STATE OF NEW HAMPSHIRE

PUBLIC UTILITIES COMMISSION

DE 09-170

2010 CORE ENERGY EFFICIENCY PROGRAMS

Core Energy Efficiency Programs

Order Approving Revised 2010 Core Budgets

O R D E R N O. 25,099

April 30, 2010

APPEARANCES: Gerald M. Eaton, Esq., for Public Service Company of New Hampshire; Orr & Reno by Douglas Patch, Esq., for Unitil Energy Systems (UES); McLane, Graf, Raulerson and Middleton P.A. by Sarah B. Knowlton, Esq., for Granite State Electric Company d/b/a National Grid; Mark Dean, Esq., for New Hampshire Electric Cooperative; New Hampshire Legal Assistance by Alan Linder, Esq., for The Way Home; Dana Nute for the Community Action Association; Eric Steltzer for the Office of Energy and Planning; Elizabeth Fischer for the Home Builders & Remodelers Association of New Hampshire; Office of Consumer Advocate by Meredith A. Hatfield, Esq., on behalf of residential ratepayers; Russ Aney, on behalf of US Energy Saver, LLC; Northeast Energy Efficiency Partnership by Natalie Hildt; Jack Ruderman, Esq., on behalf of the Commission's Sustainable Energy Division; and Suzanne G. Amidon, Esq., on behalf of the Commission's Electric Division.

I. PROCEDURAL HISTORY

In Order No. 25,062 (January 5, 2010) approving the Settlement Agreement for the 2010 Core Energy Efficiency Programs (Core Programs), the Commission noted that the New Hampshire Legislature was considering Senate Bill 300, legislation that would expand coverage of the low income Electric Assistance Program (EAP) by shifting a portion of the System Benefits Charge (SBC) funds from energy efficiency to the EAP. Senate Bill 300 was signed into law effective January 14, 2010. On January 22, 2010, the Commission issued a supplemental Order of Notice directing Granite State Electric Company d/b/a National Grid (National Grid), the New Hampshire Electric Cooperative, Inc. (NHEC), Public Service

Company of New Hampshire (PSNH) and Unitil Energy Systems, Inc. (UES) (collectively, Utilities) to file revised 2010 Core Program budgets based on the reduction of SBC funds for energy efficiency including recommendations on whether additional funds should be allocated from the Greenhouse Gas Reduction Fund to support the planned 2010 Core programs pursuant to N.H. Code of Admin. Rules Puc 2604.01(b)(2).

On February 1, 2010, PSNH, on behalf of the Utilities, filed a 2010 marketing plan summary as required by the settlement agreement approved by Order No. 25,062. The Utilities filed proposed budget revisions for the 2010 Core energy efficiency programs based on the changed allocation on February 5, 2010 as directed by the Commission. National Grid filed an explanation of its proposed 2010 Core program budget revision on February 10, 2010. The interested parties and Staff held a technical session to review the revised budgets on February 12, 2010. As directed by the Commission, final budgets were filed on February 19, 2010.

The Commission heard evidence on the settlement agreement and other issues related to the Core Programs on March 1, 2010 and, on March 10, 2010, the Utilities filed responses to a record request following the hearing (Exhibit No. 23).

II. REVISED 2010 CORE ENERGY EFFICIENCY PROGRAMS

A. National Grid

The impact of SB 300 on National Grid's energy efficiency programs resulted in a reduction in funding of $255,184. National Grid also forecasted lower kilowatt hour (kWh) sales, resulting in an additional funding reduction of $66,365. Hearing Transcript of March 1, 2010 (3/01/10 Tr.) at 27. An estimated carry-over balance and an increase in revenue due to an error in the original budget more than offset these reductions, resulting in an increase of $21,386 over National Grid's original 2010 Core Program budget. *Id*. at 27. National Grid requested authority to spend these additional funds in its revised program budgets in the Residential and Commercial and Industrial (C&I) sectors.

