

DE 99-099
DR 96-150

PUBLIC SERVICE COMPANY OF NEW HAMPSHIRE

Allocation of System Benefits Charge

**Order Regarding Laws of 2000, Chapter 249; Concerning the
System Benefits Charge**

O R D E R N O. 23,575

November 1, 2000

I. BACKGROUND

In response to the enactment of Chapter 249, Laws of 2000 (effective June 12, 2000) which contains provisions that are inconsistent with the Commission's April 19, 2000 order in DE 99-099, the Commission, through its General Counsel, issued a letter on July 19, 2000, soliciting comments by July 28, 2000 with respect to the allocation of the System Benefits Charge (SBC) between low income programs and energy efficiency programs.¹ Reply comments were due no later than August 4,

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Although Chapter 249, Laws of 2000, mainly addresses issues specifically associated with PSNH's restructuring settlement agreement and the Commission's April 19, 2000 order regarding PSNH's restructuring settlement agreement, Chapter 249, Laws of 2000 also affects the other electric utilities in New Hampshire and the provision of low income and energy efficiency programs. In the relevant provisions of Chapter 249, codified as RSA 369-B:3, IV, the Legislature did not establish any requirements outright. Rather, it set out certain determinations that the Commission was required to make, and conditions the Commission was required to impose on PSNH, in any finance order approving the securitization of PSNH stranded costs. The Commission did so in Order

2000. Subsequently, the comment and reply comment periods were extended to August 18, 2000 and August 25, 2000, respectively.

Specifically, Chapter 249, Laws of 2000, fixed the SBC at \$0.0020 per kWh for Public Service Company of New Hampshire (PSNH) for the 33 month period starting on competition day. The \$0.0020 per kWh SBC established by RSA 369-B:3, IV(b)(6) replaces the first year \$0.0025 per kWh cap on PSNH imposed by RSA 374-F:4, VIII(b)(1) and the \$0.0030 per kWh SBC cap as prescribed in RSA 374-F:4, VIII(b)(2) during the second year of competition. For the 33 months starting on competition day, the portion of the SBC for low income customers is restricted in all electric utility service territories to the amount charged in PSNH's service territory. RSA 374-F:4, VIII (g).

Timely responses to the July 19,2000 Letter were received from the New Hampshire Electric Cooperative (NHEC or the Cooperative), PSNH, Granite State Electric Company (GSEC), Connecticut Valley Electric Company (CVEC), the Office of Consumer Advocate (OCA), the Governor's Office of Energy and Community Services (GOECS), Save Our Homes Organization

(SOHO), New Hampshire Community Action Association (NH Community Action), Representative Jeb E. Bradley, and the New Hampshire Department of Environmental Services, Air Resources Division (DES-ARD). Reply comments were received from SOHO and GOECS.

II. POSITIONS OF THE PARTIES

A. The Cooperative

The Cooperative prefaces its comments by noting that its settlement agreement with PSNH prohibits the Cooperative from asserting any positions or taking any actions that would hinder PSNH from receiving any regulatory or legislative approvals needed to implement the PSNH restructuring agreement which was then under consideration by the Commission in DE 99-099. The Cooperative does not view its position on energy efficiency as an action or statement "in opposition to any regulatory or legislative approval needed by PSNH ..." and, thus, has provided comments on the split between low income programs and energy efficiency/conservation programs only to the extent that the Commission does not interpret the Cooperative's comments to be inconsistent with the Cooperative's settlement agreement with PSNH.

The Cooperative acknowledges that Chapter 249, Laws of 2000, will create a cap on the portion of the SBC portion

of the bill that goes to funding low income assistance programs. The Cooperative, based on its participation in the low income working group² and its experience in the past year providing low income assistance, believes that a ceiling between \$0.0008 and \$0.0010 per kWh would enable the Cooperative to continue to design and implement low income programs in the manner it deems is most appropriate for its members. The Cooperative points out that its low income funding level was set originally at \$0.0010 per kWh and was revised effective January 1, 2000 to \$0.00041 per kWh. Finally, the Cooperative states that its recommendation reflects only a range of funding appropriate to its members and not a recommendation as to a rate of funding that is appropriate for funding PSNH's low income program.

