

MINUTES, FOR THE MEETING OF THE ENERGY EFFICIENCY ADVISORY COUNCIL

A meeting of the Energy Efficiency Advisory Council (“EEAC”) was held in Boston, Massachusetts on February 24, 2009.

The following voting members were present:

Heather Clark, Jed Nosal, designee for Martha Coakley, Paul Deare, Lucy Edmondson, Debra Hall, Charles Harak, Elliott Jacobson, Samuel Krasnow, Richard Mattila, Robert Rio.

The following non-voting members were present:

Derek Buchler representing Bay State Gas; James Carey, New England Gas; Penni Conner, NSTAR Gas & Electric; Alisha Frazee, Heating Oil Industry; Kevin Galligan, Cape Light Compact, a municipal aggregator; George Gantz, Unitil; Paul Gromer, Energy Efficiency Businesses; Jennifer Schilling, WMECO; Michael Sommer, Berkshire Gas and Stephen Bonanno, National Grid Electric & Gas Divisions.

Frank Gorke, Director of the Division of Energy Efficiency for the Department of Energy Resources (DOER) called the meeting to order at 3:06 p.m. Mr. Gorke welcomed all in attendance and stated that the Chair, Philip Giudice, would not be here today as he was testifying today in Washington, D.C. before a Congressional Committee on Climate Change. Commissioner Giudice sends his regrets. Steven Venezia distributed attendance sheets for the Council Members and for attendees, as well as copies of the Minutes of the last meeting that had already been sent electronically to all Council Members. Gorke immediately turned to a discussion of the by-laws and the previous progress made on the draft. He informed the Council that additional amendments had been made by the working group to reflect concerns by the DOER and others with regard to certain language in the earlier draft presented at the last meeting. Gorke stated that upon final review by Mr. Venezia, DOER’s attorney, a few additional minor edits had been made and asked the Voting Members to approve the by-laws as amended. Gorke verbally “walked” the Council through the handful of additional edits and responded to a brief discussion regarding them with the Members. During said discussion it was reiterated that for votes on the Three-Year Plans and Budgets, a super majority of 8 affirmative votes is required. For routine business of the Council, a simple majority vote of Voting Members present, assuming the necessary quorum exists, is required. At the conclusion of this discussion, Paul Deare made a motion to approve the by-laws as amended. Debra Hall seconded the motion. There was no additional debate. There was a unanimous voice vote by the Voting Members and the By-laws were adopted, as amended.

The Council then turned to its next item of business: further discussion of the Consultant contract with Optimal and two resolutions related to the Consultant contract and the EEAC budget, respectively. Mr. Gorke then turned the meeting over to Michael Sherman of DOER to preside over a discussion regarding the particulars of the negotiation, scope of work and execution of the contract with the consultants at Optimal. During the presentation, Jed Nosal interjected that he had reservations about the wording of the

consultant resolution with respect to the specificity of language identifying the dedication of RGGI proceeds to fund the expanded energy efficiency programs envisioned in the Three-Year Plans. The Council debated the effects of the language, the intention of the resolution and the requirements of the statute. Mr. Nosal expanded on the Attorney General's view that, as seemingly reflected in the original language of the resolve, the source of the monies drawn upon by the Executive Office of Energy & Environmental Affairs, generally, and the DOER, more specifically was not the concern of the Council. Hence, the recitation of those sources were superfluous and beyond the purview of the Council. Nosal asserted that the EEAC's responsibility was to come up with a budget and hire a consultant and to then file the budget requests with the appropriate authorities under the statute. Mr. Nosal proposed the following additional language to be inserted in clause numbered three of the Resolve after the words "shall be paid" as follows: "consistent with General Laws Chapter 25, sections 19 and 21" and striking out the rest of the existing sentence after those words. The proffered amendment prompted additional discussion chiefly between Michael Sherman, Jed Nosal and Lucy Edmondson. Samuel Krasnow expressed the view that he found the substitute language acceptable and would support such an amendment. His comment brought debate to a close and Charles Harak made a motion to approve the Consultant Resolution, as amended. Ms. Edmondson seconded the motion. There was no further discussion. Mr. Gorke put the motion to a vote. The motion as amended was approved unanimously by voice vote.

The Council then proceeded to a full discussion of the second resolution concerning its budget, which included the cost of hiring a consultant and its administrative costs. Mr. Sherman began addressing the language of the resolution and Mr. Nosal again offered two friendly amendments revising the draft language. In the third sentence of the paragraph following the heading "Be it Resolved" after the words "by the Council", Nosal offered an insertion of the words "pursuant to all applicable EEAC by-laws and state procurement requirements". Expressing concern that the reference to the \$1.8 million in funding for consultant services mentioned in the Resolve required additional language, Mr. Nosal proposed to add the words "according to the provisions of the General Laws Chapter 25, Sections 19 and 21." The Council had a lively exchange for several minutes until it reached a general consensus that the proposed revisions were acceptable. Then Ms. Edmondson moved to adopt the Resolution as amended and Mr. Deare seconded the motion. The Council by voice vote unanimously approved the Budget Resolution as amended by Mr. Nosal.

