The Collaborative Planning Process in Vermont: What We Could Have Done Better

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Collaborative planning processes are becoming increasingly more common as utilities and traditional adversaries search for ways to resolve issues that would normally be dealt with in litigation. Especially in the area of developing energy conservation or demand-side management programs, collaborative arrangements have been undertaken by a number of organizations and interest groups.

The purpose of this paper is to examine two such collaborative efforts which were conducted by two utilities in the State of Vermont, Central Vermont Public Service (CVPS) and Green Mountain Power (GMP). The intent of this discussion is not necessarily to document what went on in both of those ventures, but rather to look at each of the experiences and attempt to draw some lessons as to what might be done to strengthen future collaborative processes. Because both of the collaboratives that occurred in Vermont were quite similar in structure and process, and represent but one model of how collaboratives might be conducted, this paper should not be viewed as a comprehensive discussion of how all collaboratives might be altered in the future. Rather, the lessons cited and recommendations offered should be considered by the reader in light of the model, politics and actors which comprised the Vermont collaboratives. Finally, this paper is written and offered from the perspective of the participating utilities. As such, the perspectives of other parties in each collaborative planning process are not developed as part of this discussion.

Background

CVPS and GMP are both investor-owned utilities and the two largest utilities in Vermont. CVPS serves 132,000 customers in Vermont with a total system capacity of 489 MW. In contrast, GMP serves 68,000 customers with a total power capacity of 382 megawatts. The service territory of each utility is primarily rural.

Regulatory oversight in Vermont is comprised of two groups. The Vermont Public Service Board (PSB) provides regulatory oversight, while the Vermont Department of Public Service (DPS) fulfills the roles of consumer advocate, state energy planner, and wholesale utility.

Prior to initiating their respective collaborative planning processes, each utility participated in a generic proceeding during 1988 before the PSB to explore the viability and appropriate role of demand-side management within Vermont's integrated resource planning process. As a result of that generic proceeding, each utility was encouraged by the PSB to participate in a collaborative planning process. While each utility already had a number of demand-side management programs in operation with planning underway for additional programs, the general perception of the PSB was that a collaborative approach would serve to identify a comprehensive set of programs for each utility. The PSB also saw a collaborative approach as a means to seek consensus among interested parties in order to avoid possibly expensive and lengthy litigation. Collaborative planning processes already underway elsewhere in New England were held up as models for Vermont to emulate. With each utility participating in separate proceedings before the PSB, decisions to enter the collaborative process were reached separately by CVPS and GMP. CVPS initiated their collaborative in January, 1989, with GMP starting their own separate collaborative process one year later in January, 1990. Both utilities originally set a goal to complete their collaborative and submit a comprehensive set of demand-side management programs to the Public Service Board within a year.

There are numerous structures by which collaboratives are developed and conducted, with the Vermont collaboratives of Central Vermont Public Service and Green Mountain Power being but one. Essentially, each of the utilities conducted a separate collaborative with the same four intervening groups. Those groups included the Vermont Department of Public Service (DPS), Conservation Law Foundation (CLF), Vermont Public Interest Research

Group (VPIRG), and the Vermont Natural Resources Council (VNRC). (Throughout the remainder of this paper, these four groups will be referred to jointly as the "non-utility parties.") Because these four non-utility groups brought the proposal for the collaborative forward, there were no groups representing customers, trade groups, or parties acting as moderators in the process. The collaborative was clearly defined by the non-utility parties as a "structured negotiation" with each group retaining the ability to take issues unresolved through the collaborative before the Vermont Public Service Board for final resolution. The stated goal of the parties in both utilities' Memorandum of Understanding, "...will be establishing maximum comprehensive, cost-effective DSM programs for all customer markets, geographic service territories, end-uses and efficiency measures, including those in both new and existing buildings and industrial plants."[1] The CVPS Memorandum of Understanding also included a provision of resolving the following policy issues within five weeks of the initiation of the process: (1) proper rate treatment for cost recovery of the direct investments in DSM programs; (2) the potential for and proper treatment of impacts on earnings that may arise from DSM programs; (3) whether incentives of any kind should be provided to encourage DSM programs; and (4) what DSM regulatory approval process may be necessary and appropriate.

