Attachment 2
MPUC Rule Chapter 480

65 - INDEPENDENT AGENCIES - REGULATORY

407 - PUBLIC UTILITIES COMMISSION

CHAPTER 480 –NATURAL GAS ENERGY CONSERVATION PROGRAMS

SUMMARY: This Chapter describes how natural gas utilities serving more than 5,000 residential customers must implement natural gas energy conservation programs.

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§ 1 PURPOSE

The purpose of this Chapter is to implement the requirements of 35-A M.R.S.A. § 4711. Section 4711 requires all natural gas utilities in the State that serve 5,000 or more residential consumers to implement gas conservation programs.

This Chapter describes how and for whom natural gas utilities must implement cost effective gas conservation programs. The Chapter also defines the standards by which the Commission will judge programs to be cost effective.

§ 2 DEFINITIONS

A. Gas conservation programs. "Gas conservation programs" means programs developed by an affected gas distribution utility pursuant to 35-A M.R.S.A. § 4711 and this Chapter.

B. Gas Distribution Utility. "Gas distribution utility" means a gas utility as defined in 35-A M.R.S.A. § 102(8) that serves 5,000 or more residential consumers.

C. Low-income residential consumer. "Low-income residential consumer" means a customer of a gas utility living in a household that would qualify to receive assistance through the Low Income Home Energy Assistance Program (LIHEAP), as those qualifications are established in rule by Maine State Housing Authority from time to time. If a customer has not applied for authorization to receive LIHEAP benefits but conforms to the criteria established by Maine State Housing Authority, he or she shall be considered a low-income consumer for purposes of this Chapter.

D. Measure. "Measure" means a device or an application installed or implemented as a result of a program and that improves energy efficiency.

E. Participant. "Participant" means a customer who directly takes part in a gas conservation program.

F. Small business consumer. "Small business consumer" means a commercial customer of a gas distribution utility that has an annual usage of 40,000 ccf or less.

§ 3 GAS CONSERVATION PROGRAMS

A. Criteria for Conservation Programs

Gas distribution utilities adopting and implementing gas conservation programs shall seek to encourage efficiency in natural gas use, provide incentives for the development of new, energy-efficient business activity in the State and take into account the costs and benefits of energy efficiency and conservation to existing business activity in the State.

1. Program Design. Gas distribution utilities shall design and implement conservation programs that:

(a) increase consumer awareness of cost-effective options for conserving energy;

(b) create more favorable market conditions for the increased use of efficient products and services; and

(c) promote sustainable economic development and reduced environmental damage.

2. Program Targets. The gas distribution utilities shall:

(a) target at least 10% of available funds to programs for low-income residential consumers;

(b) target at least 20% of available funds to programs for small business consumers; and

(c) To the greatest extent practicable, apportion 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.

3. Program Cost Effectiveness. Programs shall meet the cost effectiveness tests established in Section 4.

4. Program Funding Levels. Programs shall be deliverable within the funding level established pursuant to section 5.

B. Terms and Conditions. As required by 35-A M.R.S.A. § 304, gas conservation programs shall be implemented as part of the gas distribution utility's schedules on file with the Commission. New gas conservation programs and changes to existing gas conservation programs shall be filed with the Commission as a change in the gas distribution utility's schedules pursuant to 35-A M.R.S.A. § 307.

1. Information to be Submitted. A gas distribution utility submitting a gas conservation program shall file the following information with the Commission and the Office of the Public Advocate:

a. Proposed new or revised Terms and Conditions describing the proposed gas conservation program, and a schedule of any new or revised rates or charges proposed in conjunction with the program.

b. A description of the proposed gas conservation program, including its target group, schedule, projected gas savings, avoided costs, participant costs and savings, program costs and benefits, rate impacts and impacts on end uses and amenity level.

c. An analysis of the proposed gas conservation program showing that it is reasonably likely to be cost effective as defined in this Rule.

d. Any other information the gas utility believes will assist the Commission in reviewing the cost effectiveness of the proposed program and the justness and reasonableness of the proposed terms and Conditions.

2. Delegation of Authority. The Commission delegates its authority to review, suspend, approve and order changes to gas utility schedules related to energy conservation programs, including terms and conditions, to the Director of Energy Programs.

3. Effect of Commission Approval. The Commission's approval of a gas conservation program shall be a determination that the program is just and reasonable on the basis of the information available as of the date of approval. Any gas distribution utility implementing such a program has a continuing obligation to monitor, evaluate and review the program to determine whether the program as implemented is cost effective and whether continuation of the program as approved is reasonable.

§ 4 COST EFFECTIVENESS TESTS

The following tests will be used to determine whether a program is cost effective.

A. Modified Societal Test. Programs that are reasonably likely to satisfy the Modified Societal Test are cost effective. The Modified Societal Test is satisfied when the program benefits exceed the program costs. Costs and benefits shall be considered in the Modified Societal Test regardless of whether they are paid or experienced by the program participant or by the natural gas distribution utility or any other individual, business, or government agency.

