

STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION

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IN RE: RI ENERGY EFFICIENCY AND RESOURCE
MANAGEMENT COUNCIL'S PROPOSED STANDARDS
FOR ENERGY EFFICIENCY AND CONSERVATION
PROCUREMENT AND SYSTEM RELIABILITY

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 Office of Energy Resources ("OER") hereby files its comments on the Energy Efficiency Resource Management Council's ("EERMC") proposed standards for energy efficiency, conservation management and system reliability ("Standards") in accordance with the procedural schedule adopted by the Rhode Island Public Utilities Commission ("Commission").¹ The purpose of OER's comments is to contribute to the discussion ultimately leading to the adoption of regulations implementing RIGL Sections 39-1-27.7 and 39-1-27.8 (the "2006 Legislation").

INTRODUCTION

The idea of using less energy and using energy more efficiently goes at least as far back as 1978, when the New England Electric System announced the withdrawal of its proposal to construct a nuclear power plant in Charlestown, Rhode Island and, instead, proposed to avoid or delay the need for expensive new generation through new or expanded programs for conservation and more efficient energy use. Such programs have often been the subject of discussion and consideration by this Commission over the years since then.

In 2006, certain energy conservation and least-cost procurement principles were enacted into legislation under the 2006 Legislation. In part, these sections direct the Commission to establish standards and guidelines for energy efficiency, conservation management and system reliability in the form of Commission rules and regulations.

¹ The Commissioner of the OER is an ex officio, non-voting member of the EERMC, and serves as EERMC's Executive Director and Executive Secretary. 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).

In the 2006 Legislation, the Legislature strengthened the State's legal underpinnings for incorporating and embedding these principles in Rhode Island energy regulation by requiring for the first time that "Least-cost procurement shall comprise system reliability and energy efficiency and conservation procurement as provided for in this section and supply procurement as provided for in §39-1-27.8, as complementary but distinct activities that have as common purpose meeting electrical energy needs in Rhode Island in a manner that is optimally cost-effective, reliable, prudent and environmentally responsible." 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.

COMMENTS

OER believes that EERMC's submission makes a number of good proposals. The submission also identifies many other issues which will need to be addressed in the development of the final regulations.

The EERMC recommends the use of the Total Resource Cost ("TRC") method for evaluating a proposed program or energy resource. The TRC originated in the California Standard Practice Manual for evaluating demand side management programs. The TRC measures overall societal economic efficiency of DSM programs based on the total costs of the program including participant and utility costs. 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. Accordingly, OER believes that the TRC method is appropriate for evaluating such proposed programs.

On other points, OER believes that proposed Standards, as is common in processes such as this, would benefit from some reorganization, consolidation and simplification around the 2006 Legislation's core requirements of cost-effectiveness, reliability, prudence and environmental responsibility. While OER agrees with EERMC's argument in the last paragraph of the cover letter for its proposals, that "cents/kwh may go up to acquire more cost savings from efficiency", OER argues that this 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.

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 that test. OER does not believe that this is consistent with the 2006 Legislation.

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

The difficulty comes in determining what at level this metric is taken. The Commission may decide that the total billings for all customers of the LDC are the appropriate level. A second level is to consider each rate class. A third level is the individual customer level.

Clearly, by fulfilling one of the first two levels, there could easily be cross-subsidies, and some customers could see increases in their individual bills. Taking the metric down to the individual customer level might prove impossible.

Under the 2006 Legislation, it is clear that the Legislature intended that "least cost procurement", which is defined in RIGL Section 39-1-27.7 to include system reliability, energy efficiency and energy conservation, can only be achieved if such procurement is "optimally cost-effective, reliable, prudent and environmentally responsible." These principles are the touchstone of this legislation and must be the foundation on which the standards eventually adopted must rest.

However, in Section 1.3 (A) (iii), the EERMC Standards propose that "Any program with a benefit cost ration greater than 1.0 (i.e. where benefits are greater than costs) should be considered cost-effective." However, implicit also in this definition, is the assumption that there is a 100% probability that the assumed benefits of this program will be realized because, if there is risk involved in the proposed program, then the expected benefit from the program must be adjusted downward to reflect that risk. The proposed Standards do not discuss how cost-benefit analysis and risk and reliability (as well as other factors) are to be balanced in determining whether or not the proposed programs will comply with the 2006 Legislation and the proposed Standards. This is an important concept as to which the utility should have more guidance from this Commission than is presently provided. Therefore, the final standards should provide guidance as to how the utility should make these decisions as well as how the standards will be utilized in reviewing these decisions if the result is disappointing.

An additional resource which OER believes the Commission and the other parties will find useful in the development of the final regulations is the White Paper on Least Cost Electricity Procurement For Standard Offer Service In Rhode Island, prepared by Synapse Energy Economics as part of the Rhode Island Greenhouse Gas Process, dated May 31, 2007 (the "Synapse Paper").² Most of the parties to this proceeding are

² OER will be glad to furnish a copy of the Synapse Paper to any party that does not already have a copy.

stakeholders in that process and are aware of the Synapse Paper. As the Synapse Paper describes, the Greenhouse Gas stakeholders were interested in providing guidance to the OER and, ultimately, to the Commission on these issues. Synapse Paper, p.2. As a result, Synapse was retained to “prepare a white paper on LCP implementation to provide the Stakeholders with a basis for the development of principles, options, and potentially (sic) recommendations which they could submit to OER. The paper is designed to provide the Stakeholders with a summary of the context for the implementation of LCP in Rhode Island and an outline of the major issues associated with that implementation.” Id.

