency programs for 2009. See Attachment A, 2009 Core Proposal, revised proposal provided on November 10, 2008. As in prior years, "[t]he uniform planning, delivery, evaluation and access to energy efficiency programs will continue" in New Hampshire in 2009. 2009 Core Proposal at 12.

The Electric Utilities propose the continuation of the Core Program Management Team ("CMT") to oversee all Core program activities, quarterly reporting and to resolve problems as they arise. The Electric Utilities propose that the Management Team be comprised of representatives from each electric utility and will make decisions by consensus with one member specifically designated as the liaison with the Settling Parties and Staff.

The Electric Utilities propose maintaining a "performance incentive" for utility shareholders', consistent with Order No. 23,574 in Docket DR 96-150 (November 1, 2000), which allows the Electric Utilities to earn a performance incentive between 0% and 12% of the Core Program Budget depending on the level of utility's performance in meeting annual goals.² The Electric Utilities also proposed continuing the process whereby customers with multi-year projects could receive a commitment from their utility notwithstanding the year-by-year approval by the Commission of the Core Programs. In addition, the Electric Utilities proposed the continuation of the previously adopted budget adjustment guidelines, allowing the Electric Utilities to transfer funds among programs, within the commercial and residential sectors, subject to certain limitations.

¹ The term "shareholders" includes New Hampshire Electric Cooperative members.

² The budgeted incentive is 8%.

The Commission issued an Order of Notice on October 9,2008 and, pursuant to the order, conducted a Pre-Hearing Conference on October 24,2008.

A technical session was convened following the Pre-Hearing Conference, during which a procedural schedule was developed, and oral data requests were asked of the Electric Utilities. Due to the short time frame for the Commission to review the 2009 Core Program proposals, the Parties and Staff agreed that the following issues, and possibly others, should be reserved for separate consideration:

- Monitoring and Evaluation;
- Shareholder Incentives;
- Cost Effectiveness and the use of the Total Resource Cost Test;
- Results of a planned Staff financial audit of the Core Programs; and
- How best to incorporate the findings of the Commission's forthcoming Energy Efficiency Potential Study in future Core programs.

All pending intervention requests were granted and the Commission issued a Secretarial Letter on October 31,2008 approving the procedural schedule recommended by the Settling Parties and Staff. In addition, the Secretarial letter directed the Settling Parties and Staff to address the reserved issues in the first instance at the 2009 Core Program Quarterly meetings.

The Settling Parties and Staff conducted technical sessions on November 13,2008 and November 18,2008, and a Settlement Conference on December 2,2008. This Settlement Agreement is a result of discussions that took place during these sessions.

II. SETTLEMENT TERMS

The Settling Parties and Staff agree that it is lawful and consistent with the public interest for the Commission to approve the Electric Utilities' 2009 Core Proposal, subject only to the modifications described in this settlement agreement and the resolution of the unresolved issues described herein.

A. Core Programs Quarterly Meetings

The Settling Parties and Staff will continue to meet at least quarterly to review the Core Programs, and more often when required.

These meetings are designed to take place within two weeks after issuance to the Parties and Staff of the quarterly reports. The quarterly reports are due no later than 45 days after the end of a quarter. The quarterly meetings will include analysis and discussion of topics, including but not limited to the following: a review of program performance; coordination of program delivery with the gas utilities' energy efficiency programs; carryover funds issues; education and outreach including exploration of innovative marketing approaches; discussion of activities planned for the future; and an opportunity for the Parties and Staff to provide input and suggestions.

The Electric Utilities have the responsibility of carrying out the existing programs, to spend within approved budgets, and to meet operational goals for every program. The Electric Utilities shall have the necessary authority to manage the operations of the programs in order to achieve the budget and programmatic goals established by Commission approval of the 2009 Core programs. The quarterly meetings are not intended for the purpose of managing the day-to-day implementation of the programs. Additional meetings will be held as needed. The Settling

Parties and Staff also agree that it is appropriate to create working groups to address specific issues and to formulate proposals for the CMT's consideration.

During the summer of 2009 the Core Management Team will meet to discuss program planning for 2010 toward the goal of allowing the Electric Utilities to make the 2010 Core Program Filings no later than September 30,2009. To that end, the first meeting of the Parties and Staff will take place in January 2009.

