STATE OF MAINE
PUBLIC UTILITIES COMMISSION

Docket No. 2002-162

September 24, 2002

PUBLIC UTILITIES COMMISSION
Procedures for Conservation Program Planning

ORDER ESTABLISHING GOALS, OBJECTIVES AND STRATEGIES FOR CONSERVATION PROGRAMS IMPEMENTED PURSUANT TO P.L. 2001, CH. 624

WELCH, Chairman; NUGENT and DIAMOND, Commissioners

I. SUMMARY

By this Order, we establish the goals, objectives, and strategies that will govern the selection of energy efficiency programs to be implemented pursuant to PL 2001, ch. 624.

II. BACKGROUND

PL 2001, ch. 624 (The Conservation Act or the Act),[1] enacted during the second session of the 120th Legislature, establishes the terms that govern an electric energy conservation program in Maine. Section 4 of ch. 624, which enacts 35-A M.R.S.A. § 3211-A, directs the Maine Public Utilities Commission (Commission) to "…develop and, to the extent of available funds, implement conservation programs…." Section 4 also states: "The commission shall establish and, on a schedule determined by the commission, revise objectives and an overall energy strategy for conservation programs. Conservation programs implemented by the commission must be consistent with the objectives and an overall energy strategy developed by the commission…."

The Conservation Act contains a number of other directives that we must achieve through the statewide program. Title 35-A M.R.S.A., §3211-A(4) states:

> Conservation programs implemented by the commission must be… cost effective, as defined by the commission by rule or order.

Subsection 2(A) states:

> The commission shall consider, without limitation, conservation programs that:

---

[1]The Conservation Act may be found on the Electric Conservation Activities section of the Commission's web page (http://www.state.me.us/mpuc).

1. Increase consumer awareness of cost effective options for conserving energy;
2. Create more favorable market conditions for the increased use of efficient products and services; and
3. Promote sustainable economic development and reduced environmental damage.

Finally, subsection 2(B) states:

The commission shall:

1. Target at least 20% of available funds to programs for low-income residential consumers, as defined by the commission by rule;
2. Target at least 20% of available funds to programs for small business consumers, as defined by the commission by rule; and
3. To the greatest extent practicable, apportion the remaining available funds among customer groups and geographic areas in a manner that allows all other customers to have a reasonable opportunity to participate in one or more conservation programs.

By Proposed Order on August 6, 2002, we stated our preliminary views on goals, objectives, and strategies that we would use when selecting permanent energy efficiency programs. We held a public hearing on August 27, 2002, and invited written comments, which were due no later than September 3.

In Appendix A to this Order, we list the persons who spoke at the public hearing and who filed written comments. Written comments filed with the Commission are available from the Virtual Docket at the Commission's web site (www.state.me.us/mpuc). Comments at the public hearing were transcribed, and the transcription is available.[2] We discuss these comments throughout the body of this Order.

III. OVERVIEW

Through this Order, we first establish appropriate overall goals that energy conservation programs will be designed to accomplish. Next, we establish measurable or observable objectives that support the goals. Finally, we establish strategies or

[2]See our web site, under the Electric Conservation Activity section.

activities that will, in the aggregate, meet the goals and objectives.[3] We adopt each of the Act's directives as a goal, objective, or strategy, depending on the focus of the directive.

The Act sets out cost effectiveness as a threshold requirement for conservation programs, but not the sole requirement. In developing goals, objectives, and strategies, we follow three broad principles. First, the portfolio of programs shall be cost effective.[4] Second, the portfolio of programs shall create sustainable improvements in energy efficiency. Finally, the portfolio shall meet the Act's requirements on targeting programs to customer groups and geographic areas. We discuss these principles in further detail below.

Cost effectiveness would be the only relevant criterion if we were attempting to purchase (i.e., realize an absolute reduction in consumption of) the most kilowatt-hours at the lowest price. Purchasing least-cost kWhs is the overall goal of many utility and state conservation programs (including Maine's in earlier years). In those programs, prospects would likely be prioritized and chosen based on their level of cost effectiveness, from the utility or state perspective. However, the Act contains a variety of goals. In many instances, accomplishing one of these goals in the most effective manner will conflict with maximizing overall cost effectiveness. For example, a program that targets low-income customers or that emphasizes consumer awareness may be less cost effective than other programs. To ensure that none of the Act's goals are sacrificed, we establish cost effectiveness as a hurdle that programs must meet before we will consider their effectiveness in meeting other goals. If a program passes the hurdle – i.e., is cost effective – we will then consider cost-effectiveness and other goals in choosing the portfolio of programs that comprise the statewide program. If the other goals are satisfied equally, we will choose the more cost effective program.