To conduct the planning process, various teams were formed within each utility's collaborative to conduct the planning and analysis for the key program areas. Each of the groups placed one representative on each of the teams. While the actual team structures varied slightly between the CVPS and GMP collaboratives, the core teams for both processes included Resource Analysis (i.e., program cost-effectiveness screening), Monitoring & Evaluation, Residential Program Design, and Commercial & Industrial Program Design. Expert consultants proposed by the non-utility parties were selected to staff each of these teams, with the utilities paying for the consultants. One additional team was formed to oversee and manage the collaborative process and to resolve policy issues. A final team of senior representatives of each group was formed to act as an arbitration group for issues that could not be resolved at the individual team level, e.g., Vice-Presidential level at the utilities.

First Impressions and the Collaborative

In order to frame the recommendations offered by CVPS and GMP to enhance future collaboratives, following is a brief discussion of key events that the utilities observed in each of their processes. This discussion is not meant to be comprehensive, rather to highlight key factors that lead to the recommendations offered later in this paper.

With the start of the collaborative process, both utilities were optimistic that planning of the demand-side programs would progress along a fairly expeditious track. Both utilities' Collaboratives projected timeline that a full filing to the Public Service Board was expected within one year of the initiation of the planning process. Further, there was hope that by entering a "cooperative" process, the traditionally combative positions assumed by the various parties could be replaced with a new spirit of working shoulder to shoulder to get energy efficiency programs out on the street as quickly as possible. Both utilities set the expeditious implementation of programs as a top priority by incorporating into their Memorandum of Agreement between the parties a goal of reviewing programs currently on the drawing board for early introduction and implementation.

It quickly became apparent that there would be a short honeymoon period. As cited earlier, the non-utility parties specified in each utilities' Memorandum of Understanding that these collaborative processes were not joint planning exercises, but rather structured negotiations. Thus, the stated approach of the non-utility parties was to seek consensus with the utilities where possible, and in areas where the utility would not agree with the position of the non-utility parties fall back to a strategy of litigation.

Both CVPS and GMP observed two other manifestation of how these collaboratives would not lead to a true collegial spirit and joint planning effort. First, the non-utility parties adopted a strategy of reviewing the consultants' initial recommendations, conferring among themselves on all issues and resolving non-utility party positions prior to approaching the utility on that issue. Besides greatly slowing down the overall process as the four non-utility organizations and their representatives sought their own consensus on a variety of issues, it led to a working process where the utility was being handed positions which were viewed by the non-utility parties as final, without any discussion with the utility. Repeatedly the various teams in each collaborative found set positions being advocated by the non-utility parties with little room for negotiation.

Secondly, the expert consultants retained by each collaborative for the various subject areas quickly developed into advocates for the non-utility parties. While the utilities had the ability to reject any consultants initially proposed by the non-utility parties, instances where the utility exercised that right quickly led to very tense and heated debates as the non-utility parties pushed to have the utility reverse its position. Further, the consultants

presented to the utilities by the non-utility parties were not drawn from all available experts and consultants in the various subject areas, rather they were from a small stable of consultants who typically participated in collaborative planning processes. As such, in the eyes of CVPS and GMP, the consultants to the collaborative planning exercises did not bring a totally objective viewpoint to the planning process.

Once each collaborative was underway, both utilities found themselves developing analogous impressions. First, the various teams working in each subject area were not left to function as the final decision-making authorities in their subject areas. While a team such as the Residential Program Team might work through a lengthy and detailed planning exercise to develop a consensus program plan, it was not uncommon for the Policy Team of the collaborative to overrule the recommendations of the individual team. This often led to individual team planning efforts being affected by factors operating in another subject area. Quite simply, the individual team planning was not always allowed to yield the best available product. Instead, individual team products and activities became subject to some "horse-trading" as part of the overall collaborative and the politics of the participating organizations.