B. Issues for 2009 Quarterly or Additional Meetings

The Settling Parties and Staff agree that there are issues in addition to those identified in Section A. above which need to be resolved during the first six months of 2009. These issues include but are not limited to: 1) the appropriate method of allocating the Independent System Operator-New England ("ISO-NE") capacity market payments to the Core programs beyond 2009; 2) Low-income HEA budgets and associated projects; 3) methods for evaluating market transformation and market demand; and 4) the possibility of multi-year program filings. In addition, as directed by the Commission in its October 30,2008 Secretarial letter, the Settling Parties and Staff agree to review at the quarterly Core meetings: 1) monitoring and evaluation of the Core programs, 2) shareholder/performance incentives, 3) the total resource cost test; 4) the results of Staffs financial audit when available; and 5) the results of the Commission's energy efficiency potential study.

To the extent that the Settling Parties and Staff can agree to resolution of these issues, the Electric Utilities will include those resolutions in their 2010 Core Program filing, if appropriate. To the extent that consensus can not be reached on these issues, the Settling Parties and Staff reserve their rights to make separate filings stating positions on the issues.

C. Project Financing Alternatives

The Jordan Institute will continue to meet with the Electric 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 will be to develop consensus recommendations on expanded project financing alternatives. The meetings will be open to all interested Parties and Staff participating in Docket DE 08-120. The gas utilities will be invited to attend these discussions.

D. Gas Program Coordination

The Electric Utilities will continue to meet with the natural gas utilities that offer efficiency programs and to develop recommendations to improve coordination of energy efficiency services to customers with both natural gas and electric service. The NH Electric Utilities will provide a report on progress at the first Quarterly Meeting for 2009.

In 2009 both natural gas utilities in the state will be owned by Electric Utilities, as National Grid purchased KeySpan in 2007, and Unitil finalized its purchase of Northern Utilities in December 2008. The Parties and Staff believe that this horizontal integration provides a unique opportunity to enhance coordination and reduce costs of the delivery of energy efficiency programs in the state.

E. Home Energy Assistance Budget Levels

The budgets for the low income Home Energy Assistance Program ("HEA") were discussed by the Settling Parties and Staff. In a secretarial letter dated November 13, 2008, the Commission approved PSNH's request to transfer \$500,000 from the 2008 HES budget to the 2008 HEA budget and to bring forward \$360,000 from the 2009 and 2010 HEA budgets to the

2008 HEA budget. In addition, the Commission approved NHEC's October 24th request to transfer \$45,000 to its HEA budget its 2008 commercial sector programs.

The budgets for HEA programs were discussed at a special meeting convened for that purpose on February 2, 2008. A presentation by The Way Home demonstrated the need for an assessment of the allocation of funds to the HEA. The presentation resulted in the establishment of a working group. The group determined that the eligible population for the HEA program exceeds the funding currently available for the program. See Attachment B. At the quarterly meeting held on June 16, 2008, the parties agreed that, due to then-current energy price forecasts, the allocation to the HEA should be made uniform among the Electric Utilities and should be increased to 13.5% of the overall Core program budget for 2009. This change is reflected in the proposed budget. Although there is an increase in the 2009 HEA budget as compared to the 2008 HEA budget, fewer homes are able to be served in 2009 as compared to 2008. The CAAs have explained that the reduction in the number of homes able to be served is a result of an increase in costs for weatherization materials, resulting in a higher job cost average and more energy efficiency measures being installed in some homes. The Parties and Staff agree that the HEA budget allocation should be reviewed again in 2009.

F. Energy Star Homes Budgets and Planning

Energy Star Homes are built to operate at less than 80% of the energy consumed by comparable code compliant homes. In some years demand for Core program subsidies to build such homes has required reallocation of funds from other programs. At least one utility in the 2008 program year informed a builder that funds would not be available only to later determine that funding would be available. At this time, considering the extraordinary downturn in home

construction, the parties have determined that additional allocation of funds into this program is not advisable, but the Electric Utilities are urged to be prepared to consider shifting funds in accordance with Section J, Interim Changes in Program Budgets, of the 2009 Core New Hampshire Energy Efficiency Programs Filing should demand return to the building sector. PSNH agreed to work with New Hampshire Home Builders and Remodelers Association regarding the Energy Star Homes program and future budgets.