National Grid said its review of the SB 300 impact disclosed that there was a demand for higher C&I sector funding, specifically the large C&I Retrofit program, which National Grid expected to be higher than reflected in the original 2010 budget. National Grid adjusted funding for these programs to meet market demand by reducing incentives for the New Equipment & Construction and Small Business Energy Solutions programs and increasing the budget for the large C&I Retrofit program. In addition, National Grid requested that the Commission approve a reduction in National Grid's Small Business Energy Solutions incentives from 70% to 50% to service more customers. With respect to lifetime program savings, National Grid expected that these changes will result in an overall increase in program savings for the C&I Sector of 24.4 million kilowatt hours (kWh), mostly related to the Large C&I Retrofit program. *Id*. at 29-30.

B. New Hampshire Electric Cooperative

NHEC's energy efficiency programs experienced a $214,034 decline in funding as a result of the passage of SB 300. NHEC said that this reduction was offset in part by an estimated carryover balance of $65,500 that has been added into the 2010 budget, leaving a net reduction of $148,534. NHEC requested that the Commission use funds from the N.H. Greenhouse Gas Emissions Reduction Fund (GHGERF) to make up for the reduced funding. *Id*. at 33. NHEC said it had cut its budgets across the board and that, without the GHGERF money, NHEC would need to close the Energy Star Homes, Home Performance with Energy Star and Large C&I Retrofit programs immediately and would most likely need to close the Small C&I program by the end of the first quarter of 2010. *Id.* at 37.

C. Public Service Company of New Hampshire

PSNH's 2010 budget for Core energy efficiency programs declined by $2,348,517 as a result of SB 300. PSNH partially offset this reduction using other sources including prior year carryover amounts ($500,000), SmartStart transfers ($994,487) and $500,000 related to RSA 125-O transfers. PSNH calculated that the offsets equaled $1,994,487, leaving a shortfall of $354,030 from the original 2010 Core energy efficiency budget.

PSNH recalculated its contribution to the low income program, reducing the low income budget by approximately $135,133. The remaining budget shortfall of $218,897was allocated based on kilowatt hour sales: 39% for Residential programs and 61% for C&I programs. For the Residential sector, PSNH proposed to reduce the Energy Star Lighting Program by $85,479, due mostly to a $75,479 reduction in the marketing budget for NHSaves lighting catalogs. For the C&I sector, most of the proposed reductions affected monitoring and evaluation expense for the Large C&I Retrofit Program. The Company said it plans to reduce this expense by $100,000. Finally, PSNH moved some money from various accounts for marketing, internal implementation and monitoring and evaluation into rebates to help mitigate the costs in the low income program. *Id.* at 23-24.

D. Unitil Energy Systems, Inc.

The impact of SB 300 on UES' energy deficiency programs resulted in a reduction in funding of $365,854. UES fully offset this loss with carryovers funds from 2009. UES also transferred $75,000 from marketing expense to rebate expense. *Id.* at 40-41.

III. POSITIONS OF THE PARTIES

A. Northeast Energy Efficiency Partnership

The Northeast Energy Efficiency Partnership (NEEP) stated its support for the Core energy efficiency programs. NEEP said that there will be long-term consequences resulting from these cuts and encouraged all parties to work on ways of capturing all cost-effective energy efficiency. NEEP pointed out that legislation pending before the N.H. Legislature, SB 323, would direct the PUC, the Energy Efficiency and Sustainable Energy Board and others to look at ways of capturing all cost-effective efficiency. NEEP urged that measures be taken to shield energy efficiency dollars to protect such funds from being used for other purposes. *Id.* at 180-182.

B. The Way Home

The Way Home (TWH) stated its appreciation of the efforts undertaken by the utilities to come up with ways to deal with the challenging impact of a reduced budget. In addition, TWH commented on the calculation of the low income budget. TWH said it would be helpful for the Commission to clarify what it determines to be the correct methodology in calculating the low income budget, that is, whether to take the low income share based on the gross Core Programs budget, or to take the low income share based on the Core Programs budget net of performance incentives amounts. TWH recommended that the Commission not use the GHGERF money for the shortfall in the 2010 Core Program budgets because such diversion might not be beneficial in the long term. Finally, TWH suggested that the Commission review PSNH's set aside of SBC funds pursuant to RSA 125-O:5, II and the money in the Smart Start program to determine whether these funds could be used to make up the budget shortfall resulting from the enactment of SB 300. *Id.* at 183-188.

C. Community Action Agencies

The Community Action Agencies (CAA) agreed with the comments of TWH and stated their objection to the use of GHGERF funds to make up the shortfall in the Core budget. *Id.* at 188.

