

**Statutory Predicate for the Energy Efficiency Advisory Council  
Green Communities Act, St. 2008, c.169, §11**

**Principal Council Tasks  
in connection with Three-Year Plans**

<b><u>Reference</u></b>	<b><u>Provision</u></b>
G.L. c.25, §21(b)(1) (emphasis supplied).	PAs to prepare every 3 years an “efficiency investment plan ... for the acquisition of all available energy efficiency and demand reduction resources that are cost effective or less expensive than supply [that] shall be prepared <b>in <u>coordination with the energy efficiency advisory council</u></b> ....”
G.L. c.25, §21(c) (emphasis supplied).	Three-Year Plan “shall be submitted for <b>approval and comment by the energy efficiency advisory council</b> .... The [PAs] shall provide any additional information <b>requested by the council</b> that is relevant to the consideration of the [P]lan. <b>The council shall review the [P]lan</b> and any additional information and [ <b>the Council</b> ] shall <b><u>submit its approval or comments</u></b> to the electric and natural gas distribution companies and municipal aggregators not later than 3 months after submission of the plan. The electric and natural gas distribution companies and municipal aggregators may make any changes or revisions to reflect the <b>input of the council.</b> ”
G.L. c.25, §21(d)(1).	PAs subsequently submit their respective Plans for the Department to review, approve, modify or reject pursuant to Section 21(d)(2) “together <b>with the council’s approval or comments</b> and a statement of any unresolved issues ....”

**Principal Council Tasks (continued)**

<b><u>Reference</u></b>	<b><u>Provision</u></b>
<p>G.L. c.25, §22(b) (emphasis and formatting supplied).</p>	<p>“The <b>council shall</b>, as part of the approval process by the [D]epartment[:]</p> <ul style="list-style-type: none"> <li>• <b>seek to <u>maximize net economic benefits</u> through energy efficiency and load management resources and to <u>achieve energy, capacity, climate and environmental goals</u></b> through a sustained and integrated statewide energy efficiency effort.</li> <li>• <b>... review and approve</b> demand resource program plans and budgets,</li> <li>• <b>work with program administrators</b> in preparing energy resource assessments,</li> <li>• <b>determine the economic, system reliability, climate and air quality benefits of efficiency and load management resources,</b></li> <li>• <b>conduct and recommend relevant research,</b> and</li> <li>• <b>recommend long term efficiency and load management goals</b> to maximize economic savings and achieve environmental goals.</li> </ul> <p>Approval of efficiency and demand resource plans and budgets shall require a two-thirds majority vote. The <b>council shall</b>, as part of its review of plans, <b>examine opportunities to offer joint programs</b> providing similar efficiency measures that save more than 1 fuel resource <b>or to coordinate programs targeted</b> at saving more than one fuel resource.”</p>

**Subsidiary Council Tasks**  
**within Three-Year Plan Approval**

<b><u>Reference</u></b>	<b><u>Provision</u></b>
G.L. c.25, §21(b)(2)(iv) (emphasis supplied).	Three-year Plan to include “(iv)(C) programs for research, development and commercialization of products or processes which are more energy-efficient than those generally available; (D) programs for development of markets for such products and processes, including recommendations for new appliance and product efficiency standards ... provided however, that not more than 1 percent of the fund shall be expended for items (C) and (D) collectively, without <b>authorization from the advisory council ....</b> ”
G.L. c.25, §21(b)(2) (emphasis supplied).	Three-year Plan may also include “[w]ith the <b>approval of the council ...</b> a mechanism to prioritize projects that have substantial benefits in reducing peak load, reducing the energy consumption or costs of municipalities or other governmental bodies, or that have economic development, job creation or job retention benefits.”

