

Collaboration that Counts: The Role of State Energy Efficiency Stakeholder Councils

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ABSTRACT

The three southern New England states are among the leading energy efficiency jurisdictions in North America. Of the many commonalities among these states, the presence of a central stakeholder body ('council' or 'board') focused on energy efficiency policy and planning stands out as an important factor in their accomplishments. This paper describes how a collaborative, multi-stakeholder council can foster a climate of efficiency program success and cooperation. Efficiency council success is premised on using a fact-based approach to decision making supported by the capacity to retain quality expert consultants. Importantly, stakeholder councils act as a focal point in state energy planning for efficiency and related demand side policy implementation.

Drawing on the experience of Rhode Island, Massachusetts, and Connecticut, we identify key factors for success and describe the demonstrated positive outcomes resulting from this strategy. Among the most important of these outcomes is a shift in the nature of decision-making from an adversarial process to collaboration. Rather than expend effort on contentious litigated proceedings between utilities, intervenor groups, and public agencies, a stakeholder council can bring all stakeholders into the discussion before policies and program details progress to the point where there is little flexibility to address concerns, and then seek solutions that better satisfy multiple objectives. The paper also identifies specific characteristics and contexts that may explain variation in outcomes and presents recommendations as to key features for these entities.

The Stakeholder Council Concept

The vast majority of efficiency programs in the United States are delivered by investor-owned electric and gas utilities. As regulated entities, decisions regarding how much to spend on efficiency programs, how they should be delivered, and mechanisms for compensating utilities for their program-related expenditures are typically addressed through hearings or dockets before state utility commissions. These proceedings provide the primary venue in which the utility, the regulator, and a wide variety of other stakeholders can discuss, advocate, and support their agenda.

An alternative venue in which these activities can occur is a stakeholder body ('council' or 'board'). In such an organization, the collaborative effort of multiple parties replaces contentious proceedings driven by individual self-interest. The value of this approach has been realized for many years: "The collaborative efforts of multiple parties in a number of states have been a significant factor in designing administrative structures as well as in designing effective efficiency programs" (Harrington and Murray, 2003). Stakeholder councils in three New England states will be discussed below. A summary table appears later in this paper.

Connecticut

The first stakeholder council in New England with authority to oversee efficiency program spending was the Energy Conservation and Management Board (ECMB), created by the Connecticut General Assembly in 1998. Before this time, collaborative organizations intended to advise utilities, regulators, and state energy offices existed as a result of rate case settlements. In Connecticut, Massachusetts and Rhode Island, the settling parties to a docket met and negotiated programs, budgets, incentive levels and other components of a complete efficiency plan. This “collaborative” included the utility and non-utility parties (“NUP”) such as the state consumer advocate, environmental advocates, business associations, and others that had participated in the PUC docket. As states moved to restructure the vertically integrated utility model in Connecticut, efficiency advocates successfully obtained substantial increases in efficiency funding as part of the new legislation on restructuring. Since efficiency budgets were then set by statute, rather than in a docket, the collaborative settlement model needed to be replaced. Advocates working in Connecticut therefore recommended that an official stakeholder board be created in the restructuring law.

The ECMB was created as a way to ensure that a diverse group of stakeholders could participate in setting the direction of the utilities’ programs. Importantly, efficiency advocates sought to include on the ECMB parties who had expressed skepticism over the value of increased efficiency spending. Advocates of this approach felt that the Board should be separate from the state energy office to ensure independence. Furthermore, they realized the importance of retaining outside consultants for technical and policy support. This provided the Board with expert guidance uninfluenced by local factors.

