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VIA ELECTRONIC MAIL & USPS

Luly Massaro, Commission Clerk
Rhode Island Public Utilities Commission
89 Jefferson Boulevard
Warwick, RI 02888

RE: Docket 22-33-EE – Rhode Island Energy's Energy Efficiency Plan 2023

Dear Ms. Massaro:

Enclosed herewith for filing with respect to the above-referenced Docket, please find the following document:

1. The Rhode Island Energy Efficiency & Resource Management Council's Comments Regarding System Benefit Charge (SBC) Rate Setting Questions Raised During Docket 22-33-EE Hearings.

Please be advised that an electronic copy of this document has been sent to the Service List updated November 9, 2022. Thank you for your attention to this matter.

Sincerely,

Marisa A. Desautel

Marisa A. Desautel, Esq. (mr)
Enclosure

cc: Service List Updated November 9, 2022

Memo

STATE OF RHODE ISLAND
ENERGY EFFICIENCY & RESOURCE MANAGEMENT COUNCIL

To: Rhode Island Public Utilities Commission
From: Energy Efficiency & Resource Management Council
Date: December 12, 2022
Subject: EERMC Comments Regarding System Benefit Charge (SBC) Rate Setting Questions Raised During Docket 22-33-EE Hearings

CONSULTANT TEAM

I. INTRODUCTION

At the request of the Rhode Island Public Utilities Commission (PUC), the Energy Efficiency and Resource Management Council (EERMC or Council) has provided this response to two open questions raised during hearings conducted in PUC Docket 22-33-EE on December 6th and 8th. This memo was developed on behalf of the Council by its Consultant Team (C-Team), in consultation with the Chair and Vice Chair of the EERMC and the EERMC's legal counsel. This memo will also be provided as a meeting material for the full Council at its December 15th meeting and is subject to potential change based on the deliberations of the Council at that time, or subsequent input from individual Council members.

The memo is organized as follows:

- **Section II** considers several potential mechanisms by which current positive energy efficiency (EE) system benefit charge (SBC) fund balances carrying forward from the 2022 EE program year may be returned to ratepayers
- **Section III** regards the mechanisms by which Rhode Island Energy's (RIE or the Company) 2023 Annual Energy Efficiency Plan (2023 Plan) may set the level of SBC collections such that the total anticipated collections in 2023, as of January 1, 2023, represent an absolute dollar amount which falls below the budget of the 2023 Plan as ultimately approved.[1]
- **Section IV** offers a brief conclusion.

As noted above, the EERMC's final position on these matters may be informed by further analysis and discussion, as well as by the comments, perspectives, and/or alternative approaches presented by other stakeholders.

II. RETURNING THE FUND BALANCE

Several related questions have been posed regarding the mechanism(s) by which the positive SBC fund balance from the 2022 EE program year may be returned to ratepayers. The options raised during the docket that were considered in informing this memo included:

[1] Except where specifically noted otherwise, the 2023 Plan refers to a final version as approved by the Commission, which may or may not precisely match the most recently filed version, and associated tables, from RIE.

- Return the full balance in 2023 **('One SBC Period' approach):** Evenly distribute the reduction in the SBC across 12 months
- Return the full balance in 2023 **('Two SBC Period' approach):** Evenly distribute the reduction across the first three months (January – March). Set the SBC for the remaining nine months at the level necessary to meet the full collections (though not necessarily budget – see Section III) for 2023.
- Return the full balance in 2023 **('Three SBC Period' approach):** Evenly distribute the reduction across the first three months (January – March). Determine what the monthly SBC would have been under the 'One SBC Period' approach, described above, and set the SBC for the final three months (Oct-Dec) at that level. Set the SBC for the 6-month summer rate period (April – September) at the level necessary to collect the remaining funds necessary to meet the full collections (though not necessarily budget – see Section III) for 2023.
- Return the full balance over the course of multiple years **('Multiple Years' approach):** This approach, unlike the prior three approaches, was not put forward with a specific characterization made – rather, the question was asked whether returning over multiple years had been considered by the parties. It has been included it here as a result of that question.

The C-Team's current view on this matter is that, pending further consideration and barring the identification of any unintended consequences not contemplated to date, the 'Three SBC Period' approach appears to strike the best balance between the following three key priorities:

- **Priority #1:** Ensure that the SBC levels set at the beginning of 2023 are designed to meet the full collections (though not necessarily budget – see Section III) for 2023.
- **Priority #2:** Return the positive 2022 SBC fund balance to ratepayers quickly[2].
- **Priority #3:** Limit upward pressure on the SBC during winter months, due to the potential for continued high winter base rates in Rhode Island.

Regarding Priority #1, it appears all four approaches described above would be adequate, as long as the SBC levels for each period are accurately calculated.

Regarding Priority #2, the 'One SBC Period' represents the default, historical approach. Both the 'Two SBC Period' and 'Three SBC Period' proposal return the positive fund balance to ratepayers more quickly than the 'One SBC Period' approach (by the end of March 2023 rather than the end of December 2023). In contrast, the 'Multiple Years' approach would return the funds more slowly all of the other approaches, as by definition at least some of the funds would be returned after December 2023.