D. Home Builders & Remodelers Association

The Home Builders & Remodelers (HBRA) supported the efforts of the electric utilities in their review of the budget. *Id.* at 188-189.

E. US Energy Saver, LLC

US Energy Saver, LLC (USES) commended National Grid for its proposal to reduce the discount in its Small Business Energy Solutions program from 70% to 50%. USES suggested that National Grid should have taken the additional step of permanently reducing those discounts. USES further suggested that there are some programs that do not need incentives at all, such as for residential screw-in compact fluorescents, because the market for that product has been transformed. *Id.* at 190.

USES criticized the utilities for not reducing their administrative costs when revising their budgets. *Id*. at 193. USES said that the administrative costs are increasing because the settlement agreement provided for monthly meetings, but that monthly meetings and the related administrative costs would not be necessary if the utilities were not administering the programs. According to USES, allowing the Utilities to administer the programs creates an inherent conflict of interest, especially in light of the performance incentive earned by the Utilities. USES said that, if the utilities did not administer the programs, the Utilities would not have to be micromanaged in their conduct of the programs as they currently are. USES also urged a reduction and review of shareholder incentive levels. Finally, USES stated its understanding that the Commission could order the transfer of SBC funds from some of the other electric utilities' Core program budgets to help NHEC make up for the shortfall in its budget resulting from the passage of SB 300, since they have the highest electric rates in the state and their customers may be in greater need of these funds. *Id.* at 194-197.

F. Office of Energy and Planning

The Office of Energy and Planning (OEP) expressed its appreciation for the Utilities' efforts in cutting $3 million from the Core Program budgets. OEP said it recognized that the NHEC was asking for only a small amount of funding from GHGERF but that OEP had serious concerns over the precedent that it would set to have the GHGERF dollars be given to the electric utilities for the shortfall. OEP also suggested that NHEC reduce funds for the programs that were close to being fully subscribed rather just ending those programs.

OEP noted that PSNH had not asked for GHGERF money to make up their shortfall. OEP also suggested that the Commission consider having PSNH extract more money from the RSA 125-O:5, II set aside for the Core programs. OEP said that PSNH should be allowed to reserve some of the money in that account in the event that the state is successful in receiving funding from the federal government for the beacon communities programs, and that the moneys could be sought to leverage energy efficiency improvements, pending Commission review, at facilities owned by PSNH. Finally, OEP suggested that the Commission take a hard look at the performance incentive budgeted by the Utilities. *Id.* at 197-199.

G. Office of Consumer Advocate

The OCA acknowledged the work that the Utilities put into the development of the revised budgets and, in general, supported the cuts. With respect to PSNH's decision to shift $500,000 from the RSA 125-O:5, II set aside, the OCA stated that PSNH should have taken additional funds from the set aside to cover the approximately $353,000 in program cuts required by SB 300. *Id.* at 199-200.

The OCA also requested that the Commission direct PSNH to not withhold additional funds from the 2010 SBC revenues to be transferred pursuant to RSA 125-O:5, II. The OCA observed that Staff's audit had disclosed that PSNH may have set aside money before waiting to see if there was a carryover. The OCA said there should be a clear directive to PSNH that, in these times, when ratepayer programs are being cut, PSNH should not be withholding any funds for its own projects. *Id.* at 201.

The OCA stated its opposition to the use of GHGERF to make up the shortfall in NHEC's budget. The OCA noted that the utilities, through the GHGERF supported Re-Core program, have received $7.6 million and that NHEC sought $687,000 of that total. Further, the OCA said that in many cases the GHGERF monies are the only energy efficiency funds available to parties other than the utilities. The OCA pointed out that the utilities have rates, the SBC and the opportunity through RSA 374-G to seek funds to support energy efficiency projects. *Id.*

The OCA requested the Commission take administrative notice of the utilities' Re-Core grant because the grant is highly relevant to the Core programs. The OCA suggested that, in the Core monthly meetings, the parties should be looking at both the SBC and the Re-Core in terms of funding the Core programs. *Id.* at 202.

The OCA requested that the Commission cap the shareholder incentive at the budgeted 8% for 2010. The OCA said that, based on the review of the average shareholder incentive over the past several years, there is a significant chance that the incentives will exceed 8 percent. *Id.* at 202-203.

