Energy Efficiency Administration:
Statutes and Regulatory Actions in the U.S.

Presentation to California PUC Administrative Structure Workshop March 17, 2004 by Richard Sedano, Director, The Regulatory Assistance Project, Montpelier, Vermont.

ALJ Meg Gottstein asked The Regulatory Assistance Project to review particular aspects of statutes and commission rulings and practices in selected states addressing the administration of energy efficiency to inform the record in this docket. We are pleased to provide insights on these points.

Introduction

In the last eight years, many states passed statutes to restructure their electric industries. While many associate restructuring with allowing competition for retail services, many statutory and regulatory changes associated with restructuring served primarily to reorganize key functions of electric service. Sometimes, these functions were reassigned to others and sometimes they were redefined to reflect changed markets and other circumstances. A more global intent was to make total electric service more responsive to customer needs, and not necessarily to support retail electric choice.

In relevant legislation, architects of restructuring addressed energy efficiency to maintain the "public benefits' already delivered by the vertically integrated utilities. In this context, "public benefits" means the important elements of electric service beyond the delivery of energy to customers, elements that may not be reproduced in a competitive marketplace. In most restructuring statutes, public policy attention to public benefits, including energy efficiency, relied on a foundation and a history of these purposes in the vertically integrated system. Public benefits also became a legislative counterweight to fears that retail competition would actually not benefit consumers.

Surveying restructuring laws across the nation, it is evident that the statutes are not copies. Each state had distinct objectives that are reflected in their laws. Following is a review of energy efficiency statutes and outcomes in selected states, focusing mainly on states addressed by Ms. Lainie Motamedi in her presentation. Attachment A includes more extensive passages from state statutes that relate to energy efficiency administration.

Integration with Integrated Resource Planning

Statewide energy efficiency delivery can be integrated into IRP in a variety of administrative structures. As discussed in detail later, Vermont and Oregon have resource planning requirements and independent energy efficiency administration. Communication between the statewide administrator and distribution companies on forecasted energy efficiency outcomes enables the IRP to address needs after the effects of energy efficiency. This standard can be improved with two-way communication enabling the administrator to focus efficiency resources in highest value locations and programs. Presently, this happens when a local deficiency becomes "common knowledge," and

Oregon has made it an objective in its Action Plan to take this step. On the other hand, Connecticut has discontinued the IRP requirement with its commitment to retail electric competition, so its energy efficiency administration, which has a strong utility presence, is not connected structurally to resource procurement.[1]

Of course, in a vertically integrated state like Washington, energy efficiency is tightly integrated with resource planning.

Incentives

The states of Rhode Island, Massachusetts, Vermont, Connecticut, and New Jersey offer financial incentives to program administrators for meeting public policy goals specified by the state regulator. Among these, Vermont is an independent structure, and the independent administrator can earn the incentive. In the other states, utility administrators can earn the incentive. Incentives are applied in the utility and independent administration forms, but there are no cases where state government administrators (like New York) earn incentives for their performance. See Attachment B for some added information on energy efficiency implementation incentives.

[1]While there is no structural connection between energy efficiency administration and resource procurement in Connecticut, there is a well-known source of reliability concerns in the southwestern corner of the state. Energy efficiency resources are directed there not because there is a plan, but because of frequent reliability emergencies that must be addressed.

A Review of State Statutes Addressing Administration of Energy Efficiency

For the benefit of participants in this rulemaking, following are descriptions of statutes relevant to energy efficiency administration. Attached are the full sections of statutes passed in states discussed in commission-sponsored presentations in this workshop. The states covered include Vermont, Connecticut, Oregon and Rhode Island. Washington and New York are mentioned, but have no statutes pertaining to utility administration.

Vermont

Vermont examined electric industry restructuring from 1994 through 1996. A Public Service Board investigation, docket 5854, concluded that retail competition could be beneficial to Vermont, and that energy efficiency, among other "public benefits" needed to be preserved. The PSB recommended an independent entity under its supervision, implementing programs for the whole state, replacing the utility programs. The entity was called an "energy efficiency utility." The PSB relied on Vermont law in its decision to preserve energy efficiency.[2]

Restructuring legislation failed in 1997-98 session. Vermont's governor decided to push for explicit authorization of the energy efficiency element of the restructuring bill in 1999. This effort was successful, resulting in Act 60 in the 1999 session.[3]

As part of the outcome of this legislation, the legislature made several policy calls.