We will use this approach to select energy efficiency activities for primary-effect programs,[5] for secondary-effect programs where appropriate, and for the portfolio of programs as a whole. However, we recognize that, for some secondary-effect

---

[3]The Act directs the Commission to develop an "overall energy strategy." It is not appropriate or reasonable for the Commission to develop a statewide energy policy that encompasses all fuels, nor is it necessary for successful implementation of the Act. We have interpreted this directive to require that we develop a group of objectives and strategies that will govern the conservation program portfolio in a comprehensive manner.

[4]In our June 13, 2002, Order Establishing Interim Conservation Programs in Docket No. 2002-161, we established the All-Ratepayers Test as the cost effectiveness criterion for interim programs. We will determine the cost effectiveness test for permanent programs in our rulemaking to revise the Commission's Chapter 380.

[5]Primary-effect programs are those in which program funding is directly related to kWhs saved. Secondary-effect programs are those in which funding is paid to an intermediary, who in turn uses the money for one of a variety of purposes aimed at influencing an energy consumer's behavior.

programs (such as education, public awareness, R&D, or codes and standards programs), cost effectiveness may be difficult to quantify. We will not automatically reject a secondary-effect program because it cannot be demonstrated to be cost effective. Rather, we will ensure that, while individual programs may be selected even though the size of the "benefit" side of the cost effectiveness test is uncertain, the portfolio as a whole produces quantifiable benefits substantially in excess of overall costs.

This approach will enable us to meet the Act's long-term goals:

> The commission shall consider, without limitation, conservation programs that:
>
> 1. Increase consumer awareness of cost effective options for conserving energy;
> 2. Create more favorable market conditions for the increased use of efficient products and services; and
> 3. Promote sustainable economic development and reduced environmental damage.[6]

In addition, we recognize that a program that creates permanent changes in consumer behavior may be more cost effective and sustainable in the long-term than a program that causes immediate, but temporary, kWh savings. When evaluating a program's cost effectiveness, we will take a long-term view and will consider potential long-term savings through estimations or other reasonable approaches. In our rulemaking to establish cost effectiveness test(s), we will address the means by which we may quantify long-term, sustainable, but less-easily-measured program benefits.

Long-term benefits are achieved if the programs cause self-sustaining changes in the marketplace. During conversations among stakeholders and policy makers, there have been discussion and occasional confusion about the term "market transformation." We will consider market transformation to mean the creation of conditions that cause an increased proportional share of energy efficient products, services or practices to be manufactured, sold, and/or implemented without programmatic market stimuli or subsidies. When this state is attained, it will likely be possible to terminate ratepayer funding. We propose to consider the longer-term goal of sustainable improvement in the use of energy efficiency – i.e., market transformation – as a strategic principle in our program design.

A number of persons commented on the role of cost effectiveness in choosing permanent programs. The Maine Energy Coalition (the Coalition) stated that the Commission should maximize the net benefits achieved from efficiency programs. In a follow-up explanation, the Office of the Public Advocate (OPA) expanded on this statement and recommended that we consider the long-term benefits of programs that

[6]Section 4, codified as 35-A M.R.S.A. §3211-A(2).

might not appear cost-effective in the short-term. The OPA cited energy education and market transformation efforts as examples of programs that might be cost-effective, but only if the Commission takes a long-term view. Norman Anderson, representing the American Lung Association, made a related comment that energy education should be viewed as an initiative that "draw[s] forth the desire and ability to think critically and creatively," potentially transforming a society from "passive recipients of energy choices and consequences to active participants in the solutions." This view would argue to consider a long-term view of cost effectiveness and to consider secondary-effect programs in our portfolio. Jonathon Jutsen of EnVinta Corporation advocated criteria that would allow implementation of programs with long-term, sustainable benefits that result from improved operating and maintenance procedures, the use of benchmarking, best practices, and continuous improvement, and similar improved management practices, rather than criteria that rely upon short-term metrics. At the public hearing, the Department of Economic and Community Development (DECD) supported a balance between energy savings, market transformation, and consumer awareness. All these comments reinforce our proposal to consider cost effectiveness over a long period of time, to consider cost effectiveness as a hurdle but not as the ultimate selection criterion and to consider programs despite the difficulty of quantifying benefits. Our statement of principles, above, reflects these principles.[7]