Recently renamed the Energy Efficiency Board (EEB), the group advises and assists the state’s utility companies in developing and implementing cost-effective conservation programs to meet Connecticut’s changing and growing energy needs. Although the Board took a couple of years to become truly functional, it was successful enough to warrant expansion of the concept to nearby states. Within several years of the ECMB process, Connecticut rose dramatically in national efficiency rankings and eventually shared the number one position in ACEEE’s annual State Energy Efficiency Scorecard. Although its ranking of late has slipped due to a lack of support from the past few administrations, it has remained in the top ten. Recently, Connecticut reorganized its energy agencies. The EEB retains its role advising and developing the state’s electric and gas utility efficiency plans and works closely with the new Department of Energy and Environmental Protection (DEEP). The EEB continues to act as a focal point for state efficiency program development and to guide the distribution of the Connecticut Energy Efficiency Fund, money raised to support energy efficiency programs and initiatives through a surcharge on customer electric bills. In 2011, Connecticut electric and gas utilities invested \$125 million in energy efficiency, generating over \$600 million in lifetime savings.

Rhode Island

Created by the Comprehensive Energy Conservation, Efficiency and Affordability Act in 2006, the Rhode Island Energy Efficiency and Resources Management Council (RI EERMC) was recommended by energy efficiency advocates (principally Environment Northeast, which had experience with the Connecticut ECMB), as part of Rhode Island’s wholesale revisiting of its energy law. Importantly, this same Act also adopted the concept of least cost procurement

(LCP): acquisition of energy efficiency resources whenever less expensive than supply. The Act also established an innovative approach to planning for other demand side resources such as combined heat and power (CHP) and distributed generation (DG). As a result, the EERMC was charged with a central role in developing the state's electric and gas utility efficiency plan. This includes conducting a mandatory assessment of efficiency potential in the state and beginning the system reliability review of other demand side resources to meet state energy needs.

The Rhode Island experience has been exciting and positive for efficiency resource acquisition. Due to planning undertaken by the EERMC and its consensus-based stakeholder approach, the state's leading business, consumer, large industrial and commercial and other interests worked together to create plans that are increasing investments in efficiency resources from around \$16 million annually in 2008 to over \$68 million in 2012 and \$110 million in 2014. Most importantly, Rhode Island ratepayers will save \$785 million as a result of the 2012 to 2014 plan. Rhode Island has steadily risen in the ACEEE rankings since the EERMC and LCP process was put in place, and is currently ranked fifth overall (tied with Vermont) and in second place for utility sector programs. The annual electric savings goal of 2.5 percent adopted by the EERMC is the highest in the country. The RI PUC has approved these budget and savings goals after careful consideration of the plans and supporting information provided by the EERMC.

Massachusetts

Although Massachusetts was home to an early collaborative effort around efficiency programs, it was not until the passage of the Green Communities Act in 2008 that a formal Energy Efficiency Advisory Council (EEAC) was created. Similar to the situation in Connecticut in 1999, the EEAC replaced an existing collaborative process. The Massachusetts EEAC, as in Connecticut and Rhode Island, retained the model of being composed of a broad group of entities involved in energy policy discussion (e.g., end-users, advocates, state energy offices), an emphasis on consensus driven decision making, and the retention of expert consultants to guide the Council. The Green Communities Act also adopted an LCP mandate, which the EEAC implemented through the process of identifying the efficiency potential in the state and then setting investment levels needed to capture cost-effective efficiency resources. The EEAC adopted a 2.4 percent annual savings rate, then the highest in the country, which it is overseeing through the statewide programs. Investment levels have risen from \$125 million annually in 2008 to \$540 million in 2012 on the electric side, and from \$30 million to \$140 million on the gas side. Massachusetts was ranked first in the nation in the most recent ACEEE rankings due to its redoubled commitment to energy efficiency investments.

Structure and Roles of Stakeholder Councils

Here, we summarize the variation among stakeholder councils along a few dimensions of structure and operations, and identify pros and cons of each, with reference to actual experience in Connecticut, Rhode Island, and Massachusetts. Tables at the end of this section summarize much of this information.

Authority, Governance, and Funding

Stakeholder councils such as the CT EEB, MA EEAC, and RI EERMC get their authority from the legislature but may fit into state government in somewhat differing ways.

