

**STATE OF RHODE ISLAND  
PUBLIC UTILITIES COMMISSION**

**THE NARRAGANSETT ELECTRIC COMPANY            :**  
**D/B/A NATIONAL GRID’S 2022 ANNUAL            :**       **DOCKET NO. 5189**  
**ENERGY EFFICIENCY PLAN                            :**

**EERMC’S RESPONSES TO THE FIRST SET OF DATA REQUESTS OF**  
**THE DIVISION OF PUBLIC UTILITIES AND CARRIERS TO EERMC**  
**(December 15, 2021)**  
**Response Due January 4, 2021**

DPUC 1-1: On Page 3 of Optimal Energy’s proposed Scope of Work (SOW) for 2022, submitted to the EERMC, it states:

“We will support Rhode Island’s continuing leadership in the evolving energy landscape by applying our engagement in a range of jurisdictions on issues including workforce development, heating decarbonization, equity in efficiency programs, locational valuation, and distributed energy resources. Our proposed approach to this key work area directs support and assistance to the OER as it delivers its key function as the agency charged with leading critical activities addressing climate change and resiliency. The Consultant Team is prepared to provide the necessary expertise to assist OER in leading Rhode Island to a secure, cost-effective, and sustainable energy future.”

(a) Please explain how spending for activities that address climate change is appropriate under the least cost procurement/energy efficiency program.

Objection. The PUC’s Rules of Practice and Procedure allow for all discovery that is “reasonably relevant” to the proceeding (Rule 1.19). EERMC objects to DPUC 1-1(a) on the grounds that this request is not reasonably relevant to the scope of the subject proceeding. Notwithstanding that objection, the EERMC provides the following response:

The EERMC Consultant Team’s (C-Team) Scope of Work (SOW) is approved by the Council pursuant to its statutory authority, independent from the Division or Commission. EERMC also notes that the General Assembly has enumerated the powers and duties of the Council at RIGL §42-140.1-5. These include, but are not limited to:

“(f) Advise the commission of energy resources, and recommend policies, standards, strategies, plans, programs, and procedures with regard to functions of the office of energy resources including but not limited to plans, strategies, and programs to:

- (1) implement cost-effective energy conservation and energy efficiency programs;
- (2) promote the development of eligible renewable energy resources for Rhode Island;

- (3) foster distributed generation of electricity and demand response;
- (4) assist low-income households in meeting energy needs;
- (5) coordinate the use of funds, resources, and programs from diverse resources to achieve the purposes of the office.
- (g) Consider such other matters as it may deem appropriate to the fulfillment of its purposes, and may advise the governor, the general assembly, other parties, and the public with regard to matters pertaining to its purposes and duties, which advice may include findings and recommendations.”

Energy conservation, energy efficiency programs, demand response, and renewable development are inextricably linked to achievement of the state’s mandatory greenhouse gas emissions reduction goals as established in the 2021 Act on Climate.

Furthermore, the 2021 Act on Climate, RIGL §42-6.2-8, states the following:

**“Addressing the impacts on climate change shall be deemed to be within the powers, duties, and obligations of all state departments, agencies, commissions, councils, and instrumentalities, including quasi-public agencies, and each shall exercise among its purposes in the exercise of its existing authority, the purposes set forth in this chapter pertaining to climate change mitigation, adaptation, and resilience in so far as climate change affects its mission, duties, responsibilities, projects, or programs. Each agency shall have the authority to promulgate rules and regulations necessary to meet the greenhouse gas emission reduction mandate established by § 42-6.2-9.”** (emphasis added).

- (b) Please explain how it is appropriate to spend energy efficiency funds to assist OER to “secure, cost-effective, and sustainable energy future.”

Objection. The PUC’s Rules of Practice and Procedure allow for all discovery that is “reasonably relevant” to the proceeding (Rule 1.19). EERMC objects to DPUC 1-1(b) on the grounds that this request is not reasonably relevant to the scope of the subject proceeding. Notwithstanding that objection, the EERMC provides the following response:

Please see response to DPUC 1-1(a), particularly the statutory authorization at RIGL §42-140.1-5(f).