Regarding Priority #3, the 'Two SBC Period' and 'Three SBC Period' approach both have the potential to produce similar results to the 'One SBC Period' approach. For the 'Two SBC Period' approach, however,

[2] Returning funds to customers was recently contemplated in PUC Docket 22-07-GE, which was about how bill credits for electric and gas customers would be delivered as an outcome of the Settlement Agreement between Rhode Island Energy and the Rhode Island Attorney General. As a result of this Docket, it was determined that Rhode Island Energy should distribute one-time credits to customers in order to get money back into customers pockets as soon as possible.

as illustrated in Docket 22-33-EE RIE-Exhibit 16, it is also possible for the SBC for the nine months from April – December to exceed the SBC that would result from the 'One SBC Period' approach, thus violating Priority #3 by putting upward pressure on winter rates in October – December 2023. Only the 'Three SBC Period' approach is guaranteed to avoid this outcome, because that is the nature of its design – to allow a somewhat higher SBC in the summer months, calculated to avoid putting upward pressure on the SBC during the second winter rate period in 2023, even in a scenario where positive funds from a prior program year are returned to ratepayers in the first winter rate period of January – March.

The discussion above suggests that the 'Three SBC Period' approach is the only mechanism designed specifically to achieve all three of the stated priorities. As such, as long as these are the correct set of priorities to pursue, and no parties identify unforeseen unintended consequences of the 'Three SBC Period' approach, unidentified benefits flowing from one of the alternative approaches that are not considered above, or an alternative approach with preferred characteristics, the C-Team currently views the 'Three SBC Period' approach as a worthy mechanism to consider developing in full.

III. SETTING EXPECTED COLLECTIONS SEPARATELY FROM PLAN BUDGET

For past Annual Energy Efficiency Plans in Rhode Island, three key parameters have been set in lockstep with one another – the energy saving goals, the budget level necessary to meet those goals, and the collections level (and associated SBC) necessary to provide that full budget. In recent years actual program expenditures have often fallen below planned budgets. This has been driven by a variety of reasons, many of which were already discussed during the Docket 22-33-EE hearings, so they are not repeated or explored here. The key result of this recent pattern for the purpose of this memo has been that, while expenditures have fallen short of planned budgets, collections have always been set such that the dollar amount of the full budget is collected. The result has been underspending relative to collections, producing a positive fund balance carry over that needs to be returned to ratepayers. Parties to Docket 22-33-EE, most notably the Division of Public Utilities and Carriers, pointed out this recent pattern, and identified this underspending risk as a concern for the 2023 Plan, and which precipitated a proposal to set the electric portfolio budget at $95M rather than the revised budget of $99.4M filed by RIE on November 29th. It was also noted that the desire to protect against underspend risk was not intended to compromise the quality, robustness, or purpose of the EE programs themselves.

It is this tension – protecting against underspend risk on one side, and protecting the robustness of Rhode Island's long-standing, high quality EE programs on the other – that is at the heart of the question considered in this section. Is there a way to mitigate underspend risk while retaining the proposed 2023 Plan goals and associated budgets?

The potential solution considered here essentially consists of breaking the historical connection between the level of collections set at the outset of an EE program year, and the total budget needed to meet the goals contained in the EE Plan for that program year. More specifically, the solution has two key elements:

1) **Retain the filed savings goals and budgets** (subject to correction of any errors identified during Docket 22-33-EE proceedings).

2) **Set collections (and the SBC) at a level that mitigates underspending risk**, such that the absolute dollar amount of expected collections in 2023, as of January 1, 2023, will necessarily be less than the filed budget.

This approach confers several benefits, which the C-Team highlighted during its testimony on behalf of the EERMC during the December 8th hearing. These benefits are summarized below.

- **Benefit 1:** Enables setting collections at the beginning of a program year at a level that mitigates potential underspending risk, especially given the underspend in recent years.
- **Benefit 2:** Allows the prudent collections contemplated in Benefit 1 without compromising the robustness and sustainability of EE programs, as captured in the annual plan goals. This approach also supports the important distinction between past program performance and past ability to spend, and the size of the opportunity for future EE programs to benefit Rhode Island ratepayers and contribute to key state policy goals. This also enables the programs to send a stabilizing signal to the market; namely, that robust and sustainable EE programs continue to be envisioned and supported, despite the recent history of underspending.
- **Benefit 3:** Avoids the potential for a performance incentive mechanism (PIM) windfall for the Company, which could result if budgets and goals were reduced compared to the filed plan (without an appropriately calibrated reduction in the PIM opportunity) to account for the concerns around underspend. If that occurred, and the Company delivered on their originally filed savings levels, it would result in PIM attainment in the over 100% range, even if the benefits delivered are exactly at the level originally filed[3].
- **Benefit 4:** Prevents future instances like the November 29th filing, where savings goals that were subject to an extensive stakeholder review process, and EERMC approval, are updated at a later date based on changes to forecasted program spending capability.[4]

In addition to the benefits described above, the C-Team raised several considerations during the December 8th hearing, which are summarized below. We have re-labeled these 'priorities' in this memo to align with the terminology used in Section II, and to better highlight that, while the list below does overlap to some degree with the benefits summarized above, they are closer to criteria (or inputs) for designing a mechanism of the type contemplated in this section, rather than benefits (or outputs).