- In Massachusetts, the state energy office acts as the chair of the Council and manages the body as part of an Executive Committee composed of other key Council members. Because a state energy office is usually (but not always) aligned with mandates and guidance from enabling legislation, their participation is usually seen as a positive. Still, one of the primary benefits for a stakeholder council we noted above is the ability to shield efficiency programs from short-term swings in political power and policy priorities. The regulator (the Department of Public Utilities) does not participate in the Council.
- Connecticut recently combined the state's regulator and the energy office under a single agency (the Public Utilities Regulatory Authority) that also chairs the EEB. In this case, the existence of the EEB and the history of its positive contributions prevented even more authority from being transferred to the state administration.
- In Rhode Island, the Council is chaired by one of the voting members representing the regulatory and legal perspective, although not affiliated with the state regulator (the Public Utilities Commission). The state energy office has a non-voting seat but has statutory authority to administratively staff the EERMC.

Regardless of these differences, the Councils govern themselves in similar ways. All three strive for consensus in decision-making whenever possible. When the members cannot reach consensus, simple majority votes are sufficient to pass motions, with the exception that both the MA EEAC and the CT EEB require supermajorities to approve efficiency plans and budgets. In each of these cases, the strength of the efficiency board or council comes from the fact that diverse, key stakeholders representing all types of consumers and interests work together to make decisions from a common set of factual information developed collaboratively or by their consultants. A consensus position supported by the state's largest employers, consumer advocates, environmental justice interests, and energy efficiency advocates is a powerful signal to regulators and others, particularly when it is backed by a substantive record and quality of decision making. While the role of a state energy office can vary, the value of the board process is really in its members and dedicated commitment to fact-based efficiency plans that implement the legislative mandate to acquire all cost effective efficiency resources.

Also important is the fact that all three of these councils are funded by ratepayers through riders or a system-benefits charge. Each state has placed limits on the percentage of total efficiency funds that can be used to support the councils' activities and their consultants. As discussed below, keeping council operating funds separate from the state budgeting process is generally seen as providing some shelter from shifting political priorities.

Membership

Although there are many similarities in the type of organizations and stakeholders represented on the three councils in New England, the composition varies from state to state. Although the utilities on the Connecticut ECMB were originally voting members, legislative

changes have made them ex-officio members instead. Currently, none of the states allow utility representatives to vote on Council matters, as this would present conflicts of interest on issues such as setting the utilities' performance incentive levels. Even as non-voting members, the utilities do play an important role in the council or board activity. They provide input and feedback on policy and implementation matters; utility staff engage in dialogue with the council members on a continuous basis, usually moderated or in conjunction with the council's consultants.

On the stakeholder side, low-income advocates are represented on all three councils, as are commercial entities, large industrial users, and environmental advocates. The Massachusetts EEAC reserves seats specifically for labor interests, the housing and economic development perspective, and the environmental justice community.

Reliance on Technical Consultants

Effectively engaging in the wide variety and large volume of work required to successfully monitor and guide utility program administrators demands substantial commitment of time and resources from a stakeholder council. To address these needs, councils may retain outside consultants who have greater efficiency industry knowledge than council members and who can provide a greater level of effort. This is not to say that staff members from the various represented organizations, particularly from public sector agencies such as state energy and attorneys general offices, do not contribute significant resources to the overall effort. Rather, independent consultants often bring different perspectives, new ideas, and more flexible staffing availability to meet the varying needs of the council.

The three New England councils rely on outside consultants for expertise on all aspects of program design, evaluation and monitoring, and program performance. The budget for consultants represents a very small portion of overall efficiency program budgets in all cases. Forecast budgets for 2012 range from 0.2 percent of total program budgets in Massachusetts to 0.6 percent in Rhode Island, with Connecticut splitting the difference at 0.4 percent. Some of the variation in spending can be explained by the relative size of the program budgets between the three states. The costs to attend monthly council meetings, participate on major committees, and engage in analyses of program performance are largely un-related to the overall size of the program budgets. Therefore, spending in Massachusetts, with the largest program budgets, is relatively lower than in Rhode Island, where similar consultant costs represent a much larger percentage of the smaller program budgets in that state.