DPUC 1-2: Under Task 2 of the SOW on page 6, Optimal Energy indicates that it is proposing, at OER’s request, to take all minutes of EERMC’s meetings and post them to the EERMC’s website.

- (a) Why is this change necessary?

Objection. The PUC’s Rules of Practice and Procedure allow for all discovery that is “reasonably relevant” to the proceeding (Rule 1.19). EERMC objects to DPUC 1-2(a) on the grounds that this request is not reasonably relevant to the scope of the subject proceeding. Notwithstanding that objection, the EERMC provides the following response:

The C-Team’s 2022 SOW<sup>1</sup> was approved by the Council pursuant to its statutory authority, independent from the Division or Commission.

(b) What will be the type of employee and paygrade assigned by Optimal Energy for taking over this task?

Objection. The PUC’s Rules of Practice and Procedure allow for all discovery that is “reasonably relevant” to the proceeding (Rule 1.19). EERMC objects to DPUC 1-2(b) on the grounds that this request is not reasonably relevant to the scope of the subject proceeding. Notwithstanding that objection, the EERMC provides the following response:

Any costs associated with work performed as part of Optimal Energy’s approved contract can be found in their SOW.

DPUC 1-3: Page 14 of Optimal Energy’s SOW depicts tasks, proposed hours associated with that task, and the associated budget. Please state whether a page similar to page 14 was included in Optimal Energy’s proposed budgets in 2021, 2020, and 2019. If the answer is yes for any of these years, please provide a copy of each of these pages.

Objection. The PUC’s Rules of Practice and Procedure allow for all discovery that is “reasonably relevant” to the proceeding (Rule 1.19). EERMC objects to DPUC 1-3 on the grounds that this request is not reasonably relevant to the scope of the subject proceeding. Notwithstanding that objection, the EERMC provides the following response:

A similar page was included in Optimal Energy’s proposed budgets for 2021<sup>2</sup>, 2020<sup>3</sup>, and 2019<sup>4</sup>. References to where those can be found are provided in the footnotes.

DPUC 1-4: For each of the tasks identified in the proposed SOW for 2022:

(a) Please identify whether incremental hours were added for 2022, as compared to 2021.

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<sup>1</sup> [http://rieermc.ri.gov/wp-content/uploads/2021/12/2022-eermc-c-team-proposed-sow\\_2021.12.02.pdf](http://rieermc.ri.gov/wp-content/uploads/2021/12/2022-eermc-c-team-proposed-sow_2021.12.02.pdf)

<sup>2</sup> [http://rieermc.ri.gov/wp-content/uploads/2020/12/2021-eermc-c-team-proposed-sow\\_2020-12-17\\_final.pdf](http://rieermc.ri.gov/wp-content/uploads/2020/12/2021-eermc-c-team-proposed-sow_2020-12-17_final.pdf); see page 8

<sup>3</sup> <http://rieermc.ri.gov/wp-content/uploads/2019/12/updated-2020-eermc-c-team-proposed-sow-2019-12-12.pdf>; see pages 7-8

<sup>4</sup> <http://rieermc.ri.gov/wp-content/uploads/2018/12/2019-eermc-c-team-proposed-sow-2018-12-13.pdf>; see page 7

Objection. The PUC’s Rules of Practice and Procedure allow for all discovery that is “reasonably relevant” to the proceeding (Rule 1.19). EERMC objects to DPUC 1-4(a) on the grounds that this request is not reasonably relevant to the scope of the subject proceeding. Notwithstanding that objection, the EERMC provides the following response:

The C-Team’s SOW is approved by the Council pursuant to its statutory authority, independent from the Division or Commission. The Council points the Division to the approved C-Team SOW and memo referenced in response to DPUC 1-2(a), which is a matter of public record.