Finally, the OCA pointed out that the New Hampshire Senate was considering legislation, SB 323, which would call upon the Commission, in consultation with the Energy Efficiency and Sustainable Energy Board, to conduct a comprehensive review of the SBC funded programs by the middle of 2011. The OCA noted that the approved settlement agreement called for significant review of the Core programs and suggested that this planned activity be deferred to allow a legislatively mandated survey to be conducted. *Id.* at 204.

H. Sustainable Energy Division

The Sustainable Energy Division commended the utilities' work in making budget adjustments based on the shortfall of funding for the Core programs resulting from SB 300 but requested that the Commission not use GHGERF money to make up for the shortfall. According to the Sustainable Energy Division, the legislative history of the GHGERF suggests that GHGERF money could be used to supplement Core programs, but was not intended to be used as a back up for shortfalls in the SBC-funded Core program. *Id.* at 207-210.

I. Electric Division

The Electric Division also commended the utilities efforts to address the budget shortfall presented by SB 300. The Electric Division said that not everything in the filing was clear, but that it would not oppose the budget changes. The Electric Division asked the Commission to defer any decision on the shareholder incentive to allow work planned for 2010 to go forward. It supported the calculation of the HEA budget as done by National Grid, NHEC and UES and, finally, recommended that the Commission use GHGERF funds to make up the shortfall in NHEC's Core program budget. *Id.* at 205-207.

J. Electric Utilities

1. Public Service Company of New Hampshire

PSNH requested that the Commission accept the revised budgets. PSNH said that there are real losses associated with the budget revisions. For example, PSNH said that it had reduced the number of catalogs used to market energy efficient fixtures, and that fewer catalogs lead to fewer sales and lower kilowatt hour savings from those items. In addition, PSNH said that its monitoring and evaluation program was reduced to cover the bare minimum of programs that have to be evaluated to allow the Core programs to continue to receive forward capacity market revenues. *Id*. at 211.

PSNH said that the revised budgets cut the number households served by the low income Home Energy Assistance program, which is a result of the overall reduction in funding. PSNH stated that some of the low income households could be served through the Re-Core program, funded with RGGI money awarded to the electric utilities to expand the Core program offerings, and there may be other resources to support energy efficiency measures in low income homes. *Id*. at 212.

In response to suggestions that PSNH use all of the SBC funds that it is allowed to set aside pursuant to RSA 125-O:5, II to supplement Core program funding, PSNH explained that it planned to use some of the set aside funds to support energy efficiency improvements at its Berlin and Nashua work centers and to match available federal grants for the development of beacon communities. PSNH said the savings produced by these measures would benefit all customers and urged the Commission not to order PSNH to transfer the set aside funds to the Core programs at this time. PSNH stated that, if these opportunities did not come to fruition later in the year, then the Commission could consider an additional transfer from the set aside funds. *Id*. at 213.

PSNH argued against capping the performance incentive. According to PSNH, the shareholder incentive is based upon the projected cost/benefits and the projected lifetime kilowatt-hour savings, which is then compared to the actual cost benefits of the projects completed and the actual lifetime kilowatt-hour savings. While the budget is kept constant, the actual shareholder incentive is based upon those two factors. PSNH said that even without a capped performance the utilities would receive less because of lower budgets. *Id*. at 214.

Regarding USES' comments, PSNH said that raising global issues in connection with this proceeding about revised budgets, and in light of the proposed SB 323, was not helpful in connection with working on delivering the services. PSNH said that the monthly meetings are costly for the other Utilities who need to have attorneys at such meetings to see what is happening and to represent their clients. *Id*. at 215 -216. PSNH concluded by saying that the Commission should accept the Utilities' revised budgets so that the Utilities can implement the 2010 programs.

2. New Hampshire Electric Cooperative

NHEC urged the Commission to accept the filing and to not micromanage everything that the Utilities do in delivering the Core program services as suggested by USES. NHEC asked that a certain weight and deference be given to the recommendation that the Utilities have presented in exercising their best efforts to deal with the funding situation. *Id*. at 217. NHEC also asked the Commission to allocate $148,534 from GHGERF funds to the NHEC to make up for the shortfall in NHEC's budget resulting from SB 300. NHEC said that it had done its best to narrow the gap as much as possible by rearranging money between various accounts to serve programs of highest need. NHEC said that the GHGERF rules provide a mechanism to allow a party to ask the Commission to allocate GHGERF money for Core efficiency programs, citing Puc 2604.01(b)(2). NHEC said that the transfer of this money would help NHEC to preserve the Core programs without disruption. *Id*. at 218-219.