Proponents of the stakeholder model believe that the consultant format is preferred to an alternative option of relying on existing or new agency staff. By utilizing consultants, the decision making process emphasis and responsibility remains with the diverse stakeholders, rather than with state employees. Selecting top-quality consultants from among the industry's leaders means that best practices and innovation are valued and sought out by council members.

Summary of Stakeholder Council Characteristics

State Entity	# of Members	Scope of Responsibility	Decision Making Process	Role of Regulatory Body	Role of Technical Consultants
CT - EEB	9	Advise utilities on development of the state's energy efficiency plan, including program design, deployment and evaluation and spending Work with DEEP on environmental issues	Aim for consensus, majority vote to approve motions, supermajority to approve efficiency plans and budgets	The DEEP chairs the EEB, and the PUC takes recommendations from the EEB and rules on utility program plans, appropriation of funds, and system benefit charges	Employ technical consultants to offer impartial advice and review
RI - EERMC	7	Develop state energy efficiency and system reliability plans Advise PUC on approval of program design, deployment and evaluation and spending Mandate to capture least cost resources	Aim for consensus, majority vote to approve motions	Office of Energy Resources is a non-voting member of the EERMC, which makes recommendations to the PUC	Employ technical consultants to offer impartial advice and review
MA - EEAC	11	Develop state energy efficiency plan Advise DOER and DPU on utility program design, deployment and evaluation and spending Mandate to capture least cost resources	Aim for consensus, majority vote for motions, supermajority to approve efficiency plans and budgets	DOER is a non-voting member and chair of the EEAC, which makes recommendations to the DPU on utility programs and system benefit charges	Employ technical consultants to offer impartial advice and review

Stakeholder Council Membership

	CT – EEB	RI - EERMC	MA - EEAC
Voting Members			
State Agencies	Department of Energy and Environmental Protection (DEEP) - Chair Attorney General		Department of Housing and Community Development Department of Energy Resources - Chair Department of Environmental Protection Attorney General
Residential & Low Income Sectors	Connecticut Legal Services	University of Rhode Island	Tufts University Low-Income Energy Affordability Network
Commercial & Industrial Sectors	United Technologies Manufacturers Alliance of Connecticut University of New Haven	Brown University Citizens Bank	Organized Labor Genzyme Associated Industries of Massachusetts
Consumer Advocates	Office of Consumer Council	Independent Low-Income Consultant	
Environmental Advocates	ENE (Environment Northeast)	ENE (Environment Northeast)	ENE (Environment Northeast)
Regulatory and Industry		S. Paul Ryan Attorney - Chair	
Energy Efficiency Experts		Building Commissioner	Smith College
Non-Voting Members			
Utilities	United Illuminating Connecticut Light & Power Connecticut Municipal Electric Energy Cooperative Southern Connecticut Gas	National Grid	Municipal Aggregators (Town of Marlborough) National Grid NSTAR Cape Light Compact Western Mass Electric Unitil Bay State Gas Blackstone Gas Berkshire Gas New England Gas Co.
Other Entities		Oil Heat Institute of RI Office of Energy Resources	Energy Efficiency Businesses (Peregrine Energy) Heating Oil Industry (Massachusetts Oil Heat Council)

Stakeholder Councils as Performance Factor

Our argument in this paper is that the presence of a stakeholder council focused on energy efficiency policy stands out as an important factor in high achievement states and regions. The three states described above are all among the top-ranked states in efficiency accomplishments. Below, we described specific ways in which stakeholder councils improve efficiency program performance.

Collaborative Decision-Making

Rather than expend effort on contentious litigated proceedings between utilities, intervenor groups, and public agencies, a coordinating council can bring all stakeholders into the discussion before policies and program details progress to the point where there is little flexibility to address concerns and instead seek solutions that better satisfy multiple objectives. Reaching a unified vision can be tough work, but reaching consensus can add significant stability to the efficiency institution and to its programs.

