

New Hampshire Public Utilities Commission

Docket No. DE 23-068

Public Comments of Matthew Fossum

September 14, 2023

I write today to submit my public comments in the above docket for two purposes. First, I write to encourage the New Hampshire Public Utilities Commission (“Commission”) to approve the pending triennial energy efficiency (“EE”) plan filed by the state’s utilities on June 30, 2023, as it has been updated and revised in this docket. Second, I write to express my agreement with the recommendations in the testimony of the Office of Consumer Advocate (“OCA”) for future EE planning.

Before elaborating on the above, I briefly refer back to the public comments I submitted to the Commission in Docket No. IR 22-042 on January 23, 2023 to note both my strong interest in, and familiarity with, EE planning and programming in New Hampshire. Similar to those comments, I offer today’s comments in my personal capacity as a New Hampshire utility customer, and in the hope that they might have some value in the process.

With respect to the first item above, I have reviewed the utilities’ plan and support that plan as in line with New Hampshire law and policy, including the recently-enacted HB 549, and I encourage the Commission to approve it. I note that the September 12, 2023 testimony of all other testifying parties likewise supports the EE plan as aligned with New Hampshire law and policy and worthy of approval and there is no party or person contending otherwise. The pending plan should be approved.

Having voiced my support, I pause to note that so far as I can tell the only indication that the plan is, in any way, concerning appears to come from the Commission itself. I encourage the Commission not to indulge those concerns.

As an indication of what I mean, on its own motion on September 7, 2023, the Commission issued a procedural order in the docket calling for briefing on a number of issues pertaining to cost-effectiveness testing, the effect of prior Commission rulings, and issues of interpretation of New Hampshire energy law. Similar to the issue described in my comments in Docket No. IR 22-042, it is not clear to me as an outside observer what the goals of such briefing are, nor is it clear to me how briefing on those issues impacts approval of the pending plan.

Also, I note my particular concern with the briefing order’s provisions on the Granite State Test (“GST”). The New Hampshire General Court has declared that the GST is the primary cost-effectiveness test for EE investments, and it is required by law to be used in evaluating EE plan proposals. *See* RSA 374-F:3, VI-a(d)(4). In its briefing order, the Commission seeks input on whether, or to what degree, it may unilaterally alter the inputs and assumptions in the GST. The Commission’s briefing order does not, however, explain how any alterations it might make would comport with its obligations to issue an order approving or denying the pending plan in

this proceeding. *See* RSA 374-F:3, VI-a(d)(5). More importantly, by including this item in the briefing order the Commission seems to be indicating that it believes it has the authority to alter the inputs or assumptions. Having a test that the Commission could alter on its own, however, would appear to be the same as having no test at all.

I have not been party to the discussions and meetings in this proceeding, and perhaps I do not understand the true issues at play. Also, I have no information or insight on how the utilities, the DOE, the OCA, or anyone else views the purposes of the Commission’s briefing order, though I eagerly await their responses. For present purposes, I state only my observation that through the briefing order it appears the Commission is attempting to justify unilaterally amending the test required by statute, and which all testifying parties agree has been met in developing the plan presented in this docket.¹

As to my second larger point, I wish to state my personal agreement with the recommendations of the OCA for future EE planning, and particularly its recommendations regarding identification of underserved and vulnerable populations. Beyond the other energy-related roles I have held, I have served as the President of the Neighbor Helping Neighbor Fund since 2019. That organization provides emergency financial assistance to utility customers in danger of disconnection to allow them the time and opportunity to establish longer-term solutions for affording their utility payments.

In my role with Neighbor Helping Neighbor, and through the interactions with community agencies it has provided me, I have had an up-close view of the difficulties encountered by individuals struggling to meet the burdens of their utility costs. As the protections provided by other funding sources are being curtailed following the COVID-19 pandemic, I anticipate those struggles will increase. I appreciate that efforts are underway to better identify those potentially in need of special attention and I agree with the OCA that a focus on them is to be encouraged in future EE planning. Assuring that those customers have meaningful access to EE programs will help them to better afford their utility needs and assure that the resources of entities like Neighbor Helping Neighbor are distributed in the most effective way possible.²

¹ As one additional note, in the Commission’s briefing order it asks whether the section title “Least Cost Energy Planning” has any interpretive value with respect to the policy statement in RSA 378:37. On this point, the New Hampshire Supreme Court has said “The title of a statute is not conclusive of its interpretation, and where the statutory language is clear and unambiguous this court will not consider the title in determining the meaning of the statute.” *In re CNA Ins. Cos.*, 143 N.H. 270, 274 (1998) (quoting *State v. Kilgus*, 125 N.H. 739, 742 (1984)). From my reading, the answer to the Commission’s query is thus, “the title provides no value.” Further, to my mind, the recent amendments from HB 281 would appear to have made reference to the section title meaningless. However, if the Commission has identified some ambiguity in RSA 378:37 that requires resolution it would be worthwhile to understand that belief more fully to respond to the Commission’s order.

² Similarly, a recent “Issue Brief” from the New Hampshire Fiscal Policy Institute indicates that directing assistance (including utility assistance programs like LIHEAP) to lower-income customers leads to better outcomes for the general economy than spending the money elsewhere. *See* August 2, 2023 New Hampshire Fiscal Policy institute Issue Brief, available at: <https://nhfpi.org/resource/state-business-tax-rate-reductions-led-to-between-496-million-and-729-million-less-for-public-services/>. Assuring that lower-income individuals are properly identified, targeted, and served through effective EE programs will benefit not only those people, but the broader New Hampshire economy as well.

I thank you for your attention to these comments. Again, I, like all the testifying parties, support approval of the pending EE plan and I ask that it be approved swiftly to assure continued and uninterrupted delivery of these important programs.

Yours,

/s/ Matthew J. Fossum

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