- There is a cap in spending for the efficiency utility, regardless of value of the resource
- The PSB would decide how much to be collected from consumers each year, up to the cap.
- There was explicit language (section 209 (d) (3)) declaring that the energy efficiency funds are not funds of the state, this to deter a possible future legislative effort to appropriate these funds for other purposes, securing the funds for the intended purpose, and to clarify the situation for state financial reporting purposes.[4]
- The PSB has the authority to require the utilities to fund energy efficiency efforts through procurement charges in addition to the public goods charge funded programs administered by the Energy Efficiency Utility.[5]
- The statute has no sunset date for any of its elements.

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[2] For example, see 30 VSA § 218c in Attachment A.

[3] It is a plausible argument that the PSB had authorization to issue a franchise for an energy efficiency utility and to assign to functions then administered by Vermont's 22 utilities. To establish a better foundation for the idea, however, the state sought explicit authorization.

[4] "…. Balances in the fund shall be ratepayer funds, shall be used to support the activities authorized in this subdivision, and shall be carried forward and remain in the fund at the end of each fiscal year. These monies shall not be available to meet the general obligations of the state. Interest earned shall remain in the fund…. "

[5] See 30 VSA 209 (d)(2). In Vermont, all utilities, including municipals and cooperatives, are regulated by the PSB. All companies pay the system benefit charge and all consumers have access to statewide programs.

Vermont Public Service Board docket 5980 investigated the idea of an independent energy efficiency utility, and concluded with an order in 1999 to establish such an entity.

As Vermont remains a state with vertically integrated utilities and IRP, resource procurement remains a key utility function. The PSB has had an investigation underway for some years, docket 6270, to clarify exactly how the utilities should conduct resource procurement for the distribution system, including if they should pursue incremental cost-effective energy efficiency resources beyond the portfolio of the statewide programs, and if so, how. Currently, forecasts of efficiency savings from the energy efficiency utility are reflected in utility IRPs.

Without this statute, the state would have advanced the energy efficiency utility at the PSB. The primary legal uncertainties which the legislation addressed, were whether the PSB could direct the transfer of funds from the utility through a fiscal agent to the energy efficiency utility if the utility objected (with any of 22 utilities possibly objecting), and the "security of funds"-"not funds of the state" issue. The statute also created a strong sense of certainty among stakeholders concerning the prevailing policy.

The Vermont structure is unlikely to have occurred but for the deep consideration of retail electric competition. All stakeholders agreed on the structure regardless of retail competition on its merits under any regulatory regime.

Connecticut

Connecticut too had a strong tradition in energy efficiency investments. This tradition is reflected in a finding in its 1998 restructuring law, Public Act 98-28:

> The general assembly finds and declares that:
> …
> 6) Those **public policy measures under current law**, including, but not limited to, those protecting customers under the winter moratorium and hardship provisions as well as **conservation measures** and incentives for using renewable energy sources, should be preserved; (emphasis added)…

As in other states, the public benefits piece of restructuring legislation was incentive for some who were wary of retail competition, and vice versa. Without it, a retail competition bill may not have passed.

There is no sunset in statute for support of energy efficiency in Connecticut.

With retail competition in place in Connecticut, IRP is discontinued.

The general assembly in its restructuring law decided that the utilities should administer and implement energy efficiency programs. It also decided, however, that rigorous supervision on behalf of the Department of Public Utility Control is also valuable. It created the Energy Conservation Management Board for this purpose. The ECMB, composed itself of stakeholder volunteers and staffed by the DPUC and contractors, is a

unique entity in energy efficiency administration. It does not replace the authority of the DPUC. The DPUC authority remains and the ECMB is advisory to the DPUC. What the ECMB does do is meet at least monthly, scrutinizes actively the activities of the program administrators and implementers, and provided detailed recommendations to the DPUC.[6] For example, at the insistence of the ECMB, the two major investor-owned utilities developed several common statewide programs, and the ECMB promoted third party involvement in program implementation.

The legislature in section 33 (d) of the act allows the ECMB to retain independent experts, and pay for "reasonable administrative costs" from program funds. Three long term consultants and a program "coordinator" are engaged under this authority.

The ECMB is a government entity, not a non-profit organization. It is covered by the open meeting law. It minimizes involvement with state government processes by having no employees and a small number of long term contracts which were competitively let.

The issue of "security of funds" is useful to discuss in the context of Connecticut. It is evident that the 1998 legislature intended the funds raised for "conservation and load management" to be used for that purpose. It directed the investor-owned utilities to set up "Energy Conservation and Load Management Funds" which would keep the funds separate from all other funds, presumably so utilities would not co-mingle funds and potentially shortchange efficiency work. Unspent funds would be carried over to the next year. The 2003 legislature, encouraged by the governor's budget, appropriated a significant fraction of these funds for some years for the purpose of deficit reduction. The Connecticut statute, P.A. 98-28, lacks the explicit language of Vermont. While laws can always be changed, explicit legislative intent guides future policymakers.

Oregon

Oregon passed a restructuring statute in 1999, SB 1149. This bill resulted in an independent energy efficiency entity, The Energy Trust of Oregon. Authorization lasts for ten years.

Oregon's legislation does suggest an independent administrator:

> The commission may also direct that funds collected by an electric company through public purpose charges be paid to a nongovernmental entity for investment in public purposes described in subsection (1) of this section. Notwithstanding any other provision of this subsection, at least 80 percent of the funds allocated for conservation shall be spent within the service area of the electric company that collected the funds. (SB 1149, Section 3 (3) (d))

[6] The relationship between the DPUC and the ECMB remains a work in progress, as some boardmembers (and the DPUC) feel the DPUC should facilitate ECMB activities, while others believe the DPUC cannot disengage its judicial responsibilities and engage in regular ECMB activities outside a "contested" forum.

One important difference from Vermont is that the Oregon statute explicitly declares that utility cooperation with the PUC under this section fulfills all statutory obligations for energy efficiency. (Section 3 (4)) Also, the Energy Trust of Oregon only collects funds from the IOUs with greater than 25,000 customers.

While Oregon has authorized retail electric competition, the state still requires investor-owned utilities to engage in long run resource planning. The Energy Trust of Oregon provides input to the utilities, and commits to integrate information from the utilities in Trust programs. The Trust Action Plan also calls for the Trust to "work with utilities to identify where projects could reduce or delay T&D expenditures and improve power reliability."

Like Vermont, Oregon makes use of in-state experts through an advisory committee for its energy efficiency efforts (it maintains a second advisory committee for its efforts in renewable energy). Neither of these is suggested in statute, however, unlike Connecticut's process, which is driven by statute.

Also like Vermont, the structure in Oregon was significantly influenced by the vision of key state regulators, who actively signaled what administrative structure they envisioned. The non-profit structure of The Energy Trust is one key embodiment of this vision.

Thusfar, energy efficiency funds have not been tapped by Oregon legislative appropriators.

It is likely that absent this legislation, Oregon would have maintained robust energy efficiency efforts on the strength of pre-existing laws. There is no evidence, however, that the capacity would have existed to create The Energy Trust absent this legislation.

New York

The New York Public Service Commission (PSC) used its regulatory authority to establish system benefits charges to fund public benefits programs and retains the right to set funding levels and to extend or withdraw the overall program funding. The PSC also used its regulatory authority to name the New York Energy Research and Development Authority (NYSERDA) as the administrator of system benefits charges through a Memorandum of Understanding initiated by the PSC between it, NYSERDA, and the Dept of Public Service (DPS). No statutory changes were necessary. There are two exceptions. The Long Island Power Authority, and the New York Power Authority, two sister state authorities, offer energy efficiency programs to their customers. The PSC approves all program plans and goals. The utilities do not have IRP requirements.

Washington

Washington practices IRP with its vertically integrated utilities. There is no additional guidance from the statutes.

Rhode Island

Rhode Island is one of the first states to adopt retail electric competition. In 2002, the legislature amended several elements of the utility title, title 39, in House Bill 7786. One amendment specified that demand side management programs "shall be administered and implemented by the distribution company." This change appears to effectively exclude an administrative model like Vermont's or Oregon's.

Citations of Statutes – Attachment A

Connecticut

http://www.cga.state.ct.us/ps98/act/pa/pa%2D0028.htm

Public Act 98-28, Section 33

Sec. 33. (NEW) (a) On and after January 1, 2000, the Department of Public Utility Control shall assess or cause to be assessed a charge of three mills per kilowatt hour of electricity sold to each end use customer of an electric distribution company to be used to implement the program as provided in this section for conservation and load management programs but not for the amortization of costs incurred prior to July 1, 1997, for such conservation and load management programs.

(b) The electric distribution company shall establish an Energy Conservation and Load Management Fund which shall be held separate and apart from all other funds or accounts. Receipts from the charge imposed under subsection (a) of this section shall be deposited into the fund. Any balance remaining in the fund at the end of any fiscal year shall be carried forward in the fiscal year next succeeding. Disbursements from the fund by electric distribution companies to carry out the plan developed under subsection (d) of this section shall be authorized by the Department of Public Utility Control upon its approval of such plan.