The Council engaged in another discourse concerning the proposal and adoption of a Sense of the Body Resolution spontaneously offered by Mr. Harak without a written draft. The purpose of this Sense of the Body Resolution is to put the Council on record as endorsing what it understands is the election by Ian Bowles, the Secretary of Energy and Environment, to draw upon a portion of the anticipated proceeds from the quarterly RGGI (Regional Greenhouse Gas Initiative) auctions and fund the work of the EEAC consultants. As with the previous two resolutions, the Council vigorously deliberated the need, purpose and wording of the verbal resolution. Once the Council was settled on the intent and language of the Resolution, Mr. Harak made a motion to approve the Sense

of the Body Resolution. The language read, “It is the sense of the body that if the Secretary or Commissioner were to choose to use RGGI funds to support the proposed budget, this would not be inconsistent with G.L. c.25, Sections 19 and 21.” Mr. Krasnow seconded the motion and by voice vote, the Council gave unanimous approval.

Mr. Gorke asked the consultants to come forward and meet the Voting Members of the Council. They did so. Gorke then introduced the Optimal consultant principals, Mssrs. Mosenthal, Horowitz, Schlegel, and Livermore. Mssrs. Pahl and Baston were absent. Paul Horowitz is to be the project lead; Jeff Schlegel chiefly responsible for policy and planning; and John Livermore primarily responsible for the residential sector.

The Optimal consultants addressed the Council, one by one, providing some professional background information about themselves and each spoke regarding the project at hand and each recited previous examples of interactions with the Program Administrators, his familiarity with the state of energy efficiency programs in New England generally, and Massachusetts, in particular. This conversation continued for approximately 30 minutes. At one point, Mr. Schlegel informed the Council that Optimal had reviewed the various documents already produced by the Council and that the consultants had some suggestions and Action Items to stay on course for the PAs’ April 30 submittals. He also advised the Council to keep the Priorities Statement open as it likely would see additions.

At the close of the conversation, Mr. Harak asked the consultants directly, and raised the question for general discussion by the Voting Members, how Optimal expected to communicate with the eleven Voting Members of the Council. This question triggered related queries regarding timetables, logistical challenges and rapidly changing legislative initiatives coming out of Washington. Elliott Jacobson underscored the need for the Council and consultants alike to be acutely aware of timetables in the Stimulus Package. Mr. Jacobson raised his concern that if the council did not “get the metrics right” it might not access or spend funds in the most efficient way from the forthcoming Federal Stimulus Package.

Mr. Gorke then thanked the consultants and questioned the Program Administrators’ counsel, Emmett Lyne, for his reaction to Optimal’s presentation. Mr. Lyne stated that Optimal’s initial remarks were helpful and that he was not intimidated by the complexity and volume of work that awaited Program Administrators.

Mr. Gorke proceeded to the next agenda item regarding the ongoing discussion about Council Priorities. Gorke then recognized Heather Clark to lead this discussion of the revised draft “Priorities Statement”. Ms. Clark noted that upon the advice of fellow Council Members, the tone of the document was “softer” now. She stated that references to pilot programs were changed so that they were not so specific. The working group substituted more generalized language to alleviate concerns of Members who did not want to appear to be approving specific program initiatives before they were submitted for review. Ms. Clark also acknowledged that the document reflected the working group’s consensus that “phasing approaches” of programs over the course of the Three-Year Plan were appropriate. Clark stated that the written comments upon the draft

submitted by the PAs were very instructive. Mr. Jacobson still felt that some items were too specific. Mr. Gorke exhorted the Voting Members to review the latest draft by close of business Thursday, February 26 so Ms. Clark et al. could have the document in final form ready to send to Optimal as official guidance from the Council.

Debra Hall expressed her concern with respect to the competing schedules and deliverables confronting the Council, citing tensions between the Green Communities Act, the current Priorities Statement, and the Federal Stimulus legislation, in effect, reinforcing Mr. Jacobson's earlier comment. Mr. Gorke reminded the Council that they were not obliged to rate each individual priority listed in the draft Priorities Statement. There was additional conversation among the full Council, including Lucy Edmondson, Paul Deare and George Gantz, regarding final review. Mr. Gantz stated that he wished to provide additional comments in addition to those already submitted by Mr. Lyne on behalf of the PAs. Mr. Gorke responded that any additional PA comments should be sent to the DOER and Ms. Clark. Mr. Lyne expressed concern that the turn-around time for the PAs to score the Priorities and make additional comments to the latest draft just received was overly ambitious for Thursday. Mr. Gorke replied that the PAs should then complete their scoring and submit their final round of comments just as soon as was possible.

This concluded the items on the agenda and Mr. Gorke opened the discussion to comments from the general public. Paul Johnson closed the meeting with his comments wherein he shared concerns earlier expressed by Mr. Harak with respect to ensuring that the Council do its best to dovetail its efforts with the various timetables and requirements necessary to meet maximum eligibility for receipt of Federal Stimulus funds.

Mr. Gorke called the Council meeting to a close at 4:54 p.m.