3. Unitil Energy Systems, Inc.

UES stated that it worked hard to address the issues raised by Senate Bill 300 and supported the comments of the other utilities. UES urged the Commission to restrict its review in this proceeding to the issues specifically noticed, which involve addressing the shortfalls entailed by SB 300. *Id*. at 220.

4. Granite State Electric Company d/b/a National Grid

National Grid said that it was a Herculean effort to revise the 2010 Core budgets to reflect the cut in SBC funds. National Grid said that the Core programs are replete with issues that are important and require consideration but that the Commission should focus on the narrow purpose of this proceeding. National Grid said it worked with its program managers to develop its budget and it was in a fortunate position in that available funds slightly exceeded its previously approved budget. National Grid requested the Commission approve its revised budget. *Id*. at 220-221.

IV. COMMISSION ANALYSIS

At the outset, we note our appreciation for the Utilities' work in reducing what was a budget deficit of slightly over $3 million to $148,500 for NHEC and $354,000 for PSNH. We know that these cuts affect the delivery of energy efficiency service across the board and we will approve the budgets as filed March 10, 2010 by the Utilities (Exh. 23). In doing so, we specifically approve National Grid's proposal to modify the Small Business Energy Solutions program by reducing incentives from 70% to 50%. National Grid proposed to reduce the incentives to service more customers and, while National Grid did not face the same challenges as PSNH and NHEC in trimming Core program funding, we find that increasing the number of customers served is a commendable goal and that reducing the incentive level, where feasible without significantly reducing participation, is consistent with the goal of market transformation.

The record shows that PSNH calculated the HEA low income assistance portion of its Core program budget before deducting the budgeted shareholder incentive, while the other Utilities first deducted the budgeted shareholder incentive from the Core program budgets before calculating the agreed-upon 14.5 percent of the budget for the HEA program. To resolve this difference going forward, we direct the Utilities to calculate the HEA budget by applying the multiplier (presently, 14.5%) to the Core program budgets after deducting the budgeted performance incentive amount. We encourage the Utilities to strive for uniformity in calculating and presenting the Core Program budgets to allow the interested parties to compare programs across all Utilities and we require uniformity in the calculation of the HEA budget.

At hearing, the OCA recommended that the Commission limit the shareholder incentive for the 2010 Core programs to the budgeted amount of 8%; we find that this limitation is appropriate given the general state of the economy, which led to the passage of SB 300 and the resulting budget cuts to the Core programs through June 30, 2011. A cap on the shareholder incentive is especially appropriate because the actual calculated performance incentive will likely exceed 8% and reduce dollars available for the 2011 Core program offerings. Therefore, for the 2010 Core program year, we suspend the calculation of actual lifetime benefits and the associated performance incentive formulae previously established and approved for the Core program to the extent that the calculated performance incentives exceed 8%, and require that performance incentives be capped at the budgeted amount of 8% for 2010. We understand that, pursuant to the settlement agreement in this docket, the Utilities and interested parties will undertake a review of the performance incentives calculation during 2010 and may make recommendations in that regard.

We heard many comments concerning PSNH's use of the RSA 125-O:5, II 2% SBC set-aside and opinions that PSNH should first use the set-aside ratepayer money for Core programs before using set-aside money for its own energy efficiency projects. We note that, pursuant to the settlement agreement approved in this docket, PSNH and interested parties intend to more closely review PSNH's calculation and use of the 125-O:5, II set-aside. Therefore, we find it in the public interest that PSNH desist from committing any new funds from the set-aside until that agreed-upon review is complete. Having said that, we commend PSNH's shift of $500,000 of the set-aside funds to its Core program budget to help make up the shortfall occasioned by SB 300.

