STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION

IN RE: THE NARRAGANSETT ELECTRIC COMPANY d/b/a RHODE ISLAND ENERGY'S 2023 ANNUAL ENERGY EFFICIENCY AND CONSERVATION PROCUREMENT PROGRAM PLAN	:	**DOCKET NO. 22-33-EE**

REPORT AND ORDER

On September 30, 2022, The Narragansett Electric Company d/b/a Rhode Island Energy (RIE or Company) filed with the Public Utilities Commission (PUC or Commission) its 2023 Annual Energy Efficiency and Conservation Procurement Program Plan (2023 Annual Plan).[1] The Company filed the 2023 Plan as a Settlement by and between the Energy Efficiency and Resource Management Council (EERMC) and the Company.[2]

RIE submitted the 2023 Annual Plan pursuant to the System Reliability and Least Cost Procurement (LCP) statute, R.I. Gen. Laws § 39-1-27.7, and the Least Cost Procurement Standards (LCP Standards), as approved by the PUC on July 23, 2020 in Docket No. 5115.[3] R.I. Gen. Laws

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[1] RIE's 2023 Annual Plan; https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-10/2233-EE-RIE-2023EEPlan%209-30-22.pdf. All filings in this docket are available at the PUC offices, located at 89 Jefferson Boulevard, Warwick R.I. or at https://ripuc.ri.gov/Docket-22-33-EE.

[2] The EERMC also filed a Motion to Intervene in the docket. The Office of Energy Resources (OER) filed a notice of participation as an interested party in the above-captioned proceeding pursuant to RIGL §39-1-27.9. Acadia Center filed a Motion to Intervene in the proceeding, which was granted by the PUC.

[3] *See* PUC Order No. 23890 (August 25, 2020) in Docket 5115; http://www.ripuc.ri.gov/eventsactions/docket/5015-LCPStandards-Ord23890 (8-25-20).pdf. The System Reliability and Least Cost Procurement statute (R.I. Gen. Laws § 39-1-27.7) encourages the investment in cost-effective energy efficiency. Subsection (d)(5) of the statute provides the responsibility to review the filed plan and approve those measures the Commission finds are cost-effective and lower than the cost of acquiring additional supply. The statute also provides a role for the EERMC to review the energy efficiency plans before they are filed with Commission. The EERMC filed the joint pre-filed testimony of Samuel C. Ross, Craig K. Johnson, and Adrian Caesar describing the EERMC's process for engaging in the development of Rhode Island Energy's 2023 Plan. https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-11/2233-EERMC-JointTestimony%2011-04-22.pdf.

The EERMC also filed a Cost Effectiveness Report, finding that, in its view, the Annual Plan was cost effective according to the Rhode Island Test (RI Test) and the Total Resource Cost Test, and projecting the cost to be less than the acquisition of additional supply. *See* Cost-Effectiveness Report: RIE's 2023 Energy Efficiency Plan (Cost Effectiveness Report); https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-10/2233-EERMC-CostEffectReport%2010-12-22.pdf.

§ 39-1-27.7 requires the Company to meet the "electrical and natural gas energy needs in Rhode Island in a manner that is optimally cost effective, reliable, prudent, and environmentally responsible." Section 1.3.A of the LCP Standards states that: "Least-Cost Procurement shall be cost-effective, reliable, prudent, and environmentally responsible. Least-Cost Procurement that is Energy Efficiency and Conservation Procurement shall also be lower than the cost of additional energy supply."

The primary goal of the 2023 Annual Plan is to create energy and economic cost savings for Rhode Island consumers through electric and natural gas energy efficiency, as required by the LCP Statute. Consistent with the LCP Standards, