Via electronic mail - April 3, 2015

Comments of Northeast Energy Efficiency Partnerships (NEEP)
On IR 15-072 Order of Notice
Energy Efficiency Investigation into an
Energy Efficiency Resource Standard for New Hampshire

Debra A. Howland, Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street
Concord N.H. 03301

Dear Ms. Howland,

On behalf of Northeast Energy Efficiency Partnerships (NEEP),[1] please accept these comments in response to the Public Utility Commission's (PUC) request for comment regarding IR 15-072, the Commission's Order of Notice of an Energy Efficiency Investigation into the establishment of an Energy Efficiency Resource Standard ("EERS") for Electric and Gas Utilities in New Hampshire. NEEP is a non-profit organization, established in 1996, whose mission is to accelerate energy efficiency in homes, buildings and industry across the Northeast and Mid-Atlantic region. NEEP is one of six Regional Energy Efficiency Organizations (REEOs), as designated by the U.S. Department of Energy, which works in cooperation with the DOE to support states in, among other things, establishing energy efficiency resource policies.

In its notice, the Commission noted that on February 3, 2015, it received a filing from Commission staff entitled "Energy Efficiency Resource Standard: A Straw Proposal for New Hampshire." That report concludes with staff's recommendation to establish, "in the short term, an EERS by recasting and gradually expanding the scope of the existing Core energy-efficiency programs…" It is in regard to these recommendations that the Commission has initiated this investigative proceeding.

The Commission has asked several specific questions as part of its investigation. While we are not able at this point to provide detailed responses to the entirety of staff's straw proposal, we are happy to respond to the Commission's questions, and to also offer several high-level observations about an EERS and this proceeding to establish one.

Introduction

[1] These comments are offered by NEEP staff and do not necessarily represent the view of NEEP's Board of Directors, sponsors or underwriters.

As the Commission noted, EERS's have been established in some 24 U.S. states, including all of the New England and Mid-Atlantic states, with the exception of New Hampshire. Thus, NEEP commends the Commission for opening this investigation with the goal of bringing New Hampshire into alignment with those other states that have recognized energy efficiency as a first order resource to attain state energy, environmental and economic policy goals.

With that said, NEEP would respectfully suggest that what staff has proposed as an EERS for New Hampshire is far too modest and without sufficient savings levels as targets to truly qualify as an EERS. Instead, it is largely an extension of the existing "CORE" energy efficiency programs, but without any funding mechanisms identified that would allow for the procurement of energy efficiency at such a level as to truly qualify as a "resource" standard. One of the reasons for this oversight appears to be because of the sheer volume of information, some of it highly technical, that staff has had to access, gather and synthesize for the Commission's needs.

In that vein, NEEP would recommend that the Commission either extend the parameters of this particular proceeding, or open a subsequent one that will allow the Commission and staff to hear directly in gatherings or forums from energy efficiency experts versed in best practice examples of how an EERS can be best constructed to the benefit of New Hampshire residents and businesses.

As stated, such a process could serve well the goal of better understanding how all cost-effective energy efficiency can be financed, instead of determining how much funding is currently available, and tying proposed savings targets to that funding level, which is how staff has approached an EERS in its straw proposal.

Among the many experts available to help inform this issue, including NEEP, we would suggest that the American Council for an Energy Efficient Economy (ACEEE); the Regulatory Assistance Project (RAP); and the Vermont Energy Investment Corporation (VEIC) be among those groups considered by the PUC for inclusion in further efforts to gather the technical information and advice necessary to inform the development of a true energy efficiency resource standard. In addition, we would also suggest that the PUC may wish to include representatives of Eversource, particularly those versed in how the company is delivering all cost-effective energy efficiency to customers in Massachusetts and Connecticut, in addition to the company's energy efficiency staff serving New Hampshire, in such a technical forum.

Responses to the Commission's Questions

1. In the first phase of this proceeding the Commission seeks to identify specific points of consensus with certain of Staff's short-term recommendations regarding establishing an EERS

in New Hampshire including: The recommendation that the Commission establish an EERS for electric and natural gas utilities at this time.

Response: NEEP whole-heartedly endorses the Commission's efforts at this time to establish an EERS for electric and gas utilities. As noted, New Hampshire is the only state among states in the Northeast U.S. that has failed to implement such a standard.[2] In fact, six of the top 10 states in the country as identified by ACEEE in its most recent Energy Efficiency Scorecard are Northeast states,[3] largely due to their establishment of and successes in achieving savings through an energy efficiency resource standard.