(c) The Department of Public Utility Control shall appoint and convene an Energy Conservation Management Board which shall include representatives of: (1) An environmental group knowledgeable in energy conservation program collaboratives; (2) the Office of Consumer Counsel; (3) the Attorney General; (4) the Department of Environmental Protection; (5) the electric distribution companies in whose territories the activities take place for such programs; (6) a state-wide manufacturing association; (7) a chamber of commerce; (8) a state-wide business association; (9) a state-wide retail organization; and (10) residential customers. Such members shall serve for a period of five years and may be reappointed.

(d) The Energy Conservation Management Board shall advise and assist the electric distribution companies in the development and implementation of a comprehensive plan, which plan shall be approved by the Department of Public Utility Control, to implement cost-effective energy conservation programs and market transformation initiatives. Programs included in the plan shall be screened through cost-effectiveness testing which compares the value and payback period of program benefits to program costs to ensure that programs are designed to obtain energy savings whose value is greater than the costs of the programs. Program cost-effectiveness shall be reviewed annually, or otherwise as is practicable. If a program is determined to fail the cost-effectiveness test as part of the review process, it shall either be modified to meet the test or shall be terminated. On or before January 31, 2001, and annually thereafter until January 31, 2006, the board shall provide a report to the joint standing committees of the General Assembly having cognizance of matters relating to energy and the environment which documents expenditures, fund balances and evaluates the cost-effectiveness of such programs conducted in the preceding year. Such programs may

include, but not be limited to: (1) Conservation and load management programs; (2) research, development and commercialization of products or processes which are more energy-efficient than those generally available; (3) development of markets for such products and processes; (4) support for energy use assessment, engineering studies and services related to new construction or major building renovation; (5) the design, manufacture, commercialization and purchase of energy-efficient appliances and heating, air conditioning and lighting devices; (6) program planning and evaluation and (7) public education regarding conservation. Such support may be by direct funding, manufacturers' rebates, sale price and loan subsidies, leases and promotional and educational activities. Any other expenditure by the collaborative shall be limited to retention of expert consultants and reasonable administrative costs provided such consultants shall not be employed by, or have any contractual relationship with, an electric distribution company. Such costs shall not exceed five per cent of the total revenue collected from the assessment.

Vermont

http://www.leg.state.vt.us/DOCS/2000/ACTS/ACT060.HTM

Act 60, 1999 Session (S. 137)

AN ACT RELATING TO THE ABILITY OF THE PUBLIC SERVICE BOARD TO REQUIRE THAT ENERGY CONSERVATION SERVICES BE DEVELOPED AND PROVIDED BY AN ENTITY APPOINTED BY THE BOARD.

It is hereby enacted by the General Assembly of the State of Vermont:

Sec. 1. 30 V.S.A. § 209 is amended to read:

§ 209. JURISDICTION; GENERAL SCOPE

* * *

(d)(1) The public service department *[~~and~~]*, any entity appointed by the board under subdivision (2) of this subsection, all gas and electric utility companies, and the board upon its own motion, are encouraged to propose, develop, solicit and monitor energy efficiency and conservation programs and measures. Such programs and measures, and their implementation, may be approved by the board if it determines they will be beneficial to the ratepayers of the companies after such notice and hearings as the board may require by order or by rule.

(2) In place of utility-specific programs developed pursuant to section 218c of this title, the board may, after notice and opportunity for hearing, provide for the development, implementation, and monitoring of gas and electric energy efficiency and conservation programs and measures, including programs and measures delivered in multiple service

territories, by one or more entities appointed by the board for these purposes. The board may specify that the implementation of these programs and measures satisfies a utility's corresponding obligations, in whole or in part, under section 218c of this title and under any prior orders of the board.

(3) In addition to its existing authority, the board may establish by order or rule a volumetric charge to customers for the support of energy efficiency programs that meet the requirements of section 218c of this title. The charge shall be known as the energy efficiency charge, shall be shown separately on each customer's bill, and shall be paid to a fund administrator appointed by the board. When such a charge is shown, notice as to how to obtain information about energy efficiency programs approved under this section shall be provided in a manner directed by the board. This notice shall include, at a minimum, a toll free telephone number, and to the extent feasible shall be on the customer's bill and near the energy efficiency charge. Funds collected through an energy efficiency charge shall not be funds of the state, shall not be available to meet the general obligations of the government, and shall not be included in the financial reports of the state. The board will annually provide the legislature with a report detailing the revenues collected and the expenditures made for energy efficiency programs under this section.