G. Monitoring and Evaluation

Pursuant to a settlement agreement regarding the 2006 Core Programs, approved by the Commission on March 17,2006, responsibility for monitoring and evaluation efforts was transferred from the Electric Utilities to Commission Staff in 2006 to allow for more independent oversight. See Order No. 24,599 (March 17,2006) in DE 05-157.

Since 2006, the Commission Staff, working in coordination with the Electric Utilities, has overseen the Monitoring and Evaluation (M&E) of the Core Programs including the allocation of the budget for M&E.

In the 2007 proceeding, the Parties and Staff agreed that it was appropriate to use M&E funds from the Core programs to fund a study of the remaining efficiency potential in the state. Staff then circulated a draft Request for Proposal (RFP) for a comprehensive study of the Core Programs entitled "Quantifying the Remaining Electric Energy Efficiency Opportunities in New Hampshire." Subsequently, the Commission awarded the contract to GDS Associates (GDS). The Electric Utilities and the OCA were involved in the discussions regarding the scope of the study. Consistent with the settlement agreement in Docket No. DE 07-106, the 2008 Core programs docket, the Settling Parties and Staff agreed that the GDS study will provide needed

and useful information for future Core programs and other efficiency planning, and expect to use the GDS study results in preparing the 2010 Core programs filing. It is the understanding of the Parties that the energy efficiency potential study is intended to be in addition to typical annual and other monitoring and evaluation studies.

The Settling Parties and Staff agreed that the M&E activities should be reviewed at the quarterly meetings. To facilitate this review, the Staff agreed to post the Executive Summaries of all M&E studies conducted since March 17,2006 on the Commission website. In addition, Staff will work with the Electric 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 with the Commission and the Parties a plan for 2009 M&E activities, after consultation with the Electric Utilities, no later than January 31,2009.

H. NH Saves Website

The Parties and Staff agree that a working group will be established for the purpose of reviewing and proposing improvements to the Core NH Saves Website (www.nhsaves.com) in order to increase the educational material and information available on the website, including increased coordination with natural gas and other efficiency programs.

I. 2009 Core Proposal

The Settling Parties and Staff agree that the document filed on October 7,2008 entitled "2009 Core New Hampshire Energy Efficiency Programs" and revised on November 10,2008 will be marked as an exhibit in this proceeding and taken into evidence, with the understanding that the 2009 Core Proposal will be modified by this Settlement and by subsequent decisions by

the Commission on any contested issues. The Settling Parties and Staff anticipate that a clean final version of the 2009 Core Proposal with updated Appendices, if needed, will be submitted following a final decision on the merits by the Commission.

J. Total Resource Cost Test

The Settling Parties and Staff agree with the application of the Total Resource Cost Test used by the Electric Utilities in the 2009 Core program filing.

III. UNRESOLVED ISSUES

A. Proposed Fuel-blind Home Energy Solutions Pilot

Two utilities, PSNH and Unitil, have proposed to conduct a pilot program to "incorporate a fuel blind weatherization program component" into the Home Energy Solutions (HES) Program for 2009 "[i]n an effort to balance the need to serve remaining electric heat customers with weatherization needs and requests from customers with fossil fuel heated homes." 2009 Core Proposal at 17.

The Settling Parties and Staff have not reached agreement on whether the fuel blind pilot program should be offered in 2009. The Settling Parties and Staff did agree that more details were needed in order to analyze the proposal. As a result, the Electric Utilities will provide more information on the proposed pilot. In addition, the Settling Parties and Staff may file statements of position related to this issue, and will address it at the hearing.

B. Renewable Energy Fund and RGGI Funds

In their 2009 Core Proposal, the Electric Utilities acknowledged that the Renewable Energy Fund and the Greenhouse Gas Emissions Reduction Fund (RGGI Fund) would be available in 2009 to fund renewable energy and energy efficiency programs. See p. 6 of 2009 Core Proposal. The Electric Utilities stated that “[a]s these efforts are implemented and managed by the NHPUC Office of Sustainable Energy, the NH Electric Utilities stand ready to assist the NHPUC as needed to help deliver additional services to NH residents.” Id. The filing also states that with reference to the RGGI Fund, [t]he NH Electric Utilities are accordingly prepared to expand and augment current programs in areas that will complement and enhance the savings potential already being achieved through the application of the System Benefits Charge. Examples of such measures might include weatherization of fossil heated homes, furnace upgrades or replacements, and efficiency improvements to fossil-fueled industrial process systems.” Id. However, the Electric 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 Settling Parties and Staff believe that it would be more appropriate for the Electric Utilities to make separate filings with the Commission to the extent that they wish to seek such funds. The Parties and Staff expect that any such request would take place in an adjudicative docket, as required by Puc 2604.01, so that all interested parties could participate at that time.