IV. GOALS

A. Proposed Program Goals

The Commission determines that the goals of Maine's energy conservation programs shall be to:

- Improve the efficiency of electric energy use by Maine residential consumers, businesses and other organizations;
- Increase consumer awareness of cost effective options for conserving energy;
- Create more favorable, sustainable market conditions for the increased use of efficient products and services;
- Promote sustainable economic development; and,
- Reduce environmental damage associated with energy use.

B. Discussion

[7]At the Public Hearing and through its written comments, representatives of EnVinta offered extensive comments on principles and methodologies for judging cost effectiveness of programs whose benefits were sustainable but potentially difficult to measure. We will transfer the relevant documents to Docket No. 2002-473, our rulemaking proceeding that will establish cost effectiveness tests and procedures for permanent programs.

The first goal establishes that each program need not necessarily cause an absolute reduction in electrical use. Rather, programs should improve end use efficiency - i.e., programs should eliminate wasteful use of energy and improve efficiency for the same level of end use work or comfort, rather than simply reduce kilowatt-hours regardless of the impacts on life-style or the economy. The distinction is important when evaluating the effectiveness of a program in reaching the variety of goals established by the Act. For example, sustainable economic development is supported when a customer's electric bill is permanently reduced through lower electrical use, but it is also supported when a customer's business processes are revised in a manner that increases output – an action that might require increased electrical use. Indeed, enhancing the energy efficiency of Maine businesses should increase these businesses' prospects for success and the likelihood that they will continue to support the electrical grid over the long term, thus benefiting all ratepayers. Similarly, improving the indoor air quality or the environmental comfort of an office building or school might require a net increase in electrical use, but if that increase is accomplished in the most energy efficient manner, it should be considered a successful action. For example, programs that influence schools create a variety of benefits, and could create a variety of harmful outcomes that extend well beyond electricity use. We will consider all these outcomes when choosing a program.

The second and third goals are contained in the Act. When taken together, these goals cause energy efficiency to become a permanent part of residential and business operations – i.e., they aid in permanent market transformation.

The fourth and fifth goals are contained in the Act. The goals are societal needs, established by Maine's Legislature, that will be supported if electricity is used more efficiently.

We will consider whether some efficiency measures (e.g., peak shaving) will reduce environmental damage caused by emissions from generating plants more effectively than other measures. We will balance superior environmental impacts with other goals and objectives when choosing a portfolio of programs.[8]

Many commenters discussed the first goal's implication that a program need not necessarily cause an absolute reduction in electrical use, but could improve end use efficiency by eliminating wasteful use of energy and improving efficiency for the same level of end use work or comfort. Norman Anderson cited schools and state buildings as examples of markets where this view is important. Mr. Anderson recommended that the Commission consider air quality (as well as other benefits) as an important benefit of a program that impacts electric efficiency. Mr. Anderson also

[8]We will consider the extent to which environmental impact can be quantified and valued for the purpose of cost effectiveness analysis in the rulemaking to revise Chapter 380. This will include consideration of the benefits of peak shaving and peak shifting, including the extent to which peak shaving offers benefits to both non-participating and participating customers.

recommended that the Commission avoid degrading indoor air quality through programs that otherwise increases electric efficiency. Our statements above, describing the first goal, indicate our agreement with Mr. Anderson. We also agree that programs (such as those that affect schools) should be considered as an inter-related package that includes not only our efficiency programs but other efforts within Maine such as Maine Lung Association's *Safe and Healthy Schools Project.*

The Coalition and Maine Public Service Company (MPS) also recommended that programs should improve efficiency, rather than simply reduce kWhs. The Coalition recommended considering non-electric benefits and costs, commenting that the "ultimate energy-efficiency goal is to improve Maine's economic efficiency."

Finally, the Coalition recommended that we consider the reduction in emissions that might result in peak-shaving initiatives. Our discussion above reflects our intent to do so.