(4) The charge established by the board pursuant to subdivision (3) of this subsection shall not exceed the amount needed to provide $17,500,000.00 to support all energy efficiency programs for Vermonters authorized by the board by rule or order pursuant to subdivision (2) of this subsection in any fiscal year. No more than $17,500,000.00 of financial support for energy efficiency programs for Vermonters shall be authorized by the board by rule or order pursuant to subdivision (2) of this subsection in any fiscal year.

(e) The board shall:

(1) Ensure that all retail consumers, regardless of retail electricity or gas provider, will have an opportunity to participate in and benefit from a comprehensive set of cost-effective energy efficiency programs and initiatives designed to overcome barriers to participation.

(2) Require that continued or improved efficiencies be made in the production, delivery, and use of energy efficiency services.

(3) Build on the energy efficiency expertise and capabilities that have developed or may develop in the state.

(4) Promote program initiatives and market strategies that address the needs of persons or businesses facing the most significant barriers to participation.

(5) Promote coordinated program delivery, including coordination with low income weatherization programs, other efficiency programs, and utility programs.

(6) Consider innovative approaches to delivering energy efficiency, including strategies to encourage third party financing and customer contributions to the cost of efficiency measures.

(7) Provide a reasonably stable multiyear budget and planning cycle and promote program improvement, program stability, and maturation of programs and delivery resources.

(8) Approve programs, measures, and delivery mechanisms that reasonably reflect current and projected market conditions, technological options, and environmental benefits.

(9) Provide for delivery of these programs as rapidly as possible, taking into consideration the need for these services, and cost-effective delivery mechanisms.

(10) Provide for the independent evaluation of programs delivered under subsection (d) of this section.

(11) Require that any entity approved by the board under subsection (d) of this section deliver board-approved programs in an effective, efficient, timely, and competent manner and meet standards that are consistent with those in section 218c of this title, the board's orders in public service board docket 5270, and any relevant board orders in subsequent energy efficiency proceedings.

(12) Require verification, on or before January 1, 2003, and every three years thereafter, by an independent auditor of the reported energy and capacity savings and cost-effectiveness of programs delivered by any entity appointed by the board to deliver energy efficiency programs under subdivision (d)(2) of this section.

(13) Ensure that any energy efficiency program approved by the board shall be reasonable and cost-effective.

Sec. 2. 30 V.S.A. § 218c is amended to read:

§ 218c. LEAST COST INTEGRATED PLANNING

(a)(1) A "least cost integrated plan" for a regulated electric or gas utility is a plan for meeting the public's need for energy services, after safety concerns are addressed, at the lowest present value life cycle cost, including environmental and economic costs, through a strategy combining investments and expenditures on energy supply, transmission and distribution capacity, transmission and distribution efficiency, and comprehensive energy efficiency programs.

(2) "Comprehensive energy efficiency programs" shall mean a coordinated set of investments or program expenditures made by a regulated electric or gas utility or other entity as approved by the board pursuant to subsection 209(d) of this title to meet the

public's need for energy services through efficiency, conservation or load management in all customer classes and areas of opportunity which is designed to acquire the full amount of cost effective savings from such investments or programs.

(b) Each regulated electric or gas company shall prepare and implement a least cost integrated plan for the provision of energy services to its Vermont customers. Proposed plans shall be submitted to the department of public service and the public service board. The board, after notice and hearing, may approve a company's least cost integrated plan if it determines that the company's plan complies with the requirements of subdivision (a)(1) of this section.

(c) *[~~Nothing in this section shall reduce the existing obligation of a regulated gas or electric company to acquire cost-effective supply and demand side resources pending proposal and approval of an integrated resource plan.~~]*

Sec. 3. APPLICABILITY

This act shall apply to the pending proceeding in docket 5980 before the public service board and to any pending challenges to the board's jurisdiction to authorize and fund an entity, independent of the electric utilities, to deliver energy efficiency programs.

Sec. 4. EFFECTIVE DATE

This act shall take effect from passage.

Approved: June 1, 1999

Oregon

http://www.energytrust.org/Pages/about/library/policies/sb1149.pdf

SB 1149 (1999 session)