An example of this development was the desire by Green Mountain Power to move ahead with the introduction and implementation of several commercial and industrial energy efficiency programs which had been in GMP's planning process for the year preceding the kick-off of the collaborative. GMP requested that the non-utility parties review those planned program designs on an expeditious basis and then to participate in the oversight of those programs as they were introduced. The non-utility parties did review the programs and provided no feedback that would indicate the programs were flawed. However, the non-utility parties refused to allow GMP to move ahead with implementation of these commercial and industrial programs until programs in all sectors had been planned and agreed to. The result was that several programs were held hostage while other program designs were discussed and developed. In the end, none of the commercial and industrial programs promoted by GMP for early introduction were changed significantly through the collaborative process. The end-result was almost two years of delaying these programs, resulting in significant lost opportunities and delayed capability building. CVPS experienced similar delays.

In both the CVPS and GMP collaboratives, the central issue which arose and acted to slow each process was the issue of fuel-switching.[2] Early on the non-utility parties indicated their objective of having the Vermont utilities adopt fuel-switching with high utility incentives as a demand-side management strategy in all program areas. The utilities were pushed to offer full-financing and technical assistance as part of their programs. The utilities were also pushed to weatherize houses of customers who would fuel-switch under the program.

Both Central Vermont Public Service and Green Mountain Power expressed strong reservations regarding fuel-switching as a demand-side management strategy.[3] Citing concern with revenue impacts on customers who could not or did not fuel-switch, promotion of potentially price-volatile fuels to existing customers, maintenance of quality control in fuel-switching situations, and questions regarding whether utility assistance was really required for fuel-switching to take place, this one issue quickly became the major impasse for both collaboratives. An already slow process came to a stop at times as each of the parties drew a hard line on this subject.

For Central Vermont, the impasse grew so critical that the utility submitted its portfolio of DSM programs to the Board on July 6, 1990. This filing included a cost-recovery proposal. Later that month, all parties to the CVPS Collaborative filed a stipulation requesting that the Board stop reviewing CVPS's July 6th filing, to enable the parties to continue negotiations on program design and other issues unrelated to the fuel switching dispute. In September of 1990, the CVPS Collaborative parties submitted a filing containing agreed-upon DSM programs not substantially affected by the fuel switching dispute.

What finally broke the fuel switching impasse was a political development in Vermont. With a change of administrations in January, 1991, a new Commissioner for the Department of Public Service took office. Through that individual's direct involvement, the logjam over fuel-switching was broken. A compromise position was adopted that recognized that significant fuel-switching from electric space and water heating was already taking place without financial participation on the part of the utilities. The final program designs submitted by each collaborative called for each utility to offer technical assistance to customers to consider the relative economics of fuel-switching versus available electric efficiency options. The utilities would also package materials from fuel-dealers and contractors who offered fuel-switching services, including financing, and present these to interested customers. Finally, both CVPS and GMP would offer technical assistance to customers who chose to pursue fuel-switching, while also seeking to develop program approaches that would meet the special needs of groups such as low-income customers.

With the resolution of the fuel-switching debate, the final critical issue which the new Vermont Department of Public Service Commissioner resolved led to the completion of the collaborative planning process for Green Mountain Power and a submission of eight proposed demand-side management programs by that utility to the Public Service Board in September, 1991. That issue was cost-recovery. Prior to the new Commissioner's involvement, the parties had not been able to agree to a process and mechanism by which GMP would be allowed cost-recovery for moving ahead with the proposed programs. For GMP, this was probably the most single critical issue, and the utility had adopted a position that no programs would be implemented without an agreed-upon cost-recovery arrangement. The final cost-recovery agreement developed set out a precise road-map for the final program planning and implementation plans to be reviewed by the non-utility parties prior to implementation. Once that review had been completed, the utility would implement the program and cost-recovery would not be challenged based upon any program design issue. Prudency reviews during rate cases would still examine program management activities for appropriateness, but program design issues would not be revisited.

This eliminated the issue of "Monday-Morning Quarterbacking" which had occurred with other on-going utility programs during the collaborative. Along with documentation of program and energy savings assumptions and methodologies to calculate program impacts, Green Mountain Power felt comfortable with moving into program implementation. However, Central Vermont Public Service was not able to negotiate a similar arrangement, and to this date is continuing to attempt to structure a cost-recovery agreement with the Department of Public Service.

