

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

IN RE: RI ENERGY EFFICIENCY AND)	
RESOURCES MANAGEMENT)	
COUNCIL’S PROPOSED STANDARDS)	DOCKET NO. 3931
FOR ENERGY EFFICIENCY AND)	
CONSERVATION PROCUREMENT)	
AND SYSTEM RELIABILITY)	

REPLY COMMENTS OF THE RHODE ISLAND ENERGY EFFICIENCY AND RESOURCES MANAGEMENT COUNCIL, ENVIRONMENT NORTHEAST, AND NATIONAL GRID IN RESPONSE TO THE COMMENTS OF THE RHODE ISLAND OFFICE OF ENERGY RESOURCES ON THE ENERGY EFFICIENCY RESOURCE MANAGEMENT COUNCIL’S PROPOSED STANDARDS FOR ENERGY EFFICIENCY, CONSERVATION MANAGEMENT AND SYSTEM RELIABILITY

The Rhode Island Energy Efficiency and Resources Management Council (“EERMC”), Environment Northeast, and National Grid submit the following comments and responses to a number of the issues and subjects raised by the Rhode Island Office of Energy Resources (“OER”) filing on the Energy Efficiency Resource Management Council’s (“EERMC” or “the Council”) proposed standards for energy efficiency, conservation management and system reliability (“Standards”) that were submitted on February 29, 2008.

As noted in the OER filing, the Commissioner of the OER is an ex officio, non-voting member of the EERMC, and serves as the EERMC’s Executive Director and Executive Secretary. OER’s comments state “OER is specifically authorized to submit comments in this matter on its own behalf, independent of the EERMC, under RIGL Section 39-1-27.7 (c) (1).” It is true that OER is authorized to submit comments on its own behalf as it did on April 23rd, but it is important to note that RIGL Section 39-1-27.7 (c)(1) states “The commissioner of the office of energy resources and the energy efficiency and resources management council, either or jointly or separately, shall provide the commission findings and recommendations with regard to system reliability and energy efficiency and conservation procurement on or before March 1, 2008.”

During the period from the fall of 2007 to February 29th, 2008 the EERMC and OER worked together on negotiating differences and generating findings and recommendations on the Least Cost Procurement (“LCP”) and System Reliability Standards that were submitted to the PUC on February 29th. In developing the proposed Standards the Council consulted with OER as well as with TEC-RI, Environment Northeast, the URI

Partnership for Energy, and National Grid and held informational meetings with the Rhode Island Division of Public Utilities.

These Comments address some of the issues and comments raised by the OER filing in the hopes of providing further useful information for the consideration of the Commission.

I. The 2006 Legislation Charts a New Course for Rhode Island Least-Cost Procurement and System Reliability Acquisition.

The end of the first paragraph on page 2 of the OER filing states:

“As the legislation did not reject the Commission’s prior practices that are not inconsistent with that legislation, OER believes that the standards and guidelines resulting from this proceeding should reflect, where appropriate, the precedent and experience gained by the Commission over the years in this area prior to the adoption of Sections 39-1-27.7 and 39-1-27.8.”

It is important to note that the 2006 Legislation charted a new and significantly different course for Rhode Island and its utilities with regard to least cost procurement and reliability resource acquisition. While there is much to be learned from past experience, and much to commend in the work of all who have been involved in the successful policy efforts and implementation of energy efficiency programs in Rhode Island over the years, the new legislation requires significant changes in how the PUC, the distribution utility, state government (including OER), and the Council pursue the acquisition of those resources. While we grant that past precedents should be given due weight, it is important that as a matter of law, the new legislation be relied upon as the latest articulation of policy by the General Assembly on these matters.

II. The Total Resource Cost Test is the Appropriate Means for Adjudging Cost-Effectiveness.

In paragraphs three and four on page 2 of the OER filing, the issue of the Total Resource Cost (“TRC”) test for measuring the cost-effectiveness of energy efficiency measures, programs and portfolios is discussed. The Council, ENE, and National Grid applaud OER for advocating for acceptance of the TRC and stating in its comments “the TRC method is appropriate for evaluating such proposed programs.”

As background, the TRC is structured to evaluate the costs and benefits of alternatives from a “Total Resource Cost” perspective, thereby avoiding the serious potential error of pursuing a portfolio of programs that for instance lower utility costs, but raise costs for consumers. In addition, the TRC prevents the other serious potential error of subsidizing activities (that customers are free to do on their own) that may lower their individual costs, but raise total costs to society. As such, the TRC is a tool that is widely accepted and leads to decisions based on a broad societal test of costs and benefits to ensure that societal benefits exceed the societal costs.

The Council, ENE, and National Grid agree with OER that the TRC test is the appropriate test for determining the cost-effectiveness of proposed energy efficiency resources. However, the OER comments include some statements that might suggest using the TRC in a manner that is unworkable and as such it is important to discuss this issue in detail to ensure that Rhode Island and the Commission can move forward in the most productive and efficient manner possible. In relevant part the OER comments state:

“...The application of the TRC test to the customer’s bill should serve as the proper test, in that if the cost of the programs is more than offset by reductions in energy usage, resulting in a lower bill for customers, then the cost-effectiveness requirements of the 2006 Legislation would be satisfied.”

1) The OER comments could be interpreted as suggesting that the TRC test should demand lowering of bills in absolute terms. While in many instances this is likely to happen for energy efficiency program participants, the appropriate test is whether energy costs are lower than they “otherwise would have been” had an equivalent level of supply resource been purchased at higher cost. Applying the test to customer bills in absolute terms would not adequately account for other variables that can affect the size of the final bill. These variables can include, for instance:

- *Changed usage by the customer.* Increased usage could drive bills upward even with increased efficiency (e.g., a new appliance, building addition, or product line). Bills would have been even higher had the efficiency measures not been implemented.
- *Increased energy costs.* The price of the electricity used could increase enough to exceed the savings from efficiency. Again, bills would have been even higher had the efficiency measures not been implemented.
- *Timing of Implementation.* Not every customer will participate immediately and therefore some customers will experience direct bill reduction benefits later than others over a period of time. That is not a reason to determine a program non-cost-effective.

On page 2, paragraph 4, the OER comments raise an interesting point, but could be interpreted in a way that does not fully reflect the new policy direction set by the General Assembly. The comments state that an increase in the cents/kWh cost of acquiring efficiency due to increased intensity of energy efficiency program efforts should:

... only be permitted where a demonstrable offsetting usage will produce a lower bill based on the provisions of RIGL Section 39-1-27.7 (2), which is quite clear that least cost procurement requires not only that energy efficiency or energy conservation measures be prudent and reliable, but also that such measures must be acquired at a “lower cost than acquisition of additional supply, including supply for periods of high demand.” Thus, such energy efficiency or energy conservation measures should reduce, rather than increase, the consumer’s electric bill.

The Council, ENE, and National Grid wish to provide more explication on this subject as it may be that OER agrees with us. The cost of efficiency resources are in the range of 3 cents per lifetime kWh for programs currently being implemented in Rhode Island by National Grid and are relatively small compared to the efficiency resources known to be available.¹ The average marginal price for electric energy supply is in the range of 8 cents per kWh and rising. This means mathematically and pragmatically there is significant opportunity to increase investment in cost saving efficiency resources. Even if the price of acquired efficiency resources were to increase incrementally, those resources would still be able to be acquired at a “lower cost than acquisition of additional supply, including periods of high demand.”

