65 - INDEPENDENT AGENCIES - REGULATORY

407 - PUBLIC UTILITIES COMMISSION

CHAPTER 380 – ELECTRIC ENERGY CONSERVATION PROGRAMS

SUMMARY: This Chapter implements portions of the requirements of the State's electric energy conservation program.

TABLE OF CONTENTS

§ 1 PURPOSE 3

§ 2 DEFINITIONS 3

A. Administrative costs 3

B. Administrative fund 3

C. Conservation programs 3

D. Low-income residential consumer 3

E. Measure 3

F. Participant 3

G. Program fund 3

H. Small business consumer 3

§ 3 CONSERVATION PROGRAMS 4

A. Criteria for Conservation Programs 4

B. Goals, Objectives, and Strategies 4

C. Conservation Program Portfolio Requirements 5

§ 4 COST EFFECTIVENESS TESTS 5

A. Modified Societal Test 5

1. Program benefits 5

2. Program costs 6

3. Discount rate assumption 6

4. Net present value 6

5. Post-program effects 6

6. Incentive Level Limitation 6

B. Non-Quantifiable Cost Effectiveness Test 6

§ 5 FUNDING LEVEL 7

A. Assessment Amount 7

B. Assessments Procedures 7

C. Conservation Program Fund 7

D. Conservation Administration Fund 8

§ 6 WAIVER OR EXEMPTION 8

§ 1 PURPOSE

The purpose of this Chapter is to implement portions of the requirements of the State's electric energy conservation program. The Chapter establishes the definition of low-income customer, the definition of small business customer, and the definition of cost effectiveness.

§ 2 DEFINITIONS

A. Administrative costs. "Administrative costs" means costs of the Commission that are funded pursuant to and associated with the implementation of 35-A M.R.S.A. § 3211-A, including, but not limited to, costs of program planning and evaluation, costs of securing necessary expertise, costs associated with contract formation and administration and costs of monitoring and enforcing contractual obligations.

B. Administrative fund. "Administration fund" means the conservation administration fund established by the Commission pursuant to 35-A M.R.S.A. § 3211-A(6).

C. Conservation programs. "Conservation programs" means programs developed by the Commission pursuant to 35-A M.R.S.A. § 3211-A and this Chapter designed to reduce inefficient electricity use.

D. Low-income residential consumer. "Low-income residential consumer" means a customer of a transmission and distribution 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 the purpose of this Chapter.

E. Measure. "Measure" means a device or an application that is installed or implemented and that improves energy efficiency.

F. Participant. "Participant" means a customer who directly takes part in a Conservation Program.

G. Program fund. "Program fund" means the conservation program fund established by the Commission pursuant to 35-A M.R.S.A. § 3211-A(5).

H. Small business consumer. "Small business consumer" means a business customer of a transmission and distribution utility that employs 50 or fewer full-time equivalent employees. A company with multiple locations shall be considered one

company, and employees at all its locations shall be counted when determining whether the company is a small business. If the number of employees of a company varies over a calendar year, the number of employees at the time when the company participates in a program shall apply. When determining whether a customer is a "small business consumer," the Commission may consider the average number of employees that the business employs annually.

§ 3 CONSERVATION PROGRAMS

A. Criteria for Conservation Programs

1. The Commission shall consider, without limitation, 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. The Commission shall:

(a) Target at least 20% of available funds to programs for low-income residential consumers, as defined by the Commission by rule;

(b) Target at least 20% of available funds to programs for small business consumers, as defined by the Commission by rule; 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. Programs shall be cost effective. Cost effectiveness tests are established in Section 4.

B. Goals, Objectives, and Strategies

1. The Commission shall establish goals, objectives, and strategies by order before the Commission adopts its first conservation programs pursuant to this subsection.

2. The Commission shall open a docket and issue a Proposed Order establishing goals, objectives, and strategies. All interested persons will be invited to file written comments and suggestions pertaining to the Commission's Proposed Order.

The Commission also will hold a public hearing for the purpose of receiving comments and suggestions. After reviewing the written and oral comments and suggestions, the Commission will adopt goals, objectives and strategies for conservation programs.

3. No less frequently than every three years, the Commission will review and, if necessary, revise the goals, objectives, and strategies. For each review and revision, the Commission will follow the process described in section 3(B)(2).