B. PSNH

PSNH recommends that the \$0.0020 per kWh SBC be

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The Low Income Working Group was established by Order No. 22,514 in docket DR 96-150. On August 18, 1998, the Low Income Working Group submitted a report to the Commission on its recommendations for an energy assistance program. See EAP Policy Recommendations of the Low Income Working Group. On May 10, 1999, the Commission orally deliberated on that report. A concurrent order reflecting those deliberations and other low income issues is being issued by the Commission today.

split equally between energy efficiency programs and low income programs for the first year after competition begins in its service territory. After the first year of competition, the Commission should reconsider the funding needs for low income and energy efficiency programs and determine if the allocation in the SBC needs to change. Based on its history with energy efficiency programs, PSNH is confident it can effectively utilize \$0.0010 per kWh for energy efficiency programs. PSNH also provided analysis indicating that full funding of an Energy Assistance Program (EAP) would require only \$0.00108 per kWh, a conservative number in PSNH's opinion because it assumes no delay in competition day and the timely start of the EAP. PSNH also points out that any "ramp-up" time will reduce first year funding requirements. PSNH states that it also took into account the existing interim low income programs of GSEC and the Cooperative, both of which implement their programs for well under \$0.0010 per kWh, and the effect of the decrease in its rates as part of the restructuring agreement. PSNH avers that the original low income program needs were developed by the Electric Utility Restructuring Collaborative comprised of some parties who participated in Docket No. DR 96-150. Those estimates were based on the rates PSNH had in effect on June 15, 1996. PSNH claims that it

recalculated the SBC using rates in effect on June 23, 2000, and that calculation, holding all other parameters constant, reduced the required low income portion of the SBC from \$0.0015 per kWh to \$0.0010 per kWh.

C. GSEC

In its August 18th comments, GSEC did not address the allocation between low income programs and demand side management programs. GSEC reserved its comments solely to the low income program. In GSEC's opinion, advances in technology and additional experience in providing service to low income customers have created an opportunity to improve low income programs consistent with the legislative intent of Chapter 249 that "the Commission should design low income programs in a manner that targets assistance and has high operating efficiency, so as to maximize the benefits that go to the intended beneficiaries of the low income program." RSA 369-B:1. XIII.

GSEC suggests that the Low Income Working Group, at the request of the Commission, consider changes or modifications that would enhance the effectiveness of the program while reducing the time and administrative cost of implementation, including the efficiencies already inherent in the existing utility operation. GSEC points out that RSA 374-

F:4 limits the Commission's authority to assess the SBC for low income programs after June 30, 2005. This limitation on program life is another factor for the Commission to consider in evaluating an effective low income program.

D. CVEC

CVEC points out that the newly enacted legislation replaced the previous cap on energy efficiency/conservation programs for PSNH during the 33-month period starting on competition day. CVEC supports an equal rate for all New Hampshire utilities for that portion of the SBC that applies to low income programs. CVEC also believes that the rate level per kWh for energy efficiency/conservation programs should be uniform among all the utilities in New Hampshire. In regard to the allocation of the SBC, CVEC recommends that a larger portion of the SBC be allocated to low income programs. CVEC would support allocating \$0.0015 per kWh of the SBC to the low income program. The higher level of low income spending would include a pre-program arrears component.

E. OCA

The OCA, based on a meeting of its Advisory Board, recommends that the Commission: 1) fund the low income assistance program at \$0.00125 per kWh; 2) review the funding allocations a year after full implementation; and 3) fund low

income energy efficiency programs out of the energy efficiency budget.

F. GOECS

Due to the changes in funding resulting from the enactment of Chapter 249, Laws of 2000, GOECS believes that there is a funding shortfall in the SBC of \$0.0005 per kWh in the first year, \$0.0010 per kWh in the second year and \$0.0020 per kWh in the third year. GOECS firmly supports both low income and energy efficiency programs, but does not take a position on how to allocate the \$0.0020 SBC between the two programs.

GOECS does believe that the Commission should try to ensure that the allocation in the SBC between low income and the energy efficiency components results in a viable and successful low income affordability program. Because of the lower level of funding, GOECS states that the Commission may want to look at the pre-program arrearage component of EAP as well as to postpone the monthly arrearage forgiveness payments of successful EAP participants. Additionally, GOECS urges the Commission to order that start-up costs for the program not be recovered through the SBC, but rather start-up costs should be included as restructuring costs and that any additional administrative costs be considered part of the cost of

service. Administrative costs should be reviewed to ensure they are appropriate and reasonable. GOECS also recommends that the Commission consider placing a cap on administrative costs.

GOECS supports increased expenditures for energy efficiency programs. The current PSNH level is \$0.00039 per kWh. Due to the change in the statute, increased funding can not occur at the level supported previously by GOECS, however. Finally, GOECS recommends the allocation of the SBC between energy efficiency and low income programs be re-examined during the 33-month period: GOECS urges the Commission to look at the programs and the allocation 12-18 months after the start of competition.