NEEP also concurs that the Commission has the regulatory authority to establish such standard under RSA 378:37 and RSA 378:39, consistent with the Commission's authority to oversee utility integrated least cost planning, including that the Commission consider energy efficiency as a first-priority resource for energy supply.

From a public policy perspective, energy efficiency has been identified in an ever-growing number of states for its ability to help consumers manage energy costs, especially in a world where fuel prices continue to rise. Moreover, energy efficiency was called out specifically by the U.S. Environmental Protection Agency (EPA) it is proposed Clean Power Plan as the most cost-effective way for states to meet the new carbon pollution standard being established under Section 111(d) of the federal Clean Air Act.

In New England, energy efficiency has been identified by the Independent System Operator in its recent energy forecasts as flattening new energy growth, as well as having deferred hundreds of millions of dollars in transmission and distribution costs. [4] However, ISO-New England has also noted that not all New England states will benefit equally from energy efficiency in flattening overall load growth; indeed, New Hampshire is the only state among the six where ISO New England is forecasting a continuing rise in energy load growth, because of its under-investments in energy efficiency.

Thus, based upon both its statutory authority and responsibilities to ensure least-cost energy resources for the residents and businesses of New Hampshire, NEEP strongly recommends the Commission continue this proceeding to establish a robust energy efficiency resource standard.

[2] These include the states of Maryland, Delaware, Pennsylvania, New Jersey, New York, Connecticut, Rhode Island, Massachusetts, Maine, and Vermont, as well as the District of Columbia.
[3] Maryland, New York, Connecticut, Rhode Island, Massachusetts and Vermont.
[4] See: http://www.iso-ne.com/committees/comm_wkgrps/othr/enrgy_effncy_frcst/2014frcst/iso_ne_final_2014_ee_forecast_2018_2023.pdf

2. The recommendation that the Commission establish the EERS for an initial long-term period of ten-years, with interim, short-term goals approved by the Commission;

Response: NEEP agrees with the recommendation that an initial long-term goal of ten-year energy savings be established in order to ensure stability and predictability in the electric and gas energy efficiency marketplace. Such a time frame will allow the PUC and utilities sufficient flexibility to adapt to changing economic circumstances and market conditions, while also providing some level of certainty to those market actors who should be considered integral players in the administration of an EERS, including contractors, energy services companies and others. NEEP also agrees that interim short-term goals also be established to allow for appropriate assessment of progress toward goals and, if needed, adjustments in strategies and/or goals.

3. The recommendation that the Commission set the first two-year EERS goals that are consistent with the goals established for the 2015 and 2016 Core programs, in DE 14-216;

Response: While generally in agreement that the Core programs provide a ready platform from which an EERS may be executed, NEEP respectfully suggests that the goals established for the Core programs for 2016 are too modest to be considered reflective of a true EERS. An annual electric savings target of .59 percent of retail electric sales is consistent with current funding levels for the Core programs, but in no way representative of what an EERS should include for first-year savings targets. Indeed, experiences of other states in the region would suggest that a first-year savings target of at least 1.00 percent of retail electric sales is readily achievable, provided funding is sufficient to meet such goals. Ultimately, goals of 2.7 percent of annual retail electricity savings and 1.3 percent of annual retail gas savings are possible, as evidenced by the energy efficiency programs in Massachusetts, which recently reported on their 2014 program results, which came after only five full years of program implementation.

4. Any other Staff short-term recommendation on which the Commission would be required to act in order to establish and oversee an EERS for electric and natural gas utilities with an initial period of ten years, segmented by two-year program periods, and with 2015 and 2016 goals consistent with the existing Core 2015 and 2016 goals.

Response: As reflective of earlier comments, NEEP respectfully suggests that the construct for an EERS as described in the Staff's straw proposal is the reverse of what it should be. Staff has identified current funding capacities and tied suggested savings targets to those funding levels. Under a true EERS, all energy efficiency that is determined to be both technically and economically achievable, i.e., all cost-effective energy efficiency where efficiency measures

both carry a benefit/cost ratio of 1 or better and/or cost less than comparable amounts of energy supply, is set as a target, and funding mechanism are then identified in an amount sufficient to capture that identified energy efficiency potential.