V. OBJECTIVES

A. Proposed Program Objectives

The following objectives are observable or measurable:

- Implement a portfolio of conservation programs pursuant to a Maine energy conservation plan.
- Implement an organizational model for administration and management of energy conservation programs.
- Review existing utility programs and implement a transition plan by the end of 2003.
- Create an awareness of the conservation programs and the value of energy efficiency among the general public.
- Increase the availability of energy efficient products and services through Maine businesses.
- Save a pre-defined number of kWhs through program implementation by December 2003.

B. Discussion

While perhaps obvious, the first observable objective of the statewide plan is to *implement a portfolio of programs that conforms to the plan* that we are developing through Docket No. 2002-162. This plan represents our blueprint for transition from a set of utility programs and interim state programs to an on-going state effort. Each program will be designed to meet goals and objectives of the statewide plan, and the portfolio as a whole will result in the goals being met. The plan will include means for determining that goals and cost effectiveness criteria have been met and that results are reportable to the public and to policy makers.

A variety of organizational structures exist nationwide to develop and deliver conservation programs. Most notably, Oregon and Vermont have funded independent organizations to carry out most of the planning and delivery process. New York and Wisconsin have tasked state agencies to oversee energy conservation efforts. Other states have vested electric utilities with planning and delivery authority. The Maine Legislature has given the Commission the responsibility of ensuring that planning and delivery occur, while leaving us considerable flexibility in setting up an organizational structure. We will develop the initial statewide permanent plan with Commission staff and, through the early years of the program, we will continue to operate the State's efficiency programs with the staffing level authorized by the Act. We are inclined to believe that close Commission oversight will be prudent until programs become more mature. However, after we and other participants in the programs have gained experience in their operation in Maine, we will *consider the most effective long-term organizational structure* and develop a recommendation for its implementation.

In its comments, the Coalition recommended that the Commission retain an open-minded attitude regarding the appropriate organizational structure for program implementation. We emphasize that we have reached no conclusion as to the best organizational structure to implement on a permanent basis.

Current utility programs continue to operate during the interim period. While the Act does not prohibit utility-run programs, it requires the Commission to determine whether utilities are the most appropriate delivery mechanism. We will examine each utility program and allow it to continue, modify its design and delivery, or phase it out altogether.

MPS expressed interest in continuing its energy audit and school education programs, as well as in operating other programs. Kennebunk Light and Power Company has also commented elsewhere that it performs effective programs and wishes to continue doing so. MPS recommended that transmission and distribution (T&D) utilities be allowed to respond to the Commission's RFPs for program implementers because T&D utilities are known and trusted by customers and have an infrastructure in place to deliver efficiency programs. At the public hearing, the OPA disagreed with this recommendation, stating that T&D utilities have a disincentive to perform effectively. We have reached no conclusion regarding the continuation of existing T&D utility programs. In determining whether Maine utilities can respond to Commission RFPs for programs, the Commission and utility will need to consider whether the nature and scope of the activities contemplated by the RFP would constitute non-core activities. In general, we expect that, by their very nature, activities for which bids will be sought will be non-core activities to the T&D utility. By Commission Rules, specifically Chapter 820, non-core activities must be performed by affiliates rather than utilities. In such circumstances, Maine utilities will not be able to respond to the RFP, though, affiliates of Maine utilities will be able to respond. Affiliates, of course, are responsible for compliance with our rules and with Title 35-A of the Maine Revised Statutes and anti-trust laws.

The fourth and fifth objectives are more concrete expressions of the second and third goals, discussed earlier in this Order. Together, they contribute significantly to creating an environment for sustained market transformation. The fourth objective – *creating public awareness of conservation programs and the value of efficiency* – may be measured through surveys. The fifth objective – *increasing the availability of products and services* – may be measured through baseline and follow-up surveys with retail providers.

Finally, the sixth objective – *to save a targeted number of kWhs by programs implemented in 2002 and 2003* – is a measure of the most direct and easily understood short-term result of the statewide program. It will be measured primarily through metering and engineering estimates associated with each program. When coupled with sustainable market transformation and evaluations that indicate cost effectiveness, this objective completes a measurement of statewide program success. We propose to set savings targets as our program designs are developed later in our planning process.

The Coalition supported setting kWh targets during program design. The Northeast Energy Efficiency Partnership (NEEP) commented that savings targets should not be limited to kWh savings, which is an appropriate approach for short-term savings. Rather, NEEP asserts that targets for programs that cause sustainable market transformation would more appropriately include market share goals, with progress toward those goals tracked over time. We will emphasize kWh targets in our program evaluations, particularly for the interim programs implemented in 2002 and 2003, but we agree that establishing additional measures of success is appropriate for permanent programs.