G. DES-ARD

DES-ARD recommends that at least one-half of the SBC go to traditional energy efficiency programs and that the remainder go to energy efficiency programs dedicated to low income participants. In DES-ARD's opinion, the Commission first should determine the resource level needed to implement cost-effective energy efficiency programs and adequate low income programs, and, once those levels have been determined, the Commission could make the allocation between low income

and energy efficiency programs.

DES-ARD is concerned about the administrative cost of these programs and urges the Commission to make sure that the funds are used to meet the program goals and not consumed by administrative and overhead costs. Regarding funding levels of energy efficiency for utilities other than PSNH, DES-ARD supports the full SBC funding recommendations contained in the New Hampshire Energy Efficiency Working Group report.

H. Rep. Bradley

The \$0.0020 per kWh SBC for PSNH will generate \$14 million, approximately, for expenditures on the EAP and energy efficiency programs; therefore, Rep. Bradley considers it imperative that the Commission design programs that are cost effective and efficient, and that minimize administrative costs and target assistance to those in need.

He urges the Commission to analyze whether implementation of an individualized income assistance program is worth the additional administrative cost involved in providing one. Rep. Bradley estimates that personnel costs alone could run just under \$1 million and overall administrative costs could total \$1.75 million representing over 13 percent of the overall budget, excluding utility

costs. Rep. Bradley also raises concerns about the large planned expenditure on computers and printers, especially in light of the passage of time and the 5-year authorization for low income funding contained in the legislation.

In regard to program design, Rep. Bradley states much has changed since the low income program was "unveiled." Specifically, he points to the success of the interim low income programs run by GSEC and NHEC which have operated at funding levels under \$0.0005 per kWh while providing discounts of 25 percent to eligible customers. He believes the interim model is one that could be used, in conjunction with social service agencies, because of its high level of efficiency and the 5-year authorization period. A two tier benefit program or block grant program distributed to municipal welfare offices based on per capita population are other alternatives for the Commission to consider.

Rep. Bradley asks the Commission to consider a cap on the low income charge at a rate of \$0.00050 to \$0.00075 per kWh during the first 12 months of the 33 month period. The cap is based on his understanding that the original low income rate of \$0.0015 per kWh was among the highest of all states that have moved to electric restructuring and the level he proposes would place New Hampshire at a level consistent with

those other states. He makes a similar proposal for energy efficiency funding. Rep. Bradley would cap those funds at \$0.0010 to \$0.00125 per kWh for the first 12 months after competition day for PSNH. The Commission could re-evaluate those levels after the initial 12 month period.

Rep. Bradley states that he interprets Chapter 249, Laws of 2000 to require that all costs, including all PSNH costs, to run both the energy efficiency programs and the low income programs be included in the \$0.0020 per kWh cap. In Rep. Bradley's opinion, the same is true by extension for the other utilities. If a utility decided not to recover those administrative costs, Rep. Bradley notes that more funds would be available for low income or energy efficiency programs.

I. SOHO

SOHO believes that additional funding is needed for low income programs. The Commission should fund the EAP in accordance with RSA 374-F:3, V(a) which would enable low income customers to "manage and afford essential electricity requirements." SOHO references the four percent and six percent affordability levels recommended by the Low Income Working Group Report and approved by the Commission in its May 10, 1999 oral deliberations.

SOHO, citing a number of guidelines for the

Commission to consider, recommends that the EAP should be funded at \$0.00125 per kWh and that the energy efficiency portion of the SBC be funded at \$0.00075 per kWh. SOHO also recommends: 1) the Commission review the SBC funding levels after a period of 16-18 months to determine whether changes need to be made; 2) Staff and the Low Income Working Group review the proposed EAP administrative costs to ensure they are as cost-effective as possible and make recommendations on their finding within 60 days; 3) the Commission direct all utilities to submit to the Commission, within 60 days, budget estimates for EAP start-up costs and on-going operational costs; and 4) that the Commission consider setting a cap on program costs in order to maximize the benefits that go to eligible low income customers.

Its funding proposal would maintain affordability levels and benefits at the levels contained in the original \$0.0015 per kWh rate; however, SOHO emphasizes that in order to maintain the intended program benefits at this reduced level, utility start-up costs and on-going operating costs could not be recovered through the EAP.

In its Reply Comments, SOHO rebuts a number of arguments or statements made by others, including those that suggested a change to a low income discount program in lieu of

a percentage of income program as approved in oral deliberations by the Commission. SOHO also cautioned the Commission about the lower costs of those utilities running interim low income programs. Interim program costs may be lower because the programs are not statewide in scope or because they have not included significant outreach to potential participants. SOHO mentions that no formal evaluation has been done on these programs. Rep. Bradley's proposed level of funding is questioned by SOHO as well as PSNH's estimates of the cost of funding EAP. SOHO states that Rep. Bradley's examples are not analogous to the proposed EAP for New Hampshire and that PSNH has made a number of incorrect assumptions in deriving its funding estimates for EAP.