Lessons for Future Collaboratives

While it is apparent that traditionally adverse parties working together can be an effective means to jointly plan programs, the experiences of CVPS and GMP proved far from ideal. Certainly the process in Vermont helped the various parties to come to know each other better and to appreciate each other's position, but that did not always lead to a negotiated settlement between the parties. The number of parties to the Vermont collaboratives, their competing interests and their attempt to move as one resulted in a challenging process. It is apparent that the collaborative model used in Vermont was not the most expeditious process that could have been pursued. One goal that should be sought in the future would be how to bring interested parties to the table and develop comprehensive, well thought-out demand-side management programs in a reasonable timeframe, with the promotion of energy efficiency as the top priority.

As discussed earlier, the goal of this paper is to identify recommendations for other collaborative planning efforts based upon the experiences of CVPS and GMP in Vermont. These recommendations are offered in the positive spirit of seeking to improve what can be a truly effective process. Both utilities feel there were significant benefits gained by working with traditionally adverse parties. As with any process, however, there are ways to restructure a process to make it even more effective. This is especially true in the Vermont collaboratives where both utilities feel the cost to conduct a structured negotiation was as great, if not greater, than a course of litigation. Further, litigation of these same issues might have resulted in demand-side management programs being introduced to customers of CVPS and GMP perhaps as much as a year earlier than they resulted from the collaborative.

Listed below is a model CVPS and GMP would propose for consideration in future collaborative planning efforts.

Step 1--Identify Interested Parties to the Collaborative

One step that did not occur in Vermont was for the collaborative planning process to be opened to all available parties. While it was possible that other groups could participate in the collaboratives of CVPS and GMP, the fairly closed process by which the collaboratives were developed effectively precluded the participation of other interested groups. For example, representatives of various customer groups or vendors in Vermont were not solicited (although several groups indicated a desire to participate once the collaborative had been initiated). In the interest of ensuring all parties have input into the planning process, some opening of the process at the front end should be targeted. The Vermont experience also suggests including the regulatory agency staff members in this process, in such a way that does not conflict with ex-parte rules. If this is not possible, then regular monthly or quarterly updates to the regulatory agency would be beneficial. This can serve to deflect criticism after the fact that planned programs do not necessarily reflect all competing interests.

Step 2--Clarify Process

Once the parties are identified, there should be some time to clarify the negotiation process. This includes identifying for each team who has the authority to represent each party's position and make decisions for that party. These

choices should be made trying to assure that each representative will be able to represent the party during the entire process. The GMP and CVPS Collaboratives have suffered due to having participating organizations not have clear lines of authority or consistency in team members, e.g., due to the length of the collaborative, key individuals left the process resulting in significant setbacks.

Another step of this process should be establishing realistic, aggressive time tables. Each party needs to make a commitment to staffing so that these targets can be met.

Also, during this phase of the process, the teams need to establish methods of dispute resolution. This might include the use of facilitators for the whole process or the inclusion of mediators or, in limited circumstances, arbitrators in lieu of litigation. If disputes are to be litigated, there should be a process whereby litigating certain issues does not delay the entire process. Finally, this step should also include joint decisions concerning administrative details such as who takes the minutes and confidentiality agreements. Agreeing to these details upfront will focus discussions on content rather than form.

Step 3--All Parties Propose and Select Expert Consultants

Once all the interested parties are sitting at the table, it should be open to everyone to propose a list of expert consultants to use in the planning process. The objective here is to ensure that the expert resources available are indeed objective and represent the best available talent. As is experienced commonly today in the demand-side management field, there is a shortage of expertise due to the tremendous growth taking place in this field. Consultants chosen for a collaborative should be the very best people available for each of the required subject areas, and they should view themselves as not reporting to or representing any one party, be it the utility or any interest group. Rather, once the participating parties to the collaborative have proposed and selected the consultants to be used, those consultants should pursue a course to achieve the principles and policy directives spelled out for that collaborative.