OER believes that the Synapse Paper focuses on the 2006 Legislation’s core requirements of cost-effectiveness, reliability, prudence and environmental responsibility and provides a very useful discussion of how the final regulations might incorporate these and other issues raised by the 2006 Legislation. For example, it contains a number of ideas as to how the Commission might manage trade-offs between the goals of the 2006 Legislation, for example, between cost-effectiveness and environmental responsibility. Synapse Paper, pp. 10-11, 16.

Under Section 1.2 (A) (iv) (a) of EERMC’s proposed Standards, which addresses the proposed funding for energy efficiency procurement, it is proposed that such funding be obtained from certain existing and potential sources. First, the Standards propose to utilize the revenues from the existing System Benefits Charge (“SBC”) established by RIGL Section 39-2-1.2 (b) to fund energy efficiency. The SBC consists of a charge of 2 mills/kW-h for funding demand side management (“DSM”) programs and a charge of 0.3 mills/kW-h for a renewable energy fund (“REFs”). The Commission may raise those amounts as set forth in that section. The DSM programs are administered by the utility, while the amounts collected by the utilities for the REF are “held and disbursed by the distribution company as directed by the commissioner of the office of energy resources, with the approval, if appropriate, of the trustees of the renewable energy development fund, for the purposes of developing, promoting and supporting renewable energy programs.” RIGL Section 39-2-1.2 (b). However, as the Synapse Report correctly points out, the 2006 legislation does not eliminate the SBC and its associated programs.

Moreover, in RIGL Section 39-2-2 (c), the Legislature provided that “the account for the renewable energy programs shall be maintained by the distribution company as provided for in subdivision (b) above, and with the approval of the commissioner of the office of energy resources and the trustees of the renewable energy fund, may be administered by the economic development corporation.” EERMC’s proposed use of the REF would also be inconsistent with specific provisions the Legislature has made for the REP revenues from projects funded by the SBC. In RIGL Section 39-2-1.2 (b), the Legislature further provided that “The office of energy resources and/or the administrator of the renewable energy programs shall seek to secure for the state an equitable and reasonable portion of renewable energy credits or certificates created by projects funded through those programs, and shall develop and execute by July 1, 2007, a plan to make the program self-sustaining as of January 2, 2013.” Thus, the Legislature has specifically provided for the administration of the REF amounts under a separate statutory structure and the funding for these programs should not be included under the proposed standards.

Second, the proposed use of forward capacity market (“FCM”) revenues in subsection (iv) (a) (2) of the Standards inappropriately urges that FCM revenues should be reinvested to help cover program costs under the proposed Standards. However, the Commission recently addressed in Docket No. 3901 the question of the treatment of FCM revenues from projects funded in any part by DSM revenues by determining that all FCM revenues from such projects must be paid over to the DSM fund for reinvestment in that fund.

Third, the proposed Standards also propose in subsection (iv) (a) (3) that the Commission require that the proceeds from the sale of Regional Greenhouse Gas Initiative (“RGGI”) allowances be used to fund the proposed energy efficiency procurement plan. RIGL Section 23-82-6 (a), however, provides that such RGGI auction proceeds may only be used for certain purposes enumerated in that statute and “in a proportion to be determined annually by the office (of energy resources) in consultation with the council (EERMC) and the department (department of environmental management).” RIGL Section 23-82-6 (c) establishes the procedure for determining how these auction proceeds are to be allocated and assigns final authority to the OER. Thus, the use of such auction proceeds is not subject to regulation by this Commission in this proceeding.

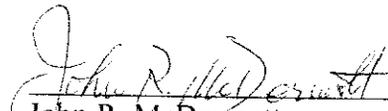
Fourth, the proposed Standards also urge in subsection (iv) (a) (4) that any funds from any federal or international cap and trade legislation or policy be allocated to expand energy efficiency programs. OER believes that it is too speculative at this time for the Commission to require such allocations without knowing what amounts may be involved and what the legal circumstances surrounding such funds may be at such time as such funds may become available in the future.

The Commission should not infer from OER’s decision not to specifically address a particular point or language of EERMC’s proposal in these comments that OER necessarily supports such point or language.

CONCLUSION

WHEREFORE, for the above-stated reasons, OER asks that the Commission adopt the comments set forth above and reflect those comments in the final standards to be adopted by this Commission.

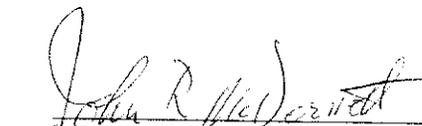
Respectfully submitted,
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CERTIFICATE OF SERVICE

I hereby certify that on the 23rd day of April, 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.



John R. McDermott