Under RSA 378:37 and RSA 378:39, where the Commission is granted the authority to oversee utility integrated least cost planning, and is required to consider energy efficiency as a first-priority resource for energy supply, such a funding mechanism can and should include a reconciliation or adjustment mechanism whereby the cost to capture the efficiency resource is included in utility rates as a cost of service.

Such a model is employed in Massachusetts and Connecticut, where state laws also dictate that energy efficiency be considered as the first-order energy resource and all cost-effective energy efficiency be procured on the part of electric and gas ratepayers before traditional energy generation and supply is procured. In those states, energy efficiency potential is identified through a robust three-year planning process, with technical experts guiding the state energy offices and regulatory commissions in determining those potential levels. Like New Hampshire, those states also employ a systems benefit charge (SBC) assessed on ratepayers on a per kilowatt hour basis to form the foundation of their efficiency program funding, and then layer on top of that proceeds from the bidding of efficiency programs into the ISO-New England administered forward capacity market (FCM), as well as a percentage of proceeds from the sale of carbon pollution allowances under the Regional Greenhouse Gas Initiative (RGGI). However, as those funding sources combined do not amount to the levels necessary to capture all cost-effective energy efficiency, Massachusetts and Connecticut both then employ a process for adding a reconciliation factor or adjustment mechanism for including efficiency program costs into utility rates, thus treating efficiency as a "resource" to be procured, like traditional energy supply, but at a far lower cost.

Specifically, in the Massachusetts version, the EERF recovers and reconciles energy efficiency costs for a particular program year with the revenue an electric utility/program administrator receives.[5] The EERF is calculated differently for different consumer groups, including low-income, residential and commercial/industrial, based upon a regulatory framework that accounts for total utility kWh sales in relation to budget needed to serve each customer class to the all cost-effective efficiency level. [6]

In Connecticut's case, a "conservation adjustment mechanism" is used for the same function. In that instance, the state's general statutes charges the Public Utilities Regulatory Authority (PURA) with ensuring that "a fully reconciling conservation adjustment mechanism of not

[5] "Three Year Massachusetts Energy Efficiency Plan 2013–2015", pg. 91

[6] "Three-Year Energy Efficiency Plan 2013–2015, pages 253-255.

more than three mills per kilowatt hour of electricity sold to each end use customer of an electric distribution company." In the case of natural gas, the revenues to fund natural gas company programs are "provided through a fully reconciling conservation adjustment mechanism for each gas company of not more than the equivalent of four and six-tenth cents per hundred cubic feet." [7]

While these examples and an accompanying recommendation for such a process was presented by NEEP to PUC staff as part of staff's investigation, no such acknowledgement or recommendation was included in staff's straw proposal. This is a vital flaw in the recommendation that is currently before you, and the element that prevents the proposal from qualifying as a true energy efficiency resource standard. It is also the basis for which a technical session should be convened as part of a supplement to this proceeding, as referenced above in our introductory comments.

Additional Questions

The Commission's notice also notes that: "The Report raises, inter alia, issues related to RSA 374-F:3. X. and whether an EERS would reduce market barriers to investments in energy efficiency, provide incentives for appropriate demand-side management, while not reducing cost-effective customer conservation as well as allow utilities to provide cost-effective opportunities that may otherwise be lost due to market barriers; RSA 374-F:3, VI, and whether system benefits charge (SBC) funds could properly be used to support energy efficiency programs within an EERS; RSA 125-0:23, and whether Regional Greenhouse Gas Initiative (RGGI) auction proceeds would properly be utilized to fund energy efficiency programs within an EERS; RSA 378:7 and 378:28, and whether an EERS would be consistent with the Commission's authority to require utilities to recover only just and reasonable rates; RSA 378:37 and RSA 378:39, and whether an EERS is consistent with the Commission's authority to oversee utility integrated least cost planning, including that the Commission consider energy efficiency as a first-priority resource for energy supply."