C. Conservation Program Portfolio Requirements. The Commission shall develop and implement a portfolio of conservation programs that is consistent with the goals, objectives and strategies described in subsection 3(B), meets the cost effectiveness requirements established in section 4, and is deliverable within the funding level established pursuant to section 5. When developing its portfolio of conservation programs, the Commission shall consider the likely impact of the programs on utilities' rates.

§ 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 participant, the Conservation Program Fund, or any other individual, business, or government agency.

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

a) Avoided electric generation costs including energy and capacity costs, using estimates of market prices and adjusting for line losses. 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 transmission and distribution costs, using estimates of transmission and distribution utility marginal transmission and distribution costs. These estimates may be differentiated by time periods that influence costs;

c) Avoided fossil fuel costs, using estimated savings in oil, gas or other fossil fuel use, at estimated fossil fuel prices;

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 or replacement 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, 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 current yield of long-term (10 years or longer) U.S. Treasury securities, adjusted for inflation. The Commission may consider an alternative discount rate when characteristics of a program are inconsistent with use of long-term U.S. Treasury securities.

4. Net present value. Cost effectiveness of an energy 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 those programs that are 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 Commission shall, when setting incentive levels, consider the value of the program savings associated with electrical production and delivery.

B. Non-Quantifiable Cost Effectiveness Test. The Commission may implement a program without satisfying the Modified Societal Test if:

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

2. The program satisfies some other statutory criterion or a goal or objective established by the Commission in implementing the Conservation Act; and

3. The entire portfolio of conservation programs produces quantifiable benefits that substantially exceed total portfolio program costs.

§ 5 FUNDING LEVEL

The Commission shall assess transmission and distribution utilities to collect funds necessary to pay for the Commission's portfolio of conservation programs and administrative costs associated with implementing the conservation programs.

A. Assessment Amount. The amount of all assessments for conservation programs and administrative costs must result in total conservation expenditures by each transmission and distribution utility that:

1. are based on the relevant characteristics of the transmission and distribution utility's service territory, including the needs of customers;

2. do not exceed 0.15 cents per kilowatt hour;

3. are no less than 0.5% of the total transmission and distribution revenue of the transmission and distribution utility; and

4. are proportionally equivalent to the total conservation expenditures of other transmission and distribution utilities, unless the Commission finds that a different amount is justified; however, any increase in the assessment of a transmission and distribution utility must be based on reasons other than to achieve proportional equivalence.

B. Assessment Procedures. The Commission shall periodically assess transmission and distribution utilities based on forecasted sales or revenues, forecasted utility expenditures on conservation programs approved by the Commission, and forecasted prior conservation efforts. The Commission shall periodically adjust the assessment to account for any differences between actual and forecasted sales or revenues, utility expenditures, and prior conservation efforts.

C. Conservation Program Fund. The Commission shall establish a conservation program fund to be used solely for conservation programs.

1. The Commission shall deposit all assessments collected pursuant to this Chapter, other than funds deposited in the administration fund, into the program fund.

2. Any interest earned on funds in the program fund must be credited to the program fund.

3. Funds not spent in any fiscal year remain in the program fund to be used for conservation programs.

4. The Commission may apply for and receive grants from state, federal and private sources for deposit in the program fund and also may deposit in the program fund any grants or other funds received by or from any entity with which the Commission has an agreement or contract pursuant to this section if the Commission determines that receipt of those funds would be consistent with the purposes of this section. If the Commission receives any funds pursuant to this paragraph, it shall establish a separate account within the program fund to receive the funds and shall keep those funds and any interest earned on those funds segregated from other funds in the program fund.

D. Conservation Administration Fund. The Commission shall establish a conservation administration fund to be used solely to defray administrative costs. The Commission annually may deposit funds collected pursuant to this section into the administration fund up to a maximum in any fiscal year of $1,300,000. Any interest on funds in the administration fund must be credited to the administration fund and any funds unspent in any fiscal year must either remain in the administration fund to be used to defray administrative costs or be transferred to the program fund.

§ 6 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 Chapter is set forth in the Commission's Order Adopting Rule and Statement of Factual and Policy Basis, Docket No. 2002-473, issued on November 5, 2002. 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. §§ 3211-A and 111

EFFECTIVE DATE: This Chapter was approved as to form and legality by the Attorney General on December 2, 2002 It was filed with the Secretary of State on December 4, 2002 and will be effective on December 9, 2002