IV. MISCELLANEOUS PROVISIONS

This settlement agreement shall not be deemed in any respect to constitute an admission by any party that any allegation or contention in these proceedings is true or valid. This settlement agreement is expressly conditioned upon the Commission's acceptance of all of its provisions without change or condition. If such acceptance is not granted, the settlement

agreement shall be deemed to be null and void and without effect, and shall not constitute any part of the record in this proceeding nor be used for any other purpose. The Settling Parties and Staff agree to support approval of this settlement agreement before the Commission and the Settling Parties and Staff shall not oppose this settlement agreement before any regulatory agencies or courts before which this matter is brought.

The Commission's acceptance of this settlement agreement does not constitute continuing approval of or precedent regarding any particular issue in this proceeding, but such acceptance does constitute a determination that, as the Settling Parties and Staff believe, the provisions set forth herein are just and reasonable. The discussions which have produced this settlement agreement have been conducted on the understanding that all offers of settlement and discussion relating thereto are and shall be privileged, and shall be without prejudice to the position of any party or participant representing any such offer or participating in any such discussion, and are not to be used in any manner in connection with this proceeding, any further proceeding or otherwise.

IN WITNESS WHEREOF, the Settling Parties and Staff have caused this settlement agreement to be duly executed in their respective names by their agents, each being fully authorized to do so on behalf of their principal.

**GRANITE STATE ELECTRIC COMPANY
D/B/A NATIONAL GRID**

By: _____ ✓
Alexandra E. Blackmore, Esq.
Senior Counsel

Date: _____

NEW HAMPSHIRE ELECTRIC COOPERATIVE

By: _____
Devine, Millimet & Branch, P.A.
Robert E. Dunn, Jr. Esq.

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PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

By: _____
Gerald M. Eaton, Esq.
Senior Counsel


Date: Dec 11 2008

UNITIL ENERGY SYSTEMS, INC.

By: _____
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Date: 12/11/2008

**STAFF OF THE NEW HAMPSHIRE
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By: 
Suzanne Amidon, Esq.

Date: 12/11/08

OFFICE OF THE CONSUMER ADVOCATE

By: 
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By: 
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DEPARTMENT OF ENVIRONMENTAL SERVICES

By: 
Joanne O. Morin

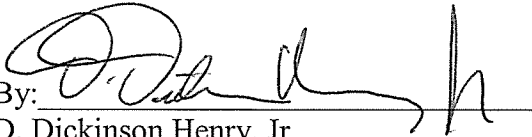
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**NEW HAMPSHIRE LEGAL ASSISTANCE
on behalf of
THE WAY HOME**

By: 
Alan Linder, Esq.

Date: 12/11/08

THE JORDAN INSTITUTE

By: 
D. Dickinson Henry, Jr.
Executive Director

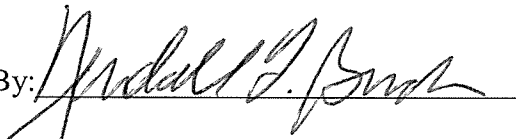
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NEW HAMPSHIRE COMMUNITY ACTION ASSOCIATION

By: _____ ✓
Gale F. Hennessy
President

Date: _____

HOME BUILDERS AND REMODELERS ASSOCIATION OF NEW HAMPSHIRE

By: 
Kendall L. Buck, CAE
Executive Vice President

Date: 12-11-08

**GRANITE STATE ELECTRIC COMPANY
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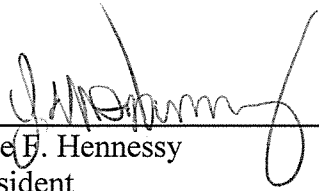
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THE JORDAN INSTITUTE

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NEW HAMPSHIRE COMMUNITY ACTION ASSOCIATION

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Gale F. Hennessy
President

Date: 12-9-06

HOME BUILDERS AND REMODELERS ASSOCIATION OF NEW HAMPSHIRE

By: _____

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Kendall L. Buck, CAE
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