



May 22, 2008

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*Via Electronic Mail and First-Class Mail*

Luly E. Massaro, Commission Clerk  
Rhode Island Public Utility Commission  
89 Jefferson Boulevard  
Warwick, RI 02888

**Re: Docket 3931, RI Energy Efficiency and Resources Management Council's ("EERMC" or "Council") Proposed Standards for Energy Efficiency and Conservation Procurement and System Reliability: Reply Comments of Environment Northeast in Response to the Supplemental Comments of the Rhode Island Office of Energy Resources.**

Dear Ms. Massaro:

Environment Northeast ("ENE") appreciates the opportunity to provide reply comments to the Public Utilities Commission ("PUC" or "Commission") in Docket No. 3931 in response to the Supplemental Comments of the Rhode Island Office of Energy Resources ("OER") filed with the Commission on May 19, 2008. ENE is an organization that addresses large-scale environmental problems that threaten regional ecosystems, human health or the management of regionally significant natural resources.

The Commission should retain Section 1.2 (B), 3.1, 3.2, and 3.3 of the EERMC's Proposed Standards because these section provide necessary, but flexible frameworks in which to address the economic consequences of increased efficiency investments due to the implementation of least cost procurement.

At the outset, ENE notes that OER raises many issues for the first time in its May 19<sup>th</sup> Reply Comments despite multiple opportunities—both formal and informal—for OER to articulate its concerns. In particular, OER recommends that Sections 1.2(B), 3.1, 3.2 and 3.3 be deleted from the proposed standards.<sup>1</sup> To ENE's knowledge, OER did not make this assertion either (a) during the EERMC discussions with OER, EERMC consultants, TEC-RI, National Grid, ENE, the URI Partnership for Energy, and informational discussions with the Division during the drafting of the Proposed Standards, nor (b) in its April 23, 2008 Reply Comments filing, nor (c) during the hearing held by the Commission on May 14, 2008. As a result, ENE believes that, due to the last-minute nature of OER's comments about Sections 1.2(B), 3.1, 3.2 and 3.3, the Commission should afford them no weight.

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<sup>1</sup> "Sections 1.2(B), and 3.1 through 3.3 should be deleted in their entirety and these issues considered in other, more appropriate, proceedings." OER Supplemental Comments, May 19, 2008, at 4.

In addition to the procedural deficiencies, the Commission should reject OER's call for the deletion of Sections 1.2(B), 3.1, 3.2 and 3.3 because these sections contain policy guidelines that are properly within the framework of least cost procurement and enjoy wide support from the EERMC, National Grid, TEC-RI, ENE, the Conservation Law Foundation, and the URI Energy Partnership. The advantage of Section 1.2(B), titled "Efficiency Performance Incentive Plan," is that it creates a framework in which the Utility and the Council and ultimately the Commission can develop performance incentives to ensure that Rhode Island sends the proper market signals to invest in energy efficiency that will save ratepayers money. Sections 3.1, 3.2, and 3.3 focus on the inverse of these market signals by addressing, at a high-level, significant financial disincentives that could prevent the Utility from making robust investments in cost-saving energy efficiency. These Sections are appropriate in light of the references to these topics contained in RIGL § 39-1-27.7.

Implementing the General Assembly's least-cost procurement mandate is likely to result in significant increases in energy efficiency investments. Under current rate structures, the Utility will lose money if it sells less energy. Thus, the EERMC Proposed Standards appropriately highlight the need to address this structural disincentive and the need for performance incentives at the same time as Rhode Island sets standards for energy efficiency procurement.

As ENE noted in its April 23<sup>rd</sup> Comments, including mechanisms like decoupling and performance incentives as a consideration within the EERMC Standards does not replace the need for a separate PUC proceeding to determine the contours of and to ensure that they are properly implemented. Nevertheless, inclusion of decoupling-type mechanisms and incentives within the proposed Standards simply allows the Council to carry out its statutory obligations to "participate in proceedings that pertain to...least-cost procurement" and "consider such other matters as it may deem appropriate to the fulfillment of its purposes."<sup>2</sup>

During the May 14<sup>th</sup> hearing, the Commission was presented with a proposed change to Section 3.1(4) such that the first sentence would read, "It is important to the success of EE and Reliability Procurement to remove the Utility's current incentive to maximize sales, through the implementation of ~~mechanisms such as decoupling mechanism~~ that removes any disincentive to efficiency and distributed generation investments." ENE supports this proposed compromise which seemed to generate consensus agreement at the May 14<sup>th</sup> hearing as it provides the Commission with the flexibility it needs to achieve the necessary goal of breaking the link between utility revenue and utility sales in order to secure the full savings of least cost procurement for RI ratepayers.

ENE thanks the Commission for the opportunity to provide these reply comments.

Respectfully submitted,

*/s/ Jeremy C. McDiarmid*

Jeremy C. McDiarmid  
Staff Attorney

cc: Paul J. Roberti, Office of the Attorney General (via electronic mail)  
Service List (via electronic mail)

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<sup>2</sup> See RIGL § 42-140.1-5 (d), (g).

CERTIFICATE OF SERVICE

I hereby certify that on the 22<sup>nd</sup> day of May, 2008, I delivered a true copy of the foregoing document either by first class mail or by electronic mail upon all parties of record in this proceeding.

*/s/ Jeremy C. McDiarmid*

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Jeremy C. McDiarmid