With regard to the Sustainable Energy Division's and other parties' position that the GHGERF should not be used to backfill NHEC's 2010 Core program budget, while we agree that the GHGERF primarily serves a distinct and somewhat different purpose – to reduce greenhouse gas emissions – we do not find that NHEC's proposed use of the funds is in any way contrary to the plain language of the enabling statute, RSA 125-O:23. Furthermore, our rules clearly allow the Commission to fund energy efficiency programs to reduce green house gas emissions generated within New Hampshire in the context of a system benefits charge proceeding. N.H. Admin. Rules Puc 2604.01(a) and (b)(2). We find that the use of GHGERF funds in NHEC's Core energy efficiency program will reduce greenhouse gas emissions, energy costs, and New Hampshire's peak electric demand in a cost effective manner. Given the passage of SB 300, we will grant NHEC's request for $148,500 for the purpose of funding the 2010 NHEC Core program offerings. In doing so we recognize, first, the cost-cutting measures NHEC implemented to reduce its short-fall, and second, that the passage of SB 300 requires extraordinary action. We do not, however, consider the use of GHGERF monies to make up shortfalls in Core budgets to be appropriate in the normal course of business.

With regard to the management of the Core programs through the Core management team, which consists of representatives from each electric utility and one member specifically designated as the liaison with the Parties and Staff, we expect that they will continue to fulfill their responsibilities to coordinate and oversee statewide activities and provide quarterly status reports to the Staff and interested parties. We understand that the settlement agreement approved in Order No. 25,062 provides that the Core team meet on a monthly basis with staff and interested parties. We recognize that monthly meetings as a strict requirement may be burdensome and unnecessary. Accordingly, some monthly meetings may be cancelled by agreement of the participants in order to minimize administrative time to the extent possible that still allows sufficient work and progress on the topics outlined in the settlement agreement and Order No. 25,062.

NEEP and OCA testified that current legislation, SB 323, which is a proposal that would require the Commission to conduct a comprehensive review of all energy efficiency and renewable energy programs, may affect the Core team's work. The OCA pointed out that the settlement agreement entailed an ambitious review of the Core programs and, given the pending legislation, the Core management team might want to scale back some of the planned 2010 activity. Although SB 323 has not passed, we agree that its passage would affect the work of the Core team. We direct Staff to inform the Commission on the progress of any work groups or activities that are conducted pursuant to the settlement agreement and, in the event of the passage of SB 323, to file a report describing any work that may be subsumed in the larger study directed by that bill.

We approved the annual reporting requirement pertaining to the reconciliation of SBC revenues and expenses as part of Order No. 25,062 approving the Settlement Agreement in the 2010 Core programs. We direct the Core Management Team to develop a uniform report that demonstrates how the carryover funds are calculated, including details about the sources of funds and uses of funds. We also direct the Core Management Team to ensure that carryover funds are properly accounted for in the context of the calculation of performance incentives to ensure that such carryover funds are not double counted in the determination of performance incentives. Finally, we direct the Utilities to file a revised marketing plan given the revisions to the 2010 Core budget.

Based upon the foregoing, it is hereby

ORDERED, that the revised Core filings made on March 10, 2010 are hereby APPROVED; and it is

FURTHER ORDERED, that National Grid's request to reduce its Small Business Energy Solutions incentive from 70% to 50% is hereby GRANTED; and it is

FURTHER ORDERED, $148,534 of funds in the Greenhouse Gas Emissions Reduction Fund shall be allocated to the New Hampshire Electric Cooperative for purposes of supporting its 2010 Core offerings; and it is

FURTHER ORDERED, that Public Service Company of New Hampshire shall not commit any SBC funds in its RSA 125-O:5, II set aside for any purpose for calendar year 2010 until subsequently approved by the Commission; and it is

FURTHER ORDERED, that, going forward, the Utilities shall calculate the relevant percentage of SBC budget monies to be dedicated to the Home Energy Assistance Funds based on the amount of the total Core budget net of budgeted performance incentive amounts; and it is

FURTHER ORDERED, that for the 2010 program year the shareholder performance incentive for each utility shall be limited to no more than the budgeted 8% of total program budget, exclusive of incentives; and it is

FURTHER ORDERED, that the Utilities shall file a modified marketing plan no later than May 21, 2010.

By order of the Public Utilities Commission of New Hampshire this thirtieth day of April, 2010.

Thomas B. Getz Chairman	Clifton C. Below Commissioner	Amy L. Ignatius (KNS) Commissioner

Attested by:

Debra A. Howland
Executive Director