SECTION 3. (1) There is established an annual public purpose expenditure standard for electric companies to fund new cost-effective local energy conservation, new market transformation efforts, the above-market costs of new renewable energy resources, and new low income weatherization. The public purpose expenditure standard shall be funded by the public purpose charge described in subsection (2) of this section.
(2)(a) Beginning on the date an electric company offers direct access to its retail electricity consumers, except residential electricity consumers, the electric company shall collect a public purpose charge from all of the retail electricity consumers located within its service area for a period of 10 years. Except as provided in paragraph (b) of this subsection, the public purpose charge shall be equal to three percent of the total revenues collected by the electric company or electricity service supplier from its retail electricity consumers for electricity services, distribution, ancillary services, metering and billing,

transition charges and other types of costs included in electric rates on the effective date of this 1999 Act.
(b) For an aluminum plant that averages more than 100 average megawatts of electricity use per year, beginning on October 1, 2001, the electric company whose territory abuts the greatest percentage of the site of the aluminum plant shall collect from the aluminum company a public purpose charge equal to one percent of the total revenue from the sale of electricity services to the aluminum plant from any source.
(3)(a) The Public Utility Commission shall establish rules implementing the provisions of this section relating to electric companies.
(b) Subject to paragraph (e) of this subsection, funds collected by an electric company through public purpose charges shall be allocated as follows:
(A) Sixty-three percent for new cost-effective conservation and new market transformation;
(B) Nineteen percent for the above-market costs of new renewable energy resources.
(C) Thirteen percent for new low-income weatherization.
(D) Five percent shall be transferred to the Housing and Community Services Department Revolving Account created under ORS 456.574 and used for the purpose of providing grants as described in ORS 458.625 (2). Moneys deposited in the account under this subparagraph are continuously appropriated to the Housing and Community Services Department for the purposes of ORS 458.625 (2). Interest on moneys deposited in the account under this subparagraph shall accrue to the account.
(c) The costs of administering subsections (1) to (6) of this section for an electric company shall be paid out of the funds collected through public purpose charges. The commission may require that an electric company direct funds collected through public purpose charges to the state agencies responsible for implementing subsections (1) to (6) of this section in order to pay the costs of administering such responsibilities.
(d) The commission shall direct the manner in which public purpose charges are collected and spent by an electric company and may require an electric company to expend funds through competitive bids or other means designed to encourage competition, except that funds dedicated for low-income weatherization shall be directed to the Housing and Community Services Department as provided in subsection (7) of this section. The commission may also direct that funds collected by an electric company through public purpose charges be paid to a nongovernmental entity for investment in public purposes described in subsection (1) of this section. Notwithstanding any other provision of this subsection, at least 80 percent of the funds allocated for conservation shall be spent within the service area of the electric company that collected the funds.
(e)(A) The first 10 percent of the funds collected annually by an electric company under subsection (2) of this section shall be distributed to education service districts, as described in ORS 334.010, that are located in the service territory of the electric company. The funds shall be distributed to individual education service districts according to the weighted average daily membership (ADMw) of the education service district for the prior fiscal year as calculated under ORS 327.013. The commission shall establish by rule a methodology for distributing a proportionate share of funds under this paragraph to education service districts that are only partially located in the service territory of the electric company.

(B) An education service district that receives funds under this paragraph shall use the funds first to pay for energy audits for school districts located within the education service district. An education service district shall not expend additional funds received under this paragraph on a school district facility until an energy audit has been completed for that school district. To the extent practicable, an education service district shall coordinate with the Office of Energy and incorporate federal funding in complying with this paragraph. Following completion of an energy audit for an individual school district, the education service district may expend funds received under this paragraph to implement the energy audit. Once an energy audit has been conducted and completely implemented for each school district within the education service district, the education service district may expend funds received under this paragraph for any of the following purposes:

(i) Conducting energy audits. A school district shall conduct an energy audit prior to expending funds on any other purpose authorized under this paragraph unless the school district has performed an energy audit within the three years immediately prior to receiving the funds.

(ii) Weatherization and upgrading the energy efficiency of school district facilities.

(iii) Energy conservation education programs.

(iv) Purchasing electricity from environmentally focused sources and investing in renewable energy resources.

(f) The commission may establish a different public purpose charge than the public purpose charge otherwise described in subsection (2) of this section for an individual retail electricity consumer or any class of retail electricity consumers located within the service area of an electric company, provided that a retail electricity consumer with a load greater than one average megawatt shall not be required to pay a public purpose charge in excess of three percent of its total cost of electricity services.

(g) The commission shall remove from the rates of each electric company any costs for public purposes described in subsection (1) of this section that are included in rates. A rate adjustment under this paragraph shall be effective on the date that the electric company begins collecting public purpose charges.

(4) An electric company that satisfies its obligations under this section shall have no further obligation to invest in conservation, new market transformation, new renewable energy resources or new low-income weatherization and is not subject to ORS 469.631 to 469.645 and 758.505 to 758.555.