VI. STRATEGIES

A. Proposed Program Strategies

We have discussed two strategic principles – cost effectiveness and self-sustaining markets – above. In addition, the Commission proposes to employ the following strategic activities to ensure that the portfolio of energy conservation programs meets the goals and objectives of the energy conservation plan.

- Market assessment
  - Conduct market assessment studies as needed to expand our knowledge and understanding of the markets for energy efficient products and services in Maine. Coordinate our market assessment efforts with others in the region where possible.
  - Develop market baseline measurements for efficient products and services as needed to support program design and evaluation.
- Program design and implementation

- Implement a portfolio of programs that allows all major customer groups a reasonable opportunity to participate in one or more programs.
- Implement programs targeted at traditionally "hard-to-reach" markets. Target 20% of funds to programs for low-income customers, and 20% of funds to programs for small business customers.
- Design programs that balance immediate primary results (cost effective kW and kWh savings) with longer-term secondary results (self-sustaining markets, economic development, environmental benefits).
- Encourage the development of an energy efficiency infrastructure, resources, and skills in Maine. Use existing market channels for program delivery, where possible.
- Assess current utility programs and their fit with our program plan, phase out those no longer needed, and re-design those to be carried forward.
- Integrate customer educational efforts into all programs to promote changes in buying habits and energy usage behaviors.
- Implement an overall marketing effort that develops a clear brand image for our programs, supports program implementation, and increases public awareness of the benefits of energy efficiency.
- Adopt or adapt regional or national programs or programs from other states, if they will provide benefits to Maine's citizens and are consistent with these goals, objectives, and strategies.

➢ Monitoring and evaluation

- Develop tracking and evaluation criteria and procedures for each program. Coordinate our tracking and evaluation efforts with others in the region where possible.
- Evaluate programs to a level sufficient for business decision-making.

➢ Funding

- Implement an accounting and reporting system to track revenues by source and expenditures by program and category, in sufficient detail to support evaluation and reporting needs.
- Leverage ratepayer funds with funds from other sources where possible. Seek additional sources of funding from state, federal, and private sources, where such funding would enhance and support this plan.
- Set incentive levels at the minimum needed to accomplish program objectives.

➢ Communication, coordination, and reporting

- Implement a process for ongoing public stakeholder communication.
- Coordinate our efforts with other state agencies with energy-related responsibilities.

- Monitor national and regional activities and participate in such activities when beneficial.
- Report to the Legislature by December 1, 2003, describing the Commission's activities, programs implemented or planned, the likely cost effectiveness of programs, the financial condition of the conservation funds, and any recommended changes to the Conservation Act.

B. Discussion – Market Assessment Strategies

A *market assessment* estimates the potential for energy savings in a particular market (e.g., the potential for replacement of particular motors). The assessment may facilitate broad budgeting decisions – is there sufficient potential to justify spending a particular budget on programs? An assessment may also facilitate targeted program design – where is the greatest potential for savings and therefore where should we target our efforts? As we stated in our Order Establishing Procedure and Schedule for Conservation Programs Implemented Pursuant to P.L. 2001, ch. 624 in Docket No. 2002-162, we will not perform an overall market assessment at this time, since others are currently undertaking that task. However, we will consider an overall market assessment as we continue program development, and we will conduct targeted market assessments when insufficient data or experience lead us to believe that information on a market must be gathered.

A *baseline study* determines the current market status of a technology or end use. Knowing this information before offering a program is sometimes necessary to evaluate the success of the program, over time.

The Coalition, NEEP, and MPS supported the importance of studies for these two purposes. The Coalition urged us to carry out studies in a "fluid and fungible" manner, so that the results will be useable as conditions change. While we are uncertain what means to use to accomplish this recommendation, we will keep the advice in mind as a practical way to maximize the usefulness of each study.

C. Discussion – Program Design and Implementation Strategies

The first program design and implementation strategy – to implement a portfolio of programs that *allows all major customer groups a reasonable opportunity to participate* in one or more programs – is an important strategy to address the concern that all customers contribute to the Conservation Fund, but only program participants directly benefit from the Fund (even though all Maine citizens should benefit indirectly through environmental, market, economic development and other indirect benefits). If only small numbers of customers receive direct benefits from the programs, the public may consider the statewide conservation program to be an unfair and unnecessary expense. Indeed, we would share this concern. One way to avoid this concern is to implement a wide enough variety of programs that all customers will have a reasonable

opportunity to participate.[9] This approach is followed in many other states, and the Legislature directed us to adopt it in Maine. See 35-A M.R.S.A. §3211-A(2)(B)(3).