While NEEP is not a formal intervener in New Hampshire, and will not participate as such in DE 14-216, we respectfully submit the following comments in response to the notice:

Reducing Market Barriers to Investment

An EERS would reduce market barriers to investment in energy efficiency, but— as mentioned above — what is contained in the straw proposal does not include targets or identify funding

[7] See: Connecticut Department of Energy & Environmental Protection. 2013. Draft Decision 2013-2015 Electric and Natural Gas Conservation and Load Management Plan, http://www.energizect.com/sites/default/files/2013-2015%20Conservation%20and%20Load%20Management%20Plan%20%28Draft%20Decision%29%208.23.13.pdf (March 29, 2015).

sufficient to achieve economies of scale that will drive cost-effective energy efficiency programs. In the 1990s and early 2000s restructuring and associated retail choice programs were heralded as a tool to raise customer awareness and thereby encourage customer conservation. Yet, in practice the percentage of retail customers exercising retail choice remains universally low, with many states reporting competitive engagement in the 1-2 percent range.[8] To overcome the same awareness and participation barriers that are prevalent in the retail choice market, implementation of energy efficiency and other demand side management measures necessitate the active solicitation and marketing of such measures by a program administrator. Efficiency program administrators can offer the most cost-effective value proposition by reaching beyond the current CORE programs and achieving economies of scale that will raise their saliency within the ratepayer community, and lower administrative costs as a percentage of program costs. However, we reiterate that for an EERS to have the desired market transformation results, it must be robust enough in funding and scope to result in commensurate levels of market outreach and engagement, which the EERS as proposed does not.

Supporting the EERS through the Systems Benefits Charge and RGGI Proceeds

RSA 374-F:3 creates the non-bypassable and competitively neutral systems benefit charge to fund energy efficiency and low income programs from which the entire system would benefit. The proposed EERS is a logical outgrowth of such a surcharge because it is well-positioned to contribute to the grid and all associated customers as a whole, regardless of which customers may receive specific incentives. Further, the Regional Greenhouse Gas Initiative (RGGI) funding which is identified by RSA 125-0:23 would also be a logical funding source for the EERS. As enacted, the auction proceeds are largely allocated toward all fuels comprehensive efficiency programs, low income core energy efficiency programs, and municipal projects. Prudent program planning, evaluation, measurement, and verification would allow the EERS to continue to fulfill the allocation requirements of RSA 125-0:23, while supplementing the core programs. However, while the systems benefit charge and RGGI proceeds establish an excellent floor for funding the EERS, they can and should be augmented with further revenues, as discussed above.

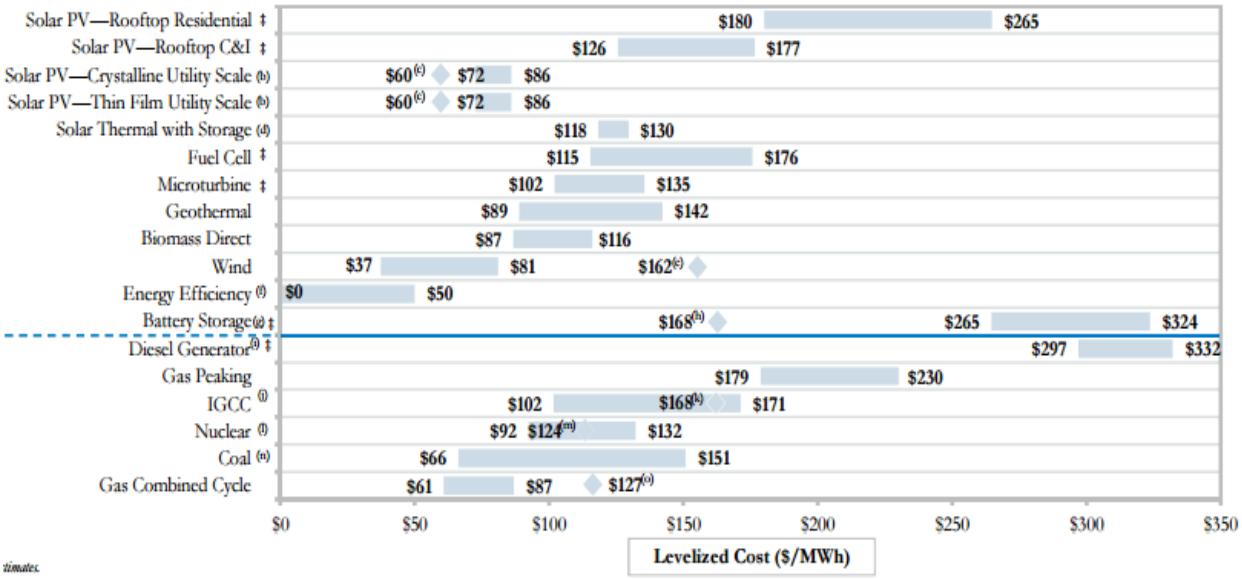
"Just and Reasonable" Rates

As noted within the straw proposal, state legislatures throughout the country have formally recognized the value of pursuing of all cost-effective energy efficiency measures. However, the Commission would find themselves in good company to pursue development of an EERS on a unilateral basis. In fact, seven states have enacted such a policy without legislative action, pursuant to their obligation to provide just and reasonable rates.