- **Priority 1: Retain the goals as filed** (and subject to corrections): In order to achieve Benefit #2 above, it is important to ensure that any mechanism for setting collections separately, and lower than, the filed budget does not result in a risk that the goals for the programs will be reduced at a point later in the year. For example, this might include ensuring that any potential need for approvals for mid-year adjustments to collections do not impinge on program activity or carry a risk that the approved budget could be impacted.
    - One potential avenue to consider here would be to omit mid-year adjustments in collections, and rely on the existing reconciling mechanism, applied in the following

[3] Note that this concern has some nuance. Since the structure of the PIM is sector- and fuel- specific, and a PIM opportunity reduction associated with a budget and goal reduction would need to be carefully calibrated to avoid potentially creating an higher-than-intended PIM earnings opportunity.
[4] This was a significant concern the Consultant Team had with that filing from RIE, which could be alleviated by pursuing priority #4 in this memo.

program year, to manage any difference between the collections level set and actual spend (see Priority 3 for more detail).

- **Priority 2: Retain spending authorization at the filed budget level**, for example by continuing to operate under the existing notification/permission requirements as currently contemplated in the Plan[5]. This priority is listed primarily because it is an important part of ensuring Priority 1 is met. However, a secondary consideration is that, if spending authorization were set in a manner other than what is contemplated in the Plan, it could generate a concern from the Company's standpoint that their PIM earning opportunity might be at risk if they did not feel empowered to spend up to the level needed to achieve their goals and capture the associated PIM opportunity.
- **Priority 3: Avoid mid-year adjustments to the SBC that result in a higher SBC during winter rate periods.** This priority could potentially be met by omitting mid-year adjustments in collections, and rely on the existing reconciling mechanism, applied in the following program year, to manage any difference between the collections level set and actual spend. An alternative approach might be to accept adjustments due to year-to-date underspending (i.e. resulting in mid-year *decreases* in the SBC based on updated forecasted actual spending as of late summer or early fall, so that any appropriate decrease could occur coincident with the winter rate period), while awaiting to account for any overspending (i.e. resulting in an uptick in the SBC) until the following program year's summer rate period, when base rates are lower.
    - Note that the approach described in the paragraph above has only been considered in the specific context of setting collections for a specific EE Plan at a level lower than what would be needed to meet that Plan's full budget. While this approach could be generalized to further applications, such as utilizing the SBC as a tool to help mitigate fluctuations in summer vs winter rates writ large, the C-Team has not carefully considered what the benefits and risks of a more permanent structure of this type might be, and therefore recommends further discussion if a more generalized approach is considered.
        - Consider is the hypothetical extreme of this approach – only setting an SBC in the summer, while reconciling back any underspending during winter months. A cautionary note from this hypothetical extreme would be customer confusion and/or dissatisfaction with a line item on their utility bill that either continues to change sign (positive to negative and back) or appear and disappear. While not a conclusive assessment by any stretch, this hypothetical has been included simply to illustrate that generalizing the proposed approach beyond this application in this program year warrants further consideration.
- **Priority 4:[6] Eliminate post-filing adjustments to goals and budgets driven primarily by changes in the Company's internal forecast of EE program activity** (other types of changes, like corrections of errors identified during regulatory proceedings, are of course not the subject of this priority)**.** In essence, this priority captures the intuition that the Company should not be able to unilaterally revise their goals downward after stakeholder engagement, circulating, and filing

[5] See Section 9.2.6 on Budget Management in the 2023 Plan (Bates page 97), available at: https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-10/2233-EE-RIE-2023EEPlan%209-30-22.pdf

[6] This priority is somewhat specific to the 2023 Plan, though is also aligned with Benefit #4.

a final EE Plan. Each EE Plan in Rhode Island reflects budgets and goals resulting from an extensive, stakeholder-engaged plan development process, including thorough review and assessment from the EERMC and the C-Team. The EERMC and other stakeholders have often joined a settlement of the parties in EE dockets, and it is important to preserve the elements of the filed plan as much as possible for the Commission's consideration and rulings.

- In the case of the 2023 Plan, this Priority would support the Commission considering for approval the goals and budgets originally filed (subject to correction of any errors arising from the discovery process), rather than setting the goals and budgets at the levels associated with the Company's filing on Nov 29th. Collections could still be set at a level consistent with the Division's proposal.

IV. CONCLUSION

In sum, the EERMC sees promise in pursuing mechanisms that are responsive to each of the two questions raised by the PUC, subject to appropriate provisions to ensure possible unintended consequences are appropriately protected against.

The Council's C-Team is prepared to participate in further discussions regarding either or both of these mechanisms at the PUC's discretion.