The Coalition and MPS submitted comments in support of this concept. In addition, in our rulemaking to determine a cost effectiveness test, we are considering the extent to which we should formalize or quantify the portfolio's (or a particular program's) success in reaching a wide number of customers.

The second program design and implementation strategy – to *target hard-to-reach customers* – reinforces the first strategy. In all states, certain customer groups, such as the smallest business customers, have typically not received the benefits of energy efficiency. An effective statewide program therefore must explicitly address the reasons for those groups' lack of participation. The strategy highlights the two hard-to-reach groups that are targeted by the Conservation Act (low-income residential customers and small business customers).[10] However, we will also consider and address other hard-to-reach groups as we identify them.

The third program design strategy – to *balance immediate primary results with longer-term secondary results* – explicitly recognizes the conflict that may occur between the two strategic principles discussed earlier in this Proposed Order. As discussed in Section III, we will balance direct, measurable, short-term savings with the longer-term, less quantifiable benefits attained through sustainable market transformation in every program we design. As we further discussed in Section III, we will consider cost effectiveness to be a hurdle requirement that programs must have a reasonable likelihood of meeting. We will then turn to the other goals and objectives required of the portfolio, including components of the program that will encourage the development of markets for energy efficient products and services that are self-sustaining, without the assistance of our programs. Interested persons commented on the value of sustainable, long-term benefits, and we discussed those comments in Section III.

The fourth program design strategy – *encourage the development of an energy efficiency infrastructure in Maine* – is necessary to meet the broad principle of transforming the market, so that efficient products are sold and used in Maine without programmatic stimuli or subsidies. Only with a healthy local infrastructure of knowledge, resources, and skills can efficient organizations be available to sell and service those products. Relying on local entities to deliver sales and service also provides a form of economic development that is supported by the Act.[11] In the interim period, using the expertise of entities that deliver programs elsewhere may be a useful way to develop experience while a local infrastructure develops, and we will judge the

---

[9] An outstanding question is whether customers who do not contribute to the Conservation Fund through their rates should be eligible to participate in programs. We do not resolve that question in this order.

[10] Section 4, codified as 35-A M.R.S.A. §3211-A (2)(B)(1) and (2).

[11] Section 4, codified as 35-A M.R.S.A. §3211-A(2)(a)(3).

likely effectiveness of in-state and out-of-state bidders based on the merits of each bidder. However, our longer-term goal will be to rely upon a reliable base of in-state providers while using regional providers when it benefits Maine to do so.

MPS recommended that we use Maine-based approaches and contractors unless Maine would clearly benefit from a regional approach.

As discussed earlier in this Order, c*urrent utility programs* will continue to operate during the interim period, during which we will determine whether each program is using the most appropriate delivery mechanism and revise its design and delivery or phase it out altogether.

Educating customers about the existence and operation of energy efficient products and the potential costs and savings of their electrical processes is a fundamental requirement of a program that aims to create a sustainable market transformation. In general, a program that offers only education is considerably less effective than a program that links education with direct action, and we will limit the level of funding allocated to purely educational programs. Instead, we propose that *all programs include an education component that complements the program activity* that is undertaken to reduce (or otherwise improve the efficiency of) kWh use. NEEP supported this approach and commented that existing brands such as Energy Star® are already recognized by consumers.

One of the necessary preconditions to influencing customers' energy-related buying and usage habits is to increase their awareness of energy efficient products and services, and of opportunities to save energy in daily activities. An *overall consumer-awareness approach*, through a clear "brand image" and consistent message, will increase participation in individual programs and will increase the knowledge and awareness of energy efficiency by individual citizens.

Coordination of conservation efforts with other states is encouraged by the Act.[12] Maine is a small state, and its conservation budget is not as large and its programs not as mature as in some other New England states. By participating in regional activities, we can use approaches and materials that have already been developed and work elsewhere, and we can benefit from relationships that regional program participants have developed with retail chains that do business in Maine. Some costly activities, such as developing advertising material, evaluating programs, and assessing markets, may be accomplished at less cost to Maine if many entities share in the expense. We propose to do so when we consider it in the best interests of Maine consumers. Simultaneously, we will remain mindful of the Act's directive to "encourage the development of resources, infrastructure and skills within the State by giving preference to in-state service providers[13]" when practicable.