In states with utility-administered efficiency programs, the typical way of doing business is for each utility to file plans with the regulator, which is followed by a process of review, comment by Staff and intervenors, testimony, hearings, etc. Recent experience in New York State shows how resource intensive this can be. In June of 2008 the Public Service Commission issued an order establishing an Energy Efficiency Portfolio Standard (EEPS), directing all utilities to file proposals for efficiency programs to meet certain savings targets. The volume of filings, understood in advance to be substantial, was divided into two groups for filing on different schedules. Most utilities filed multiple programs in each round. Over the ensuing months, the Commission had to work through dozens of individual filings from six different utilities and NYSERDA. With subsequent revisions and expansion there have been over 200 filings in total. The Commission's Office of Energy Efficiency and the Environment has 16 full-time employees working on EEPS issues. Unfortunately, program accomplishment as of the close of 2011 is falling far short of expectations. As a result, the Commission has reduced utility savings targets through subsequent orders to avoid levying large penalties.

Contrast this with recent experience in Massachusetts. As noted above, the Commonwealth has a long history of collaboration on efficiency programs. After creation of the EEAC, one of the first outcomes was an aggressive three-year target for efficiency savings. These targets, and the programs that were implemented to accomplish them, were hashed out over the course of several meetings and discussions in the fall of 2009. While the number of individuals involved may not have been less than in New York (comparatively), the process was more efficient, took less time overall, and bypassed much of the serial back-and-forth of filings, interrogatories, re-submissions, etc. before the regulator. Participants in the negotiations were primarily utility efficiency staff, the Council, and the Council's consultants, rather than a cadre of attorneys and expert witnesses. In contrast to New York, the Massachusetts utility Program Administrators met or nearly met their 2011 savings goals with lower than projected budget expenditures. While the presence or absence of a stakeholder council is not the only explanation for the difference in performance between these two states, the challenging, complicated, and at-times confrontational regulatory process in New York likely did not help matters.

Another recent example of the power of the collaborative approach fostered by a stakeholder council comes Rhode Island, where the Public Utility Commission quickly (in less

than two months) and unanimously approved the 2012 System Reliability Procurement Plan. The Commission's review and approval was facilitated by the support of both the EERMC and the Division of Public Utilities and by their comfort with the quality of the EERMC's work over the prior years. With a requirement to approve any plan that is cost-effective and less than cost of alternative supply, the PUC's confidence in the Plan and its underlying analyses allowed for easy adoption.

Consistent Program Approaches

Closely related to the benefit described above, the presence of a stakeholder council provides a means for establishing consistent programs and joint program actions that overcome barriers to widespread program adoption and reduce administrative overhead. In a series of proceedings before a regulator, each utility will come forward with its own program approaches, and these hearings and decisions will be spread over some span of time due to the serial nature in which dockets must be processed. While a regulatory body could just mandate consistency, this may not meet the needs of all utilities and could confer an advantage to the utility whose filing is submitted or approved first by

As an alternative, a stakeholder council can facilitate discussions between all administrators and stakeholders to address the pros and cons of several alternative approaches, arriving at a set of decisions and solutions that best meet the needs of all involved and take advantage of economies of scale. In Massachusetts, the MassSave brand launched by the Program Administrators is an excellent example of this. As reported elsewhere at this conference, MassSave has achieved substantial successes in the areas of residential energy retrofits, upstream lighting in the commercial sector, efficiency of resources and utility staffing, and consistency in technical review of new efficiency opportunities. The MA EEAC was the primary driving force behind the creation of the brand, growing from the Council's priorities for integration and consistency of program offerings and delivery mechanisms.

A related area in which consistency and centralized discussion can improve efficiency program performance is evaluation. Typically, evaluation is carried out by either a contractor to the utility or by the regulator, who may in turn contract with another entity for this responsibility. In the case of the former, the regulator usually serves in a review capacity. Drawbacks of this include an expensive utility-by-utility approach to studies and the potential for insufficient independence for the evaluation contractor. Where the regulator acts as the evaluator, states have found it difficult to attract and retain top-quality staff in a very competitive market for evaluation services. Furthermore, the regulator, as a state entity, typically has much less flexibility in its ability to contract for outside assistance, which can slow evaluation activities and lead to delays between program activity and completed evaluation.