Step 4--Develop and Specify Guiding Principles/Policy Directives

With the interested parties at the table and the expert consultants ready to participate, the group should then work to identify and clarify the key guiding principles and policy directives to share the program analysis and development activities. Through the clarification of critical concerns such as specifying key market segments, how to determine and analyze cost-effectiveness tests, which tests should be used to determine program and measure cost-effectiveness, how to structure utility incentive payments for the various program areas, cost-recovery procedures, and other issues determined to be critical, the participating parties will have effectively drawn a roadmap for how the collaborative should be conducted. This approach will also ensure that all key areas are identified up-front and dealt with at the same time. This will avoid instances where last minute policy considerations potentially have an adverse impact on moving ahead expeditiously with program design.

Step 5--Submit Guiding Principles and Policy Directives for Regulatory Review

With the development of key policy directives and guidelines for the collaborative, the parties now have the skeleton for detailed program analysis and development. By submitting this work product at this point for regulatory review, the parties can ensure that they are consistent with the philosophy and direction of the regulators prior to undertaking a significant level of detailed planning. This forum also allows any of the individual parties to present their case regarding critical issues they may wish the regulators to clarify or consider. The end-result is that following review and approval of the guiding principles and policy directives by the regulators, all parties can feel comfortable and secure that subsequent program planning is not seriously flawed and subject to potential litigation.

Step 6--Conduct Detailed Program Planning

With the guiding principles and policies clearly delineated, the utility should then take responsibility to complete the detailed program planning. Because the utility will be responsible for program delivery, it is appropriate that utility staff conduct the detailed planning as a key step to capability building. For the utility, the key consideration is to complete that program design so that all of the guiding principles and policy directives are adhered to. This leaves the utility to choose among the many details of how the programs are finally shaped, e.g., marketing strategies, while leaving the other parties to the collaborative confident that key principles must be observed.

Step 7--Subject the Final Program Plans to Parties and Regulators for Review

The final products of the utility planning should be returned to the parties and the regulators for final review.

This will allow all involved to ensure that the guiding principles and policy directives have been adhered to. The parties must be limited in their focus to ensuring that consistency in the guiding principles and policy areas has been adhered to. What must be avoided is nit-picking each program detail. As cited earlier, it will be the ultimate responsibility of the utility to achieve set market penetrations and program goals, so the myriad of program details should not be open to review by all parties.

Step 8--Implement Programs and Schedule Regular Program Reviews

With the final sign-off of programs and resolution of any outstanding concerns by the parties, the utility can now move ahead with implementation activities. Because program implementation necessarily will mean some change from individual program plans, there should be periodic reviews where the interested parties, including the regulators, again have a chance to review the experience and actions of the utilities in light of the guiding principles and policy directives. Again, questions outside of those affecting the guiding principles and policy directives should not be revisited at the time of these reviews, but only changes made by the utility that affect the key areas specified jointly by the parties.

Conclusion

The collaborative planning process is a potentially effective tool to bring traditionally adverse parties together to jointly agree to demand-side management strategies and programs. While those collaboratives have and can be structured in any number of ways, the experience of Central Vermont Public Service and Green Mountain Power is that the process undertaken in Vermont can be improved upon in the future to more efficiently yield consensus and comprehensive demand-side programs. Through a discussion of an alternate model offered here, the two utilities hope that a dialogue can be initiated to move towards a process that best serves the goal of promoting demand-side management programs.

Endnotes

1. Memorandum of Understanding Between Green Mountain Power Corporation, The Conservation Law Foundation, Vermont Natural Resources Council, The Vermont Public Interest Research Group And The Department Of Public Service Regarding A Collaborative Demand Side Management Design And Policy Process, January 19, 1990, P.1. and Memorandum of Understanding Between Central Vermont Public Service Corporation, The Conservation Law Foundation, Vermont Natural Resources Council, The Vermont Public Interest Research Group And The Department Of Public Service Regarding A Collaborative Demand Side Management Design And Policy Process, January 19, 1989, P.1.

2. For the purpose of this paper, fuel-switching is defined as converting electric space and water heat customers to alternate fuels.

3. For a further discussion of the fuel-switching debate in Vermont, see "The Politics of Fuel Switching: A Vermont Case Study" authored by Joan Gamble and Mike Weedall, 1992 Summer Study On Energy Efficiency In Buildings.