1. Program benefits. Program benefits will include the following:

a) Avoided natural gas commodity costs. These estimates may be differentiated by time periods that influence market prices, including but not limited to peak and off-peak periods and summer and winter periods.

b) Avoided natural gas transportation, distribution, and storage costs, using estimates of gas transportation marginal costs. These estimates may be differentiated by time periods that influence costs.

c) Avoided electric costs including any energy, capacity, and transmission and distribution costs avoided as a result of program implementation.

d) Other resource benefits, such as reduced water and sewer costs.

e) Non-resource benefits, including customer benefits such as reduced operation and maintenance costs, deferred replacement costs, productivity improvements, economic development benefits and environmental benefits, to the extent such benefits can be reasonably quantified and valued.

2. Program costs. Program costs will include the following:

a) Direct program costs, including program design, administration, implementation, marketing, evaluation and other reasonably identifiable costs directly associated with the program.

b) Measure costs. For new construction programs, measure costs are the incremental costs of the energy efficiency measure, including installation, over an equivalent baseline measure. For retrofit programs, measure costs are the full cost of the energy efficiency measure, including installation, less any salvage for the replaced measure.

c) Ongoing customer costs, including costs such as increased operation and maintenance costs, reduced productivity, and lost economic development opportunities, and environmental degradation, to the extent such costs can be reasonably quantified and valued.

3. Discount rate assumption. The discount rate used for present value calculations shall be the gas distribution utility's most recently established weighted cost of capital.

4. Net present value. Cost effectiveness of a gas efficiency measure will be calculated based on the net present value of the costs and benefits over the expected life of the measure.

5. Post-program effects. For programs expected to influence the development of self-sustaining markets, program cost effectiveness will be calculated for a reasonable additional period after the program is terminated in order to capture post-program market effects.

6. Incentive Level Limitation. When developing a program that satisfies the Modified Societal Test, the gas distribution utility shall consider the value of the program savings associated with natural gas production and delivery when setting incentive levels.

B. Unquantifiable Cost Effectiveness Test. Gas distribution utilities may implement a program without satisfying the Modified Societal Test if approved by the Commission based on a demonstration that:

1. program benefits are known to exist but cannot be quantified with sufficient accuracy to conclude that program benefits exceed program costs;

2. the program satisfies some unquantifiable statutory criterion or an unquantifiable goal or objective established by the Commission in implementing 35-A M.R.S.A. § 4711; and

3. the entire portfolio of gas conservation programs taken together and including the cost of the unquantifiable program produces quantifiable benefits that substantially exceed total portfolio program costs.

Gas distribution utilities shall not spend or commit to spend more than 5% of the annual conservation budget on any program found to be cost effective under this Subsection B without express Commission approval of the spending level.

§ 5 FUNDING LEVEL

Gas distribution utilities shall undertake energy efficiency programs designed to operate within an annual budget upon full program implementation that is no less than 3% of the utility's annual delivery revenue. For purposes of this Chapter, delivery revenue means all revenue received by the gas distribution utility from the application of its delivery service base rates, which are exclusive of those revenues generated from the application of the utility's Cost of Gas Factor and any other tariff surcharges additional to the base rates.

§ 6 COST RECOVERY

To the extent prudently incurred, all costs incurred by a gas distribution utility implementing gas conservation programs will be included in rates. Gas conservation costs shall be reconciled for differences between actual and estimated revenue and expenses annually in conjunction with the gas distribution utility's summer cost of gas adjustment filings.

§ 7 REPORTS

Gas distribution utilities shall report by July 31st of each year to the Commission a description of actions taken and progress made in the implementation of programs in the twelve month period ending on the prior April 30th. Reports shall include at a minimum:

1) a description of each program offered;

2) the program's projected cost effectiveness;

3) the program's calendar year annual expenditures;

4) the number of customers who participate;

5) the estimated annual energy savings; and,

6) expenses incurred in overall program administration.

§ 8 WAIVER OR EXEMPTION

Upon the request of any person subject to the provisions of this Chapter or upon its own motion, the Commission may waive any of the requirements of this Chapter that are not required by statute. Where good cause exists, the Commission or its designee may grant the requested waiver, provided that the granting of the waiver would not be inconsistent with the purposes of this Chapter of Title 35-A.

BASIS STATEMENT: The factual and policy basis for this rule is set forth in the Commission's Order Adopting Rule, Docket No. 2006-129, issued on **July 26, 2006.** Copies of this Statement and Order have been filed with this rule at the Office of the Secretary of State. Copies may also be obtained from the Administrative Director, Public Utilities Commission, 242 State Street, 18 State House Station, Augusta, Maine 04333-0018.

AUTHORITY: 35-A M.R.S.A. §§ 4711
EFFECTIVE DATE: This Chapter was approved as to form and legality by the Attorney General on 8/3/06. It was filed with the Secretary of State on 8/8/06 and will be effective on 8/13/06 2006.

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