



Summary of Rulemaking Comments and EMT Staff Responses

Chapter 3 of the Efficiency Maine Trust Rules:
Electric Efficiency and Conservation Programs

I. Background

In 2023, the Maine Legislature enacted Public Law 2023, Chapter 328 (An Act to Enact the Beneficial Electrification Policy Act).

The Efficiency Maine Trust (the Trust or EMT) subsequently undertook a rulemaking process to incorporate elements of the Beneficial Electrification Policy Act into Chapter 3 of the Trust's rules, which governs the Electric Efficiency and Conservation Programs. The proposed changes to the rule focused on adopting the statutory definition of "beneficial electrification" and establishing details of a test by which to determine which beneficial electrification projects satisfy the statutory requirements of cost-effectiveness and reliably reducing rates. The proposed changes did not seek to amend the Chapter 3 rule's provisions regarding eligibility of customers or budget allocations to any particular customer class or program.

On November 21, 2023, the Trust submitted an official rulemaking proposal package to the Secretary of State. The Public Notice of Rulemaking Proposal was first published online and in local newspapers on November 29, 2023 and was emailed, with a link to a Trust webpage hosting the proposed rule text, to interested parties and to the contacts who receive notices of all official Board meetings. A winter storm required the postponement of a public hearing scheduled for December 19, 2023. To provide notice of the rescheduled public hearing and of an extension in the deadline for parties to submit written comments, the Trust submitted an updated rulemaking proposal package to the Secretary of State on December 21, 2023. The updated Public Notice of Rulemaking Proposal was published online and in local newspapers on December 27, 2023, and was again emailed to interested parties and to contacts who receive notices of all Board hearings. The Trust held a public hearing on January 16, 2024 and accepted written comments through January 26, 2024.¹

During the public hearing, the Trust provided an overview of proposed changes to the rule and answered clarifying questions. No substantive questions or comments were provided to the Trust at the hearing.

II. Commenters

The Trust received written comments from the Conservation Law Foundation (CLF) and from the Natural

¹ All comments filed in the rulemaking can be obtained from the Trust's webpage, www.energymaine.com/rulemaking/.

Resources Council of Maine (NRCM).

III. Comments and Responses

This section presents a summary of the written public comments received by the Trust that are relevant to this rulemaking and the Trust's responses to those comments.

A. Regarding Section 3, Conservation Programs

1. *CLF Comment:* CLF suggests that the Trust expand the categories of customers for which the Trust provides enhanced programming. Currently, the rule specifies that the Trust's electric efficiency programs set minimum budget allocations for low-income and small business consumers specified at 35-A M.R.S. § 10110(2)(B). CLF suggests that the Trust allocate a larger portion of conservation funds than the minimum prescribed by statute, and also extend enhanced programming to other classes of customers that face higher barriers to accessing Trust programs. CLF lists additional classes of such consumers and suggests that the Trust align its investments with federal Justice40 principles requiring 40% of the benefits of certain federal funds to flow to disadvantaged communities.

EMT Staff Response: The Trust declines to codify budget allocations for specific customer classes in the Chapter 3 rule on electric efficiency programs. Doing so is not necessary or relevant to incorporating the novel elements of the Beneficial Electrification Policy Act into the Trust's rules. Moreover, the practice of "hardwiring" budget allocations by customer class into regulations is largely inconsistent with the concept of MACE. The most appropriate place to address preferences for allocating budgets is in the triennial planning process.

It should also be noted that while low-income consumers may represent as much as 40% of the population of Maine, they represent far less than that share of the total, statewide electricity load. In addition to residential consumers, the total, statewide electricity load comprises the electrical consumption of small businesses, commercial and institutional consumers, and industrial consumers. Statewide load is the source of the volumetric assessments collected through rates that are used to pay for the cost of the electric efficiency procurement that is the primary source of funding for programs administered through the Chapter 3 rule.

2. *CLF Comment:* CLF suggests that, in addition to updating subsection 3(B)(4) to reflect the Climate Action Plan goals codified in the statute, the Trust also should incorporate the Climate Action Plan's goal for new heavy-duty electric vehicle sales. CLF further suggests that the Trust further prioritize the delivery of incentives for light-duty electric vehicles to low-income consumers and other disadvantaged consumers.