The wide range of stakeholders on the Council will provide crucial oversight and review of the utility energy efficiency resource procurement and delivery to ensure that increases in the acquired cost of efficiency are justified, represents prudent program design and efficient delivery, continues to be cost-effective under the TRC test, and reduces total customer costs relative to supply alternatives. The key concept is that least cost procurement applies to total customer costs as the General Assembly, in “the Comprehensive Energy Conservation, Efficiency, and Affordability Act of 2006,” articulated least cost procurement to be a statewide energy resource acquisition strategy.²

Furthermore, it is important that all of the parties working together to ensure the success of least cost procurement are not confused between rates, which are expressed in cents per kWh, with bills, which are expressed in total dollars spent. This group reiterates that modest rate adjustments may be needed to procure energy efficiency resources clearly demonstrated to be lower cost than supply in order to fulfill the least cost procurement mandate articulated by the General Assembly. It is crucial to understand that overall, bills will be lower than what they would have been otherwise without the least cost efficiency procurement to be introduced under the guidelines that will be issued by the PUC.

- 2) Another point of note is paragraph two of page 3 in which the OER comments state:

*The OER believes it is clear that the statute intends that lower total resource cost, **defined by the size of customers’ bills, should accrue to all***

¹ The Council’s Opportunity Report to be issued by July 15, 2008 will provide a current assessment of the quantity of energy efficiency resources that are available to be procured at different cost levels. Previous studies for Rhode Island and New England have demonstrated current efficiency efforts only tap into a fraction of the cost-effective efficiency resources available.

² For instance, RIGL § 39-1-1 states “The Legislature further finds and declares as of 2006:...(3) That ***the state’s economy and the health and general welfare of the people of Rhode Island*** benefit when energy supplies are reliable and least-cost [*emphasis added*].”

customers. As such, the Commission should require that the distribution utilities' plans demonstrate that this is accomplished. (Emphasis added).

In subsequent paragraphs, OER raises the issue as to the level that the TRC is to be evaluated on, identifying difficulties in measuring bill impacts at the individual customer level. This group is certain from our familiarity with programs around New England and country that the TRC is applied at the total customer level for all customers, as is discussed above.

The Council, Environment Northeast, and National Grid wish to stress their confidence that the 2006 least cost procurement legislation, as implemented through the EERMC proposed standards, will result in dramatically lower electricity bills for Rhode Island's customer classes as it is implemented over time than they otherwise would have been had an equivalent level of supply resource been procured. This group will encourage the implementing utility to market the program to customers based on bill savings (and the numerous other benefits of efficiency as well), and it intends to require documentation of the savings achieved through the programs implemented and help communicate the full range of benefits those programs provide to the state and its residents.

III. The Council's Proposed Standards Address Concerns about Cross-Subsidization.

In paragraph four on page 3 of its submittal, OER raises the issue of customer and ratepayer "cross-subsidization." While no specific recommendation is made by OER, the group wishes to clarify that the issues of customer equity and parity are fully and appropriately addressed in the Council's February 29th Standards. Section 1.2, A, iii, b of the proposed standards emphasizes that all customers contribute and all should be eligible to benefit from savings opportunities. In addition, Section 1.3, A, ii, vi, and vii of the proposed standards addresses the need to provide programs that benefit all customers, offer services to all customers, and discuss the issues of parity, should they arise, through ongoing deliberation assisted by the Council.

The group believes these principles in the current draft of the standards give adequate guidance to the utility as it seeks to pursue all efficiency that is less costly than supply.

IV. The Council's Proposed Standards Ensure that All Programs and Program Portfolios Will Be Cost-Effective.

In paragraphs one and six on page 3 of its submittal, the OER comments discuss issues relating to the cost-effectiveness of programs.

In paragraph one, the OER comments states:

Elsewhere, the proposed standards also seem to suggest that it is permissible for individual programs not to pass the lower-cost test, as long as the total portfolio

of programs passes the test. OER does not believe that this is consistent with the 2006 legislation.

