



Memorandum

From: Handy Law, LLC

To: RI OER

Date: 12.15.20

Regarding: Community Net Metering Stakeholder Comments

This follows on our comments filed for this process on November 3, 2020.

1. Transparency

One of eight principles of the National Standard Practice Manual for Benefit-Cost Analysis of Distributed Energy Resources (NSPM) published by industry experts (including the RIPUC’s Todd Bianco) in August 2020 is to “ensure transparency.” They describe that principle as follows:

Transparency helps to ensure engagement and trust in the BCA process and decisions. BCA practices should therefore be transparent, where all relevant assumptions, methodologies, and results are clearly documented and available for stakeholder review and input.

Starting on page 2-7, they describe the importance of this principle in more detail:

DER BCAs require many detailed assumptions and methodologies, and they typically produce detailed results. For regulators, utilities, and other stakeholders to properly assess and understand BCAs—and therefore to ultimately ensure that BCA conclusions are reasonable and robust—key inputs, assumptions, methodologies, and results should be clearly documented in sufficient detail.

Transparent documentation helps to ensure that the approach to cost-effectiveness analysis is consistent with fundamental principles, regulatory objectives, and applicable policy goals. It also facilitates and expedites regulatory and stakeholder understanding and review of cost-effectiveness analyses.

Transparency also entails ensuring that stakeholder input allows for review and discussion of the BCA assumptions, methods, and results.

This process, like others conducted by OER right now (e.g., 100% by 2030), is not transparent in keeping with the NSPM’s important principle. We hear of state officials and their consultants (Synergy) meeting

repeatedly with each other and the utility to direct the analysis that resulted in the generation of the BCA report. Those reports were then presented to the public in technical sessions. The technical sessions appear to be the opportunity for stakeholders to comment and dialogue on those reports publicly. We are instructed do so by writing questions and comments in the zoom chat function at which point the State or its consultants respond on line.

Then us stakeholders are given the opportunity to file comments. Those comments are not posted, nor do they receive any substantive response. Stakeholders have simply been left hoping that their comments might influence subsequent output from the process. However, there is no record of such impact or of any consideration. Our firm provided very substantive comments at the outset of this “stakeholder process.” There is little to no evidence that any of those comments are or will be considered in the generation of OER’s report and recommendation to the PUC regarding potential expansion of the CNM program.

This is not at all “ensuring transparency” as discussed in the NPSM. This kind of process does not ensure that the “BCA conclusions are reasonable and robust” or that “key inputs, assumptions, methodologies, and results should be clearly documented in sufficient detail.” The lack of transparent documentation means that stakeholders cannot “ensure that the approach to cost-effectiveness analysis is consistent with fundamental principles, regulatory objectives, and applicable policy goals.” As a result of the lack of transparency, stakeholders cannot understand and review the cost-effectiveness analyses.

On November 3, 2020, we provided extensive comments on the substance of the Synapse CBA. There has been no response to those concerns. It is our understanding that OER intends to file its recommendation with the RIPUC without first addressing the substance of many stakeholder concerns with the Synapse CBA. When I sought to discuss the consultant’s analysis and conclusions with the consultant directly I was reprimanded and instructed that I may only comment through OER’s email address. As a result of the flawed CBA, OER has resolved that Community Net Metering is subsidized by other ratepayers and that it will propose to the PUC that CNM projects no longer retain access to capacity value, but must relinquish that value stream to the utility (which has not earned it).

Please provide full transparency. Consider whether this process should be conducted as an administrative rulemaking under the RI Administrative Procedures Act, R.I. Gen. Laws §42-35. It has resulted in “rules” as defined there – “agency statement of general applicability that implements, interprets, or prescribes law or policy or the organization, procedure, or practice requirements of an agency and has the force of law.” R.I. Gen. Laws §42-35-1(19). Given the substance of the recommendations that have resulted from the BCA (including OER’s conclusions regarding a net metering subsidy and the excessive cost of CNM), OER should be following the rulemaking process, including transparency in a rulemaking record that includes publication of the receipt and response to public comment. R.I. Gen. Laws §42-35-2.3.

Meanwhile, we have attached an access to public records act request for all comments filed (including, but not limited to, those provided during the presentations on-line), and any responses to those comments. We have asked for any such materials to be posted on OER’s website to ensure proper transparency.

II. Inconsistency

OER must recall the history of this stakeholder process. On March 18, 2020, National Grid made a presentation of an analysis showing that Community Remote Distributed Generation conducted under the Renewable Energy Growth program was a better deal for ratepayers than community net metering (attached).

The stakeholders had major concerns with the quality of that analysis and collaborated to send OER and National Grid its concerns in writing (attached). They included, but were not limited to, the fact that National Grid had not accounted for the administrative fee that is paid to the Company under the REG program.

In response to those concerns, on June 18, 2020, National Grid reissued its analysis concluding that CNM is actually a better deal for ratepayers than CRDG REG (attached).

It is a concern that OER’s consultant, Synapse, has now issued a report finding that CNM is subsidized and CRDG is a better deal for customers and does not appear willing to respond to stakeholder concerns about the presumptions and apparent inaccuracies in that report.

Please explain the inconsistency between the findings and respond fully to stakeholder concerns about the Synapse report.