(5)(a) A retail electricity consumer that uses more than one average megawatt of electricity at any site in the prior year shall receive a credit against public purpose charges billed by an electric company for that site. The amount of the credit shall be equal to the total amount of qualifying expenditures for new energy conservation, not to exceed 68 percent of the annual public purpose charges, and the above-market costs of purchases of new renewable energy resources incurred by the retail electricity consumer, not to exceed 19 percent of the annual public purpose charges, less administration costs incurred under this subsection. The credit shall not exceed, on an annual basis, the lesser of:

(A) The amount of the retail electricity consumer′s qualifying expenditures; or

(B) The portion of the public purpose charge billed to the retail electricity consumer that is dedicated to new energy conservation, new market transformation or the above-market costs of new renewable energy resources.
(b) To obtain a credit under this subsection, a retail electricity consumer shall file with the Office of Energy a description of the proposed conservation project or new renewable energy resource and a declaration that the retail electricity consumer plans to incur the qualifying expenditure. The Office of Energy shall issue a notice of precertification within 30 days of receipt of the filing, if such filing is consistent with this subsection. The credit may be taken after a retail electricity consumer provides a letter from a certified public accountant to the Office of Energy verifying that the precertified qualifying expenditure has been made.
(c) Credits earned by a retail electricity consumer as a result of qualifying expenditures that are not used in one year may be carried forward for use in subsequent years.
(d)(A) A retail electricity consumer that uses more than one average megawatt of electricity at any site in the prior year may request that the Office of Energy hire an independent auditor to assess the potential for conservation investments at the site. If the independent auditor determines there is no available conservation measure at the site that would have a simple payback of one to 10 years, the retail electricity consumer shall be relieved of 54 percent of its payment obligation for public purpose charges related to the site. If the independent auditor determines that there are potential conservation measures available at the site, the retail electricity consumer shall be entitled to a credit against public purpose charges related to the site equal to 54 percent of the public purpose charges less the estimated cost of available conservation measures.
(B) A retail electricity consumer shall be entitled each year to the credit described in this subsection unless a subsequent independent audit determines that new conservation investment opportunities are available. The Office of Energy may require that a new independent audit be performed on the site to determine whether new conservation measures are available, provided that the independent audits shall occur no more than once every two years.
(C) The retail electricity consumer shall pay the cost of the independent audits described in this subsection.
(6) Electric utilities and retail electricity consumers shall receive a fair and reasonable credit for the public purpose expenditures of their energy suppliers. The Office of Energy shall adopt rules to determine eligible expenditures and the methodology by which such credits are accounted for and used. The rules also shall adopt methods to account for eligible public purpose expenditures made through consortia or collaborative projects.
(7)(a) In addition to the public purpose charge provided under subsection (2) of this section, beginning on the date direct access is offered under section 2 (1) of this 1999 Act, an electric company shall collect funds for low-income electric bill payment assistance in an amount determined under paragraph (b) of this subsection.
(b) The total amount collected for low-income electric bill payment assistance under this section shall be $10 million. The commission shall determine each electric company s proportionate share of the total amount. The commission shall determine the amount to be collected from a retail electricity consumer, except that a retail electricity consumer shall not be required to pay more than $500 per month per site for low-income electric bill payment assistance.

(c) Funds collected by the low-income electric bill payment assistance charge shall be paid into the Housing and Community Services Department Revolving Account created under ORS 456.574. Moneys deposited in the account under this paragraph are continuously appropriated to the Housing and Community Services Department for the purpose of funding low-income electric bill payment assistance. Interest earned on moneys deposited in the account under this paragraph shall accrue to the account. The department′s cost of administering this subsection shall be paid out of funds collected by the low-income electric bill payment assistance charge. Moneys deposited in the account under this paragraph shall be expended solely for low-income electric bill payment assistance. Funds collected from an electric company shall be expended in the service area of the electric company from which the funds are collected.
(d) The Housing and Community Services Department, in consultation with the federal Advisory Committee on Energy, shall determine the manner in which funds collected under this subsection will be allocated by the department to energy assistance program providers for the purpose of providing low-income bill payment and crisis assistance, including programs that effectively reduce service disconnections and related costs to retail electricity consumers and electric utilities. Priority assistance shall be directed to low-income electricity consumers who are in danger of having their electricity service disconnected.
(e) Notwithstanding ORS 293.140, interest on moneys deposited in the Housing and Community Services Department Revolving Account under this subsection shall accrue to the account and may be used to provide heating bill payment and crisis assistance to electricity consumers whose primary source of heat is not electricity.
(f) Notwithstanding ORS 757.310, the commission may allow an electric company to provide reduced rates or other payment or crisis assistance or low-income program assistance to a low-income household eligible for assistance under the federal Low Income Home Energy Assistance Act of 1981, as amended and in effect on the effective date of this 1999 Act.
(8) In addition to all other charges provided in this section, for the period from January 1, 2000, to the date direct access is offered under section 2 (1) of this 1999 Act, an electric company shall collect from its retail electricity consumers an electric bill payment assistance charge. A retail electricity consumer shall not be required to pay more than $500 per month per site for low-income electric bill payment assistance under this subsection. The statewide total amount collected under this subsection shall equal $5 million per year, prorated for any fraction of a year. The commission shall determine each electric company s proportionate share of the statewide total amount. Moneys collected under this subsection shall be deposited in the Housing and Community Services Department Revolving Account created under ORS 456.574 and expended for low-income electric bill payment assistance in the manner provided in subsection (7)(d) of this section.
(9) For purposes of this section, “retail electricity consumers” includes any direct service industrial consumer that purchases electricity without purchasing distribution services from the electric utility.
SECTION 3a. (1)(a) The Public Utility Commission and the Office of Energy jointly shall select an independent nongovernmental entity to prepare a biennial report to the Legislative Assembly describing program spending and results for public purpose