With a stakeholder council in place, the benefits of utility administration and close oversight can be brought together. In both Massachusetts and Connecticut, the utilities contract with the evaluator but the stakeholder council exercises oversight and substantial authority over all evaluation activities and outcomes, including evaluation consultant selection. This includes priority setting, study design, and application of findings to program reporting and design revisions. Furthermore, evaluation activities are conducted on a state-wide basis, which is more efficient and limits concerns about disparate treatment between utilities. Other states implement state-wide evaluation (notably California), but the underlying context of a stakeholder council for broader oversight of efficiency programs provides added support for such an effort.

Protection Against Short-Term Distractions

The National Action Plan for Energy Efficiency notes that “energy efficiency programs require consistent and long-term funding to effectively compete with energy supply options” (DOE 2006). This forms the basis for one of the Plan’s five major recommendations, to promote sufficient, timely, and stable program funding for efficiency.

An independent stakeholder council can support and manage a fact-based process to respond to and stave off requests by legislators to direct program funds based on rapidly-shifting political whims. As different groups and ideas gain currency in the political realm, there is often a push to support specific parties, technologies, or program strategies without careful regard for their appropriateness or consistency with existing and planned efficiency program plans. While many of these ideas and concepts have some merit and positive attributes, they may not be the best use of resources to accomplish efficiency goals.

Unfortunately, there have been many instances of outside influences negatively affecting the consistency of program delivery. In one of the most egregious examples, Enron proposed in 2001 to use all of the efficiency funds and most of the renewable energy funds in Connecticut for a large investment in fuel cells. Enron attempted to bypass not only the CT ECMB but the regulators as well and sought approval from the Governor’s office. Although the Board was still in relative infancy, it convinced the regulator that Enron’s proposal must be reviewed by the Board before proceeding any further. The Board recommended that the regulator deny the proposal and it was ultimately rejected. While the ECMB and EEB have not always been successful at staving off administrative and legislative attempts to reclaim some of the efficiency monies for the state’s general fund, many believe that these have been minimized by the presence of a stakeholder council with independent authority and the ability to take the long view.

Recommendations

Based on the history and experience in the three councils described above, we have some recommendations for jurisdictions considering a stakeholder council or board to drive efficiency program performance at the state level. These are based in large part on the fact that the initial rationale for implementing a stakeholder council approach—to bring multiple stakeholders together in support of comprehensive energy efficiency programs—is being borne out in practice in these three leading states.

- **Structure the council for self-governance and independence.** This is critical to success, because it encourages buy-in and ownership from council members acting in their capacity of representing their particular ratepayer or stakeholder group. This can be strengthened by integration with the state’s energy office as chair or board member, in order to guide the group towards achieving goals mandated by enabling statutes.
- **Reach decisions through consensus or supermajority,** to facilitate honest and motivated negotiation by disparate interests.

- **Empanel a diverse membership** that includes key parties who are engaged in energy policy in the state. Having these parties participating ‘at the table’ rather than commenting from the outside is a key element of the collaborative council process.
- **Have technical capability to** interact with program administrators, conduct analyses, monitor program performance, ascertain efficiency market potential, and evaluate new program concepts. This may be provided through outside consultants who contribute industry-wide knowledge and consistency.

With respect to stakeholder diversity and access to technical consultants, we believe that *both* are necessary for success. One without the other will not provide the quality of decision-making or political support needed to acquire all cost effective efficiency resources.

Conclusion

Stakeholder councils have proven to be a valuable contributor to several leading states’ efficiency efforts. The three councils described in detail in this paper share many characteristics and approaches to their operation, governance, and reliance on outside technical consultants. Other models and approaches to efficiency program oversight and regulation are certainly successful, and many other leading states in efficiency do not have stakeholder councils. Nevertheless, we believe that the stakeholder council model has many advantages and should be considered by states looking to increase their efficiency accomplishments. The recommendations above are derived from our experience with these entities in three states.

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