[8] Polestar Communications & Strategic Analysis. *A Review of Electricity Industry Restructuring in New England*. (September 2006) Page 30. Available at: http://www.ksg.harvard.edu/hepg/Papers/NEEA_0906.pdf

In New Hampshire, RSA 378:7 grants the Commission authority to fix just and reasonable rates. In determining whether rates are just and reasonable, the Commission must balance the customer's interest in paying no higher rates than are required against the investors' interest in receiving a reasonable return on their investment.[9] Within this balancing test, a justification for the pursuit of all cost effective energy efficiency resources is evident. Maximizing value for both ratepayers and investors requires the utility commission to plan for acquisition of the least cost resources, and as demonstrated below, energy efficiency is the resource that provides the most value for ratepayers and utility investors.

Unsubsidized Levelized Cost of Energy[10]



Least-Cost Integrated Resource Planning

RSA 378:37 requires the Commission to "Meet the energy needs of the citizens and businesses of the state at the lowest reasonable cost while providing for the reliability and diversity of energy sources; to maximize the use of cost effective energy efficiency and other demand side resources; and to protect the safety and health of the citizens, the physical environment of the state, and the future supplies of resources, with consideration of the financial stability of the state's utilities." Establishment of an EERS is a logical outgrowth of this directive, as such a resource standard would enhance reliability while preserving the health and safety of citizens and protecting the physical environment of the state.

[9] *Fed. Power Comm'n v. Hope Natural Gas Co.*, 320 U.S. 591, 601, 64 S. Ct. 281, 287, 88 L. Ed. 333 (1944)

[10] Lazard's Levelized Cost of Energy Analysis- Version 8.0. Page 3. (September 2014) Available at: http://www.lazard.com/PDF/Levelized%20Cost%20of%20Energy%20-%20Version%208.0.pdf

Reliability has long been a justification for growing energy efficiency because long-term DSM programs can help to maintain adequate margins between demand and supply, providing certainty and continuity for a process that has already been developed by the core programs.[11]

The EERS and associated health and safety benefit are clear. For example, the U.S. EPA lists three New Hampshire counties as non-attainment areas in relation to the Clean Air Act's National Ambient Air Quality Standard (NAAQS): Hillsborough, Merrimack, and Rockingham.[12] This means that Sulphur emissions within those county consistently harm the health of the public. The EPA has explicitly encouraged states in non-attainment to incorporate energy efficiency into their State Implementation Plans to achieve NAAQS attainment.[13] A more aggressive EERS would help achieve the objective of protecting public health as described by the above statute and Clean Air Act attainment guidance.

Furthermore, RSA 378:39 explains that energy efficiency and other demand-side management resources should be given priority over renewable and non-renewable fuel sources. This order of priority should be viewed as the enabling language for a directive to capture all cost-effective energy efficiency resources.

Conclusion

NEEP commends the Commission for initiating this proceeding to establish an energy efficiency resource standard, and stands ready to assist the Commission and its staff in any way we can to help make a true EERS become a reality. We reiterate our position that, as currently constituted in the straw proposal, what is before you is not a true EERS because it does not treat energy efficiency as a "resource," but merely a program "cost" that can only be met via existing funding mechanisms and levels.

Please accept these comments in the spirit they are intended: to aid the Commission, and, ultimately, the people of New Hampshire, in security a more affordable, reliable, cleaner and sustainable energy future.

Contact information:

[11] Raynolds, Ned (et.al.). *The Contribution of Energy Efficiency to the Reliability of the U.S. Electric System* (Alliance to Save Energy & Regulatory Assistance Project 2000), available at http://ase.org/resources/electricity-reliability-white-paper

[12] United States Environmental Protection Agency. Green Book. Available at: http://www.epa.gov/airquality/greenbook/ancl.html

[13] United States Environmental Protection Agency. *Roadmap for Incorporating Energy Efficiency/Renewable Energy Policies and Programs into State and Tribal Implementation Plans*. Available at: http://www.epa.gov/airquality/eere/pdfs/EEREmanual.pdf

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