requirements undertaken pursuant to section 3 of this 1999 Act. The first report shall be due on January 1, 2003.
(b) The commission and the Office of Energy jointly shall select an independent nongovernmental entity to prepare a report to the Legislative Assembly describing proposed modifications to public purpose requirements undertaken pursuant to section 3 of this 1999 Act. The report shall be due on January 1, 2007.
(c) The commission and the Office of Energy jointly shall select an independent nongovernmental entity to prepare a report to the Legislative Assembly recommending whether the public purpose funding requirements under section 3 of this 1999 Act should be renewed. The report shall be due on January 1, 2011.
(2) The Housing and Community Services Department shall prepare a biennial report to the Legislative Assembly describing program spending and needs for low-income bill assistance. The first report shall be due on January 1, 2003.

Rhode Island

http://www.rilin.state.ri.us/Statutes/TITLE39/39-2/39-2-1.2.HTM

§ 39-2-1.2 Utility base rate – Advertising, demand side management and renewables. –

(b) Effective as of January 1, 2003, and for a period of ten (10) years thereafter, each electric distribution company shall include charges of 2.0 mills per kilowatt-hour delivered to fund demand side management programs and 0.3 mills per kilowatt-hour delivered to fund renewable energy programs. Existing charges for these purposes and their method of administration shall continue through December 31, 2002. Thereafter, the electric distribution company shall establish two (2) separate accounts, one for demand side management programs, which shall be administered and implemented by the distribution company, subject to the regulatory reviewing authority of the commission, and one for renewable energy programs, which shall be administered by the state energy office. …

Energy Efficiency Implementation Incentives – Attachment B

A few states offer a financial incentive to an energy efficiency program administrator for meeting public interest or management objectives. Here is a table of the states that offer incentives to energy efficiency administrators showing their administrative form.

	Incentive on Energy Savings	Incentives on Other Objectives	Utility Administration	Independent Administration
Connecticut	x		x	
Vermont	x	x		x
Massachusetts	x	x	x	
Rhode Island	x	x	x	
New Jersey	x	x	x	

Connecticut's incentive system is simple, and is based on achieving verified energy savings levels. The Energy Conservation Management Board reviews a proposal from the utilities, and makes a recommendation of the Department of Public Utility Control. The DPUC then decides.

Vermont, New Jersey, Massachusetts and Rhode Island have incentive plans that are somewhat more complex because they provide incentives for different kinds of performance, including market transformation related objectives. In Vermont, the incentives are developed in contract negotiations between the Public Service Board and the energy efficiency utility. The first three year contract between the Vermont PSB and Efficiency Vermont also included incentives for achieving management and start-up objectives on time, such as creating a customer database. Such goals do not appear in the second contract since the program is now fully operational. In Massachusetts and Rhode Island, incentives are proposed by utility administrators and approved by the respective commissions.

New Jersey has offered performance incentives in its utility-administered programs for many years, both before and after retail competition was authorized. A recent announcement that the Board of Public Utilities will soon take over administration of energy efficiency programs from the utilities means that the practice of offering performance incentives in New Jersey for this purpose will either end, or change significantly.[7]

States that offer financial incentives put aside between 2.5% and 8% of available (pre-tax) program dollars for the administrator to win if all objectives are reached to their maximum plan levels.

Other states, including Oregon and Washington, rely on the administrator to achieve objectives without the need for additional financial inducements, so 100% of available funds go to programs and administrative support for those programs.

[7] See New Jersey Board of Public Utilities Docket EO 212 0955.