EMT Staff Response: As noted above, the Trust has sought to limit the changes proposed in the rule to those necessary to incorporate the specific provisions of the Beneficial Electrification Policy Act. The Trust declines at this time to codify in its rule any further targets associated with the Climate Action Plan, which is currently in the process of being updated and revised. The

Trust remains committed to assessing cost-effective strategies to accelerate the deployment of heavy-duty electric vehicles in Maine and to reducing barriers to consumers' access to light-duty electric vehicles; both priorities will be further addressed in the Trust's ongoing efforts to develop Triennial Plan VI.

3. *CLF Comment:* CLF suggests revising subsection 3(A)(e) to clarify that a single program need not advance every criterion listed in that subsection to be considered by the Trust.

EMT Staff Response: As a general matter, the Trust agrees with the comment that each program funded through section 10110 of need not advance every criterion listed in the referenced subsection. Nonetheless, in an effort to adhere as closely as possible to the structure of the current statutory language provided under 35-A M.R.S.A. § 10110(2)(A), the Trust declines to make any change to the rule in its current form.

B. Regarding Section 4: Cost Effectiveness Tests

1. *NRCM Comment:* NRCM provides comments in support of the Trust's amendment to the cost-effectiveness test to include net cost savings associated with fuels displaced by a measure in the screening of beneficial electrification measures.
2. *CLF Comment:* CLF suggests revising subsection 4(B) to require the Trust to meet only one of three qualifying standards under the Trust's Non-Quantifiable Cost-Effectiveness Test before implementing a program that does not satisfy the Trust's standard cost-effectiveness test. The current rule requires each of three standards to be met.

EMT Staff Response: The Trust finds that each of the three qualifying standards for the Non-Quantifiable Cost-Effectiveness Test are appropriate limitations to ensure that Trust programs maximize benefits to Maine ratepayers and promote confidence in the Trust's assumptions and methodologies across a diverse cross-section of stakeholders, policymakers and regulators. The Trust will use the provisions being proposed in this rulemaking to secure significant additional funding from Maine's ratepayers, employing a novel approach to determining what measures are eligible for ratepayer funded programs and a novel policy rationale. It seems prudent to stick with the Trust's traditional application of assumptions and methodologies in order maintain a strong level of confidence – across all parties – in its calculation. For these reasons, the Trust declines to relax the rule on cost-effectiveness beyond what it was directed to do in the recent legislation or what is necessary to incorporate "beneficial electrification".

C. Regarding Section 5: Funding

1. *CLF Comment:* CLF asks whether proposed amendments to subsection 5(B) would frustrate the current process by which the Public Utilities Commission (Commission) reviews the Triennial Plan to ensure the delivery of MACE resources.

EMT Staff Response: The Trust simply proposes to “cut and paste” the same rule text that had previously concluded subsection 5(B). The proposed amendment does not alter the process by which the Trust or the Commission would consider savings in the determination of MACE resources and associated budgets. In an effort to improve the clarity of the rule, the amendment simply consolidates existing language describing the approach the Trust must take in proposing programs and budgets for Commission review.

2. *CLF Comment:* CLF asks whether the Trust’s proposed approach to determining which measures reliably reduce electricity rates results in “double counting” of the cost of the financial incentive that a measure provides to the customer. CLF questions why it is appropriate to consider the cost of the financial incentive in the comparison of the net present value of costs and revenues applicable to a measure in the assessment of reliable reduction of electricity rates if a measure has already been found to be cost effective.

EMT Staff response: The proposed change to the rule does not improperly “double count” any values. To fulfill requirements enacted the Beneficial Electrification Policy Act, the Trust’s proposed rule requires that a beneficial electrification measure included in determinations of MACE be found cost-effective *and* be found to reliably reduce electricity rates over the life of the measure. The assessment of whether a measure reliably reduces electricity rates over the life of the measure is an analysis fully independent of the Trust’s cost-effectiveness screening. That the approach to determining reliable reduction in rates shares certain analytical inputs with the Trust’s cost-effectiveness test should not be construed to suggest that these inputs are double counted.