### Council Tasks During Implementation of Three-year Plan

<u>Reference</u>	<u>Provision</u>
G.L. c.25, §21(b)(3) (emphasis supplied).	Programs included within the Three-year Plan “shall be screened through cost-effectiveness testing ... to ensure that the program is designed to obtain energy savings and system benefits with value greater than the costs of the program. Program <b>cost effectiveness shall be reviewed periodically</b> by the [D]epartment and by the <b>energy efficiency advisory council</b> .
G.L. c.25, §22(c)	The council may retain expert consultants...  The council shall annually submit to the [D]epartment a proposal regarding the level of funding required for the retention of expert consultants and reasonable administrative costs. .... [Funding] shall not exceed 1 per cent of [funding authorized under Section 19] on an annual basis.
G.L. c.25, §22(d) (emphasis supplied).	Program Administrators “shall <b>provide quarterly reports to the [C]ouncil</b> on the implementation of their respective plans. The reports shall include a description of the [PA]’s progress in implementing the plan, a summary of the savings secured to date and such other information as the [C]ouncil shall determine. The <b>[C]ouncil shall provide an annual report</b> to the [D]epartment and the joint committee on telecommunications, utilities and energy <b>on the implementation of the plan</b> which includes descriptions of the programs, expenditures, cost-effectiveness and savings and other benefits during the previous year.
E.E. Guidelines, Section 3.8.1 (issued 1/31/2013) (emphasis supplied).	“A Program Administrator that seeks to make [] modifications [as defined herein] to its Energy Efficiency Plan shall <b>submit its proposed modifications to the Council for review....</b> ”  “ <b>If the Council passes a resolution supporting the proposed modification</b> , the Program Administrator may implement the modification.”

**Council Tasks During Implementation of Three-year Plan (continued)**

<p>E.E. Guidelines, Section 3.8.2 (issued 1/31/2013) (emphasis supplied).</p>	<p>“A Program Administrator that seeks to make ... [other] significant modifications [as defined herein] to its Energy Efficiency Plan shall <b>submit its proposed modifications first for review by the Council ....</b>”</p> <p><b>“If the Council passes a resolution opposing the proposed modification ... [or] fails to act on the proposed modification</b> within 45 days ... [parties] would have 60 days to request that the Department open an investigation to review the proposed modification.”</p>
<p>E.E. Guidelines, Section 4.3 (issued 1/31/2013) (emphasis supplied).</p>	<p>“The Department may investigate a Program Administrator’s performance at any time during a three-year term on its own motion, <b>or if the Council passes a resolution requesting that the Department do so.</b>”</p>
<p>E.E. Guidelines, Section 3.5.2 (issued 1/31/2013) (emphasis supplied).</p>	<p>Three-year Plan to include PAs’ plans to evaluate EE Programs over the term of the Plan. Evaluation plan to include “how the Program Administrator incorporated <b>directives or resolutions from the Council</b> in forming its evaluation plans ... [or] should fully document and justify all areas where its evaluation plan deviates from ... any <b>directives or resolutions from the Council.</b>”</p>

**Department’s Characterization of Council’s Role  
(in the context of Mid-term Modifications)**

<u>Reference</u>	<u>Provision</u>
D.P.U. 12-100 <u>et al.</u> at 10; 15 (2013) (emphasis supplied).	<p>“The Green Communities Act requires the Council to <b>work collaboratively</b> with the Program Administrators to develop program plans and budgets.”</p> <p>“The Program Administrators engaged <b>in a collaborative and iterative process</b> at the Council level to develop the savings goals contained in the Statewide Plan ....”</p>
D.P.U. 11-120 (Phase II) at 17 (2012) (emphasis supplied).	<p>“Based on the <b>Council’s role in developing the three-year plans and tracking the Program Administrators’ progress in implementing the plans</b>, the Council is well-positioned to evaluate the merits of a proposed mid-term modification.”</p>
D.P.U. 11-120-A (Phase II) at 37 (2013) (emphasis supplied).	<p>“The <b>Council has primary responsibility for program design under the Green Communities Act</b> and the modifications at issue implicate program design.”</p>
D.P.U. 11-120-A (Phase II) at 27 (2013) (emphasis supplied).	<p>“[T]he primary purpose of a mid-term modification should be to improve upon how a three-year plan provides for the acquisition of all available cost-effective energy efficiency resources. The Council, <b>given its role in developing the three-year plans and tracking Program Administrator progress in implementing the plans</b> [citing §§ 21(b)(1) and 22(d)], is well positioned to play a key role in advising the Department on the merits of a proposed mid-term modification.”</p>