The group would like to express that the Council addressed the issues of program and portfolio cost-effectiveness in Section 1.3, A, iii and iv of the proposed Standards:

- iii. The Utility shall propose a portfolio of programs in the EE Program Plan that is cost-effective. Any program with a benefit cost ratio greater than 1.0 (i.e., where benefits are greater than costs), should be considered cost-effective. **While all programs should be cost-effective, the portfolio must also be determined to be cost-effective (emphasis added).***
- iv. The Utility shall be allowed to direct a portion of proposed funding to conduct research and development and pilot program initiatives. These efforts will not be subject to cost-effectiveness considerations. **However, the costs of these initiatives shall be included in the assessment of portfolio level cost-effectiveness (emphasis added).***

The EERMC, Environment Northeast, and National Grid believe this language is clear and establishes the correct balance between the requirements for cost-effectiveness in the near term and overall, and the innovation and ramp-up that will enable further least cost procurement efforts in the future.

First, all programs are to pass the TRC cost-effectiveness test. Second, some initiatives³ that are in the nature of research and development and capacity building and are essential to the development of new programs that are very likely to be cost-effective when fully developed, even if there is no immediate savings attributed to them. A limitation to such efforts is that their costs must be added to the total of programs costs, and the whole portfolio -- including these costs -- must still be cost-effective.

V. OER's Proposed "Risk Adjustment" to Cost-Effectiveness is Misplaced and Should be Rejected.

In paragraph six on page 3, the OER comments advocate for some kind of downward "risk adjustment" factor to be applied to program cost-effectiveness measurement.

First, the group is unaware of any such practice in current program design and implementation and the need for it has not been identified. In fact, the opposite is true. It is generally understood that efficiency programs carry *lower* risk than supply-side alternatives. This derives from: 1) the nature of efficiency programs to follow load growth and load patterns, such that load forecast risk is minimized with greater efficiency; 2) efficiency derives from numerous small efforts, and as such significantly diversifies risk compared to large supply alternatives; and 3) efficiency programs can be

³ These initiatives, such as pilot or training initiatives, are not considered to be "programs" in the sense of subparagraph iii.

ramped up or down, and modified in “real time” to correct problems, increase cost-effectiveness, and ensure success. The only jurisdiction we are aware of that explicitly includes a risk adjustment in cost-effectiveness screening of efficiency programs is Vermont. Vermont explicitly requires a risk adjustment that *raises* the cost-effectiveness estimates of efficiency programs, as compared to supply alternatives, in recognition of above risk reduction benefits.⁴ The OER proposal would mistakenly do the exact opposite.

Second, the current practice for program planning and establishment of savings targets is well established, and the Council sees no need for altering it. The practice is this:

Utilities continue to implement established programs, adjusting them periodically, and reviewing their performance to determine their cost-effectiveness. If they are not performing well, adjustments are made to improve performance. If performance does not improve programs can be dropped or markets can be addressed with new approaches. Therefore, program design is always informed by the experiences of prior program implementation efforts and the measurement of those efforts. The estimates of benefits used in program planning are based on the best information available at the time, eliminating the need for any downward risk adjustment.

Furthermore, prior practice has focused on the cost effectiveness of planned programs. If programs perform differently than planned, then that information is incorporated into future iterations of the program. The OER’s proposal seem to introduce into the standards an ex post review of planning decisions, which would be a departure from program precedents.

With new programs, best available information is used to design the programs using market analysis, experience in other jurisdictions and utility knowledge of customers. Once initiated, programs are modified and adjusted periodically based on actual performance.

The OER recommendation would add bureaucratic complexity, discourage innovation, disregard the nature of efficiency resources, and fail to recognize the essential intelligence and flexibility required to move efficiency into the marketplace in a dynamic and effective manner. It should be rejected.

VI. The Commission Should Adopt the Council’s Recommendations on Program Funding.

On page 4 and 5 of OER’s comments there is a discussion of the funding sources proposed in the Standards submitted by the EERMC.

The funding source recommendations are in section 1.2, A, iv of the proposed Standards, and the group believes they should be adopted by the PUC as proposed. With some clarification, it would appear that OER agrees with the proposed Standards.