J. New Hampshire Community Action

New Hampshire Community Action proposes that the Commission allocate \$0.0015 per kWh to the EAP, \$0.0003 per kWh to low income energy efficiency programs, and the remainder to other energy programs.

III. COMMISSION ANALYSIS

Prior to the enactment of Chapter 249, Laws of 2000 which amended RSA 374-F:4, VIII, the system benefits charge was limited to \$0.0025 per kWh during the first year after competition was certified to exist pursuant to RSA 38:36 for

those utilities whose average rates were at or above the regional average as determined by the Commission. See RSA 374-F:4, VIII(b)(1). The cap was increased to \$0.0030 per kWh in the second year. See RSA 374-F:4, VIII(b)(2). The amount to be collected to fund low income programs was also capped and included a termination deadline; the low income funding rate could not exceed \$0.0015 per kWh for any utility and the charge terminated June 30, 2005. See RSA 374-F:4, VIII(c). In addition, the limitations to the SBC were not applicable to the Cooperative. See RSA 374-F:4, VIII(d). Chapter 249:4, Laws of 2000 has amended RSA 374-F:4,VIII by adding a new subparagraph that reads:

- (g) The portion of the system benefits charge due to programs for low-income customers per kilowatt-hour in any public utility service territory in the state shall not exceed the amount on PSNH's service territory for a period of 33 months starting on competition day for PSNH as defined in RSA 369-B:2,III.

Chapter 249, Laws of 2000 also limited the amount of the SBC for PSNH during the 33 month period to \$0.0020 per kWh, fixed for the entire period. See RSA 369-B:3, IV(b)(6). While that statute indicates that the SBC to be divided between low income program assistance and energy efficiency/conservation program funding, the statue is silent

on the apportionment of the SBC between the two programs. Id.

We have reviewed the comments and reply comments filed with the Commission concerning the split between low income and energy efficiency/conservation funding due to Chapter 249, Laws of 2000. The comments, thoughtful and helpful, aided us as we deliberated this difficult issue.

Numerous ways exist to allocate the SBC funds between low income and energy efficiency/conservation for PSNH during the 33 month period from the start of competition. While all of the suggestions made by parties in this docket are meritorious, none contain any formal or thorough analysis of the most efficient way to expend these very scarce resources on two important programs that the Legislature and this Commission have deemed worthy of utility customer funding. In the absence of a comprehensive and formal analysis of the most effective level of program funding, and until the programs have been implemented and experience is gained, allocating the SBC between low income and energy efficiency/conservation funding on a \$0.00120 to \$0.0080 per kWh basis is in the public interest. Our decision on how to allocate the funds emanates from our previous decision in DR

96-150 where we established a certain funding level for the low income program which resulted in a charge of \$0.00150 per kwh. The former \$0.0025 per kwh for PSNH would also have allowed \$0.0010 for energy efficiency/conservation program funding. Because the Legislature reduced the total SBC for year one by 20 percent, we believe it is equitable to reduce each component of the former SBC by the same percentage.

We agree with those parties that the allocation warrants further review in the future. As described in greater length in the accompanying orders on energy efficiency and low income programs, we will be reviewing the allocation between low income and energy efficiency/conservation as part of our overall review of the two programs. We hope that more information will be available to us concerning the benefits and costs of the programs and the experience gained from implementing the programs when we conduct our review; we caution interested parties that our review of the allocation will not be guided solely by an analysis of the respective benefits and costs. Our decision caps that portion of the SBC for low income assistance programs for all electric utilities in New Hampshire for the 33-month period starting on competition day for PSNH. See RSA 374-F:4, VIII(g). Information about the programs that are funded by the SBC is

found in Orders No. 23,573 and 23,574 on low income and energy efficiency/conservation, respectively.

Based upon the foregoing, it is hereby

ORDERED, that pursuant to Chapter 249, Laws of 2000, that portion of the System Benefits Charge that shall be used for low income program funding will be set at \$0.0012 per kWh for PSNH and all other electric utilities in New Hampshire for the 33 month period starting with competition day for PSNH as defined in RSA 369-B:2,III and shall remain in effect until changed by further order of this Commission; and it is

FURTHER ORDERED, that a charge of \$0.0008 per kwh be imposed for PSNH's energy efficiency/conservation programs.

By order of the Public Utilities Commission of New Hampshire this first day of November, 2000.

Douglas L. Patch
Chairman

Susan S. Geiger
Commissioner

Nancy Brockway
Commissioner

Attested by:

Claire D. DiCicco
Assistant Secretary