- (b) Please provide specific supporting rationale or calculations for the incremental increase in hours for each task and identify the proposed hourly rate for each of these tasks.

Objection. The PUC’s Rules of Practice and Procedure allow for all discovery that is “reasonably relevant” to the proceeding (Rule 1.19). EERMC objects to DPUC 1-4(b) on the grounds that this request is not reasonably relevant to the scope of the subject proceeding. Notwithstanding that objection, the EERMC provides the following response:

The C-Team’s SOW is approved by the Council pursuant to its statutory authority, independent from the Division or Commission. The Council points the Division to the approved C-Team SOW and memo referenced in response to DPUC 1-2(a), which is a matter of public record.

DPUC 1-5: RI Gen Law §39-2-1.2, amended in 2021, provides: “Effective January 1, 2007, the commission shall allocate from demand-side management gas and electric funds authorized pursuant to this section, an amount not to exceed three percent (3%) of such funds in an annual basis for the retention of expert consultants, and reasonable administration costs of energy efficiency and resources management council associated with the planning, management, and evaluation of energy-efficiency programs, renewable energy programs, system reliability least-cost procurement, and with regulatory proceedings, contested cases, and other actions pertaining to the purposes, powers, and duties of the council, which allocation may by mutual agreement, be used in coordination with the office of energy resources to support such activities.”

- (a) Does the EERMC take the position that the Commission is required to approve an allocation of three percent of the demand-side management gas and electric funds?

Objection. The PUC’s Rules of Practice and Procedure allow for all discovery that is “reasonably relevant” to the proceeding (Rule 1.19). EERMC objects to DPUC 1-5(a) on the grounds that this request is not reasonably relevant to the scope of the subject proceeding. Notwithstanding that objection, the EERMC provides the following response:

In regards to the EERMC “tak(ing) a position”, the Council has not taken a formal public vote on this matter. This request requires review and consideration of the full Council, which must be conducted in conformance with the Rhode Island Open Meetings Act, RIGL §42-46-1, *et. seq.* The deadline for these responses occurs prior to the next regularly-scheduled meeting of the Council.

However, based on discussions with Council Members at open meetings held during 2021, the Council was supportive of the proposed funding formula (as ultimately enacted) and reasonably anticipated the full statutory amount of funds to be allocated in keeping with historical precedent and legislative intent since inception. The Council is also aware of its statutory authorizations and place as a strong, independent body providing input and oversight on statewide energy efficiency and clean energy issues.

(b) If the answer to (a) is yes, please explain why.

Objection. The PUC's Rules of Practice and Procedure allow for all discovery that is "reasonably relevant" to the proceeding (Rule 1.19). EERMC objects to DPUC 1-5(b) on the grounds that this request is not reasonably relevant to the scope of the subject proceeding. Notwithstanding that objection, the EERMC provides the following response:

This request requires review and consideration of the full Council, which must be conducted in conformance with the Rhode Island Open Meetings Act, RIGL §42-46-1, *et. seq.* The deadline for these responses occurs prior to the next regularly-scheduled meeting of the Council.

As Executive Director of the Council, OER notes that the statutory language states that the Commission "*shall*" allocate funds no greater than 3%. The maximum amount should be approved – as it has been since the inception of this statute – unless the Council (or OER) request something less than that amount.

Furthermore, the context in which the amended language was enacted is not without importance. The General Assembly had the clear intent to increase the amount of revenue dedicated to the EERMC (and OER) since the statute already included a 2% authorization (increased to 3% with the enacted 2021 legislation) and it could have been left in place or even reduced. As contributing authors to these amendments and having discussed them with multiple parties (including state agencies) during the bill's development and consideration by the General Assembly, OER holds firm that the full authorized amount must be granted, consistent with legislative intent. In fact, the full authorized amount has been allocated to EERMC (and OER) in prior program years following similar legislative amendments, such as those enacted in the 2012 and 2015 legislative sessions.

In addition, OER is unaware of any objection made by any state agency to the 2021 amendments in question before any House and Senate Committees. OER notes that these amendments were passed in the same year that the 2021 Act on Climate was enacted. There was a clear nexus between the work that would be required to comply with Act on Climate mandates and the need for increased resources for state bodies to carry out that work.

(c) Does the EERMC take the position that the Commission has no authority to disallow aspects of the EERMC's proposed budgetary requests?

Objection. The PUC's Rules of Practice and Procedure allow for all discovery that is "reasonably relevant" to the proceeding (Rule 1.19). EERMC objects to DPUC 1-5(c) on the grounds that this request is not reasonably relevant to the scope of the subject proceeding. Notwithstanding that objection, the EERMC provides the following response:

In regards to the EERMC “tak(ing) a position”, the Council has not taken a formal public vote on this matter. This request requires review and consideration of the full Council, which must be conducted in conformance with the Rhode Island Open Meetings Act, RIGL §42-46-1, *et. seq.* The deadline for these responses occurs prior to the next regularly-scheduled meeting of the Council.

As the Executive Director of the Council, OER notes that, in the long history of the EERMC, no state agency has claimed jurisdiction over the Council’s budgetary process. The Council’s budget is developed in accordance with the state’s Open Meetings Act and is subject to public comment and input. There is no requirement in statute directing the Council (or OER) to seek regulatory approval for aspects of its budget. We note that the Council’s (and OER’s) budgetary authority stands in stark contrast to the state’s Renewable Energy Growth Law, which details a specific process by which the DG Board and OER seek budgetary approvals for that body.

- (d) In the EERMC’s draft budget recently reviewed at the December 9, 2021 meeting, there is a provision for unallocated funds in the amount of \$575,724.00. Please explain how such a request constitutes a reasonable administration cost.

Objection. The PUC’s Rules of Practice and Procedure allow for all discovery that is “reasonably relevant” to the proceeding (Rule 1.19). EERMC objects to DPUC 1-5(d) on the grounds that this request is not reasonably relevant to the scope of the subject proceeding. Notwithstanding that objection, the EERMC provides the following response:

As explained in other data request responses in this docket, the amount of unallocated funds is subject to change as the Council considers opportunities to comply with the Council’s obligations under its enabling statute. Council budgets are not a request to any entity for approval, and unallocated funds are not utilized as administrative costs, but reserved for future investment. It is up to the Council to determine its budget and how it utilizes its funds pursuant to statutory authorization, which is also informed by public comment.

- (e) If there is a mutual agreement with OER to use EERMC funds in coordination, as allowed by the statute, please advise whether there is a written agreement. If so, please provide a copy of the same.

Objection. The PUC’s Rules of Practice and Procedure allow for all discovery that is “reasonably relevant” to the proceeding (Rule 1.19). EERMC objects to DPUC 1-5(e) on the grounds that this request is not reasonably relevant to the scope of the subject proceeding. Notwithstanding that objection, the EERMC provides the following response:

There is no overarching agreement between OER and EERMC to use any of their statutorily authorized funding in coordination. The EERMC and OER have occasionally coordinated to leverage funds and cost share the provision of specific services and/or interns. For example, the EERMC and OER have both contributed financially to the support of a URI Energy Fellow as described in the funding justification voted on by the Council.<sup>5</sup>

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<sup>5</sup> <http://rieermc.ri.gov/wp-content/uploads/2021/02/energy-fellow-funding-allocation-recommendation-1-6-21.pdf>

- (f) Please identify the total amount of EERMC funds used in coordination with OER for 2020 and 2021 and for what purposes.

Objection. The PUC's Rules of Practice and Procedure allow for all discovery that is "reasonably relevant" to the proceeding (Rule 1.19). EERMC objects to DPUC 1-5(f) on the grounds that this request is not reasonably relevant to the scope of the subject proceeding. Notwithstanding that objection, the EERMC provides the following response:

In 2020 and 2021, the EERMC provided \$7,500 in funding per year for a URI Farm Energy Fellow done in coordination with OER. Additionally, in 2021, the EERMC provided \$41,250 in funding towards the development of energy education videos in coordination with OER.