---

[12]Section 4, codified as 35-A M.R.S.A. §3211-A(2)(I).

[13]Section 4, codified as 35-A M.R.S.A. §3211-A(3)(B).

D. Discussion – Monitoring and Evaluation Strategies

Tracking and evaluation criteria include information necessary to determine whether a program is cost effective and meets the other objectives specified in its program design. For each program, we will develop indicators to measure a program's performance against its stated objectives. These indicators will necessarily vary among programs and could include kWh usage before and after implementation, capital costs (e.g., the cost of a new appliance), administrative costs, costs and savings of other resources and customers' operational savings.[14] If the program is intended to meet additional objectives (e.g., raising customer awareness), we will put in place a mechanism to measure the effect. We will implement means for gathering this data during the program design phase, so data necessary to evaluate each program will be gathered as soon as the program is implemented.

Many costs and benefits are difficult to determine precisely, either because historic data are not available, because measurement is prohibitively expensive, or because the data being measured are not easily quantifiable. Historically, considerable time has been spent gathering data, and the results have been subject to ongoing controversy. We wish to avoid expending the limited funds available on unnecessary precision. Thus, we propose to gather *data at a level needed to make reasonable business decisions*. We will often estimate energy use before or after program implementation through reasonable engineering assumptions, and will require special metering only when estimation is impossible or when the electrical use is extremely large. When data is gathered through interviews with program participants, we may sample only a portion of participants. Finally, precise estimates of free riders and spillover effects[15] can be difficult to determine. We will develop such estimates to the level needed to assess program performance or improve program design and will avoid, where possible, the costly statistical studies often done in the past. The Coalition supported performing evaluations at reasonable business decision levels.

E. Discussion – Funding

Accounting for revenues and expenditures is necessary to ensure that ratepayers' money is accounted for in a fiscally responsible manner, that utility rates appropriately reflect Conservation Fund activity, and that there are funds available to meet contractual agreements. We are currently concluding discussions of procedures for monthly tracking of the conservation program assessment and the amount of revenue customers contribute through their rates. Reconciliation of the assessments

[14]These non-electric benefits and costs may be considered in the cost effectiveness test we adopt in an amended Chapter 380. If they are not, it may nonetheless be useful to determine their value.

[15]Free riders are customers who receive a program incentive, but who would have implemented energy efficient measures without that incentive. A spillover effect occurs when a customer installs an energy efficiency measure without needing the program incentive.

paid (which will be based on estimated sales) and actual assessments, as well as reconciliation of the assessments and the amounts collected in rates, will occur at regular (although not necessarily identical) intervals. Additional accounting procedures will be implemented to track and predict cash flow and to track expenditures on each program as well as on costs not attributable to individual programs. We will maintain the ability to report this information comprehensively for public or legislative review.

Many governmental and non-profit agencies have access to matching funds or can use our funds to better utilize funding from other sources. We will consider the value of such leveraging. In addition, organizations offer *grants for energy conservation activities*. To extend the effectiveness of the Energy Conservation Fund, we propose to supplement ratepayer provided funds with such grants when we identify them.

Program incentives typically include rebates, funded assistance, or some other financial incentive offered to customers to encourage participation in the program. The most efficient financial incentive is large enough to cause the customer to participate, but no larger. Initially, we propose to consider experience in Maine and other states, the cost differential between efficient and mainstream measures, and payback periods to determine appropriate incentives. As each program proceeds, we will continually re-evaluate and revise its incentive. An important part of this re-evaluation is the determination of an exit strategy, whereby we end incentives altogether as the market matures and is able to operate without intervention.

F. Discussion – Communication, Coordination and Reporting

Ongoing public stakeholder communication will ensure that all the State's expertise is used to advantage and will improve public acceptance of the statewide program. As discussed in our July 23 Order Establishing Procedure and Schedule for Conservation Programs Implemented Pursuant to P.L. 2001, ch. 624 in Docket No. 2002-162, we will use the non-adjudicatory procedures we are currently employing to obtain stakeholder input on plan development and program design decisions. Under these procedures, we obtain written and oral comments through public hearings, informal meetings, and responses to proposed orders. However, as these procedures end, we intend to establish a systematic means for obtaining continuing input. The OPA, representing a variety of interested persons, has urged us to convene an Advisory Council. We will consider this proposal and will establish an ongoing procedure for input to program review and revision as part of our plan development.