⁴ Vermont PSB, Docket 5270.

It appears the OER comments believe that the language in 1.2, A, iv, a, (1) suggests that the EERMC is recommending that the 0.3 mill charge now allocated to renewable energy should be diverted to funding least cost procurement.⁵ That is not the proposal made in the Standards. The Standards simply recommends that the current practice of funding efficiency with the 2 mills demand side management charge continue to go to funding efficiency programs.

The OER filing's discussion of forward capacity market ("FCM") revenues is confusing in that while it appears to be an argument against the Standard's recommendation, it points out that the Commission has already decided that those funds be must be added in to the DSM efficiency fund. The OER comments seems to have interpreted the Funding Plan portion of the proposed standards (1.2.iv.) as stating that the current DSM fund is different from the fund that will be administered to pay for energy efficiency under LCP. In fact, the Funding Plan identifies the additional funding sources that are to be added to the DSM efficiency fund in addition to the current DSM efficiency charge. The EERMC recommendation simply reflects that fact.

With regard to the OER's statement on the use of proceeds from the sale of Regional Greenhouse Gas Initiative ("RGGI") allowances,⁶ the group would like to re-iterate the EERMC's recommendation that energy efficiency is the best and most cost-effective use for these funds, and that it is consistent with the priorities established by the 2007 act. The group certainly agrees with OER that the RGGI funds will be available for LCP pursuant to OER's draft and final rules on the use of RGGI auction proceeds that will be issued in consultation with Council and DEM in accordance with the 2007 RGGI legislation.⁷

Finally, this group believes it is important to establish the principle articulated in 1.2, A, iv, a, (4) that funds from: "...any federal or international cap and trade legislation or policy be allocated to expand energy efficiency programs." The group acknowledges OER's point that no such programs currently exist and that the use of funds might be affected by yet to be determined regulations. Nevertheless, the group believes it is important to establish a policy in the standards that would facilitate the use of such funds

⁵ See Paragraph 4, page 4 of the OER submittal, mid-paragraph: "EERMC's proposed use of the REF would also be inconsistent..." No such proposal is made or intended.

⁶ See Paragraph 2, page 5.

⁷ RIGL 23-82-6 "**Use of Auction Proceeds** – (a) The proceeds from the auction or sale of the allowances shall be used for the benefit of energy consumers through investment in the most cost-effective available projects that can reduce long-term consumer energy demands and costs. Such proceeds may be used only for the following purposes, in a proportion to be determined annually by the office in consultation with the council and the department" the first of which is "promotion cost-effective energy efficiency and conservation".

In addition, 23-82-6(d) states "The office shall prepare, in consultation with the department and the council, a report by January 1st of each year describing the implementation and operation of RGGI, the revenues collected and the expenditures made under this section, *the statewide energy efficiency* and carbon reduction *programs*, and any recommendations for changes to law relating to the state's energy conservation or carbon reduction efforts. The report shall be made public and shall also be submitted to the general assembly [*emphasis added*]."

for least cost procurement if they were established because of the obvious climate benefits produced by energy efficiency programs. The group believes this recommendation establishes the correct policy, and the provision should be included in the Standards issued by the Commission.

CONCLUSION

WHEREFORE, for the above-stated reasons, the EERMC, Environment Northeast, and National Grid ask that the Commission adopt the comments set forth above and reflect those comments in the final standards to be adopted by this Commission.

Respectfully submitted, **the Rhode Island Energy Efficiency Resource Management Council (EERMC), Environment Northeast, and National Grid**

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CERTIFICATE OF SERVICE

I hereby certify that on the 8th day of May, 2008, I emailed a copy of this document to all persons providing email addresses and sent a paper copy by regular mail to any remaining persons, all as designated in the official service list compiled by the Commission Clerk in this proceeding.

/s/ R. Daniel Prentiss

R. Daniel Prentiss