DPUC 1-6: Would the EERMC be opposed to a separate budgetary process before the PUC, as is performed for the Distributed Generation Board's budget under the R.E. Growth law (Docket 4604)? If so, please explain why.

Objection. The PUC's Rules of Practice and Procedure allow for all discovery that is "reasonably relevant" to the proceeding (Rule 1.19). EERMC objects to DPUC 1-6 on the grounds that this request is not reasonably relevant to the scope of the subject proceeding. Notwithstanding that objection, the EERMC provides the following response:

In regards to the EERMC "be(ing) opposed to a separate budgetary process", the Council has not taken a formal public vote on this matter. This request requires review and consideration of the full Council, which must be conducted in conformance with the Rhode Island Open Meetings Act, RIGL §42-46-1, *et. seq.* The deadline for these responses occurs prior to the next regularly-scheduled meeting of the Council.

As the Executive Director of the Council, OER notes that the Council does not operate under the Renewable Energy Growth law, RIGL 39-26.6, *et. seq.* That law includes specific provisions for Commission review of OER's/Board's budgetary request, as contained in RIGL 39-26.6-4(b). The General Assembly applies no such provisions to the EERMC's budget.

DPUC 1-7: Please explain in detail how and by whom the invoices for Optimal Energy are reviewed and paid?

Objection. The PUC's Rules of Practice and Procedure allow for all discovery that is "reasonably relevant" to the proceeding (Rule 1.19). EERMC objects to DPUC 1-7 on the grounds that this request is not reasonably relevant to the scope of the subject proceeding. Notwithstanding that objection, the EERMC provides the following response:

Invoices from Optimal Energy are submitted monthly to OER, the Council's Executive Secretary. Once received, OER reviews each invoice in detail to ensure all costs represented are well documented, and in line with the approved scope of work for the vendor before approving for payment.

DPUC 1-8: Would the EERMC or Optimal Energy be opposed to a requirement that it submit copies of Optimal Energy's invoices to the Division when submitting to the entity identified in EERMC's answer to DPUC 1-7?

Objection. The PUC's Rules of Practice and Procedure allow for all discovery that is "reasonably relevant" to the proceeding (Rule 1.19). EERMC objects to DPUC 1-8 on the grounds that this request is not reasonably relevant to the scope of the subject proceeding. Notwithstanding that objection, the EERMC provides the following response:

This request requires review and consideration of the full Council, which must be conducted in conformance with the Rhode Island Open Meetings Act, RIGL §42-46-1, *et. seq.* The deadline for these responses occurs prior to the next regularly-scheduled meeting of the Council. As such, the EERMC cannot provide an accurate response to DPUC 1-8.

As the Executive Director of the Council, OER notes that there is no statutory requirement for the Council or Optimal Energy to submit invoices to the Division. The Council has a long history of being responsible stewards of public funds and has debated and approved its budgets in open session, accessible to the public.

DPUC 1-9: Pursuant to R.I. Gen. Law § 42-140.1-6 (c), the EERMC has the authority to accept and administer grants from the federal government and from other sources, public or private for the carrying out of any of its functions. And, under R.I. Gen. Law § 42-140.1-6 (e), the EERMC has the authority to apply for grants.

(a) Has the EERMC ever applied for any grants, whether from the federal government, or other private or public sources?

Objection. The PUC's Rules of Practice and Procedure allow for all discovery that is "reasonably relevant" to the proceeding (Rule 1.19). EERMC objects to DPUC 1-9(a) on the grounds that this request is not reasonably relevant to the scope of the subject proceeding. Notwithstanding that objection, the EERMC provides the following response:

No, not to our knowledge.

(b) If so, and if the EERMC has been awarded grant monies, please provide the identity of the grantor, the amount, and the purpose of said grant(s).

N/A.