Many *other state agencies* carry out activities that supplement or complement our conservation activities. In many cases, coordination will attain benefits that exceed the sum of the individual activities. We are taking advantage of the benefits

of coordination among agencies as we develop our interim programs,[16] and we are members of the Energy Resources Council established by P.L. 2001, ch. 630. We will take further advantage of coordinated approaches as we better understand existing State activities.

Monitoring and participating in regional activities are allowed by the Act[17] and, as discussed earlier in this Proposed Order, allow less costly development of program designs and materials, allow Maine to benefit from the experience of other states, and leverage activities targeted to regional retail chains. We will monitor regional activities to allow us to use their benefits to Maine's advantage.

As required by the Act,[18] we will submit a *report to the Legislature* by December 1, 2002, describing our activities. We intend to include comprehensive discussions of the reasons for our choices and actions, outcomes or potential problems associated with our choices and with the Act, and suggestions for issues that the Legislature might consider.

Dated at Augusta, Maine this 24th day of September, 2002.

BY ORDER OF THE COMMISSION

_____

Dennis L. Keschl
Administrative Director

COMMISSIONERS VOTING FOR: Welch
Nugent
Diamond

THIS ORDER HAS BEEN DESINATED FOR PUBLICATION

[16]We are funding programs that are already run by the Department of Economic and Community Development (DECD), Maine State Housing Authority (MSHA), and Maine Energy Education Program (MEEP). In addition, we are working cooperatively with the Department of Administration and Financial Services (DAFS) and the Bureau of General Services (BGS) to improve the energy efficiency of state buildings.

[17]Section 4, codified as 35-A M.R.S.A. §3211-A(2)(D).

[18]Section 4, codified as 35-A M.R.S.A. §3211-A(11).

NOTICE OF RIGHTS TO REVIEW OR APPEAL

5 M.R.S.A. § 9061 requires the Public Utilities Commission to give each party to an adjudicatory proceeding written notice of the party's rights to review or appeal of its decision made at the conclusion of the adjudicatory proceeding. The methods of review or appeal of PUC decisions at the conclusion of an adjudicatory proceeding are as follows:

1. Reconsideration of the Commission's Order may be requested under Section 1004 of the Commission's Rules of Practice and Procedure (65-407 C.M.R.110) within 20 days of the date of the Order by filing a petition with the Commission stating the grounds upon which reconsideration is sought.

2. Appeal of a final decision of the Commission may be taken to the Law Court by filing, within **21 days** of the date of the Order, a Notice of Appeal with the Administrative Director of the Commission, pursuant to 35-A M.R.S.A. § 1320(1)-(4) and the Maine Rules of Appellate Procedure.

3. Additional court review of constitutional issues or issues involving the justness or reasonableness of rates may be had by the filing of an appeal with the Law Court, pursuant to 35-A M.R.S.A. § 1320(5).

Note: The attachment of this Notice to a document does not indicate the Commission's view that the particular document may be subject to review or appeal. Similarly, the failure of the Commission to attach a copy of this Notice to a document does not indicate the Commission's view that the document is not subject to review or appeal.

Appendix A – Interested Persons who Submitted Comments in this Proceeding or Participated in the Public Hearing

American Lung Association (written)

Central Maine Power Company (public hearing)

Dirigo Consortium (public hearing)

EnVinta Corp. (written and public hearing)

Maine Community Action Association (written)

Maine Department of Economic and Community Development (public hearing)

Maine Energy Education Program (MEEP) (public hearing)

Maine Energy Efficiency Coalition (Natural Resources Council of Maine, Maine Council of Churches, Maine Public Advocate Office, Maine Community Action Association, Maine Global Climate Change, Inc., Chewonki Foundation, Industrial Energy Consumer Group, Maine Center for Economic Policy, Coastal Enterprises, Inc., Maine Council of Senior Citizens, S&S Technologies, AARP) (written)

Maine Public Service Company (written and public hearing)

Northeast Energy Efficiency Partnerships, Inc. (NEEP) (written)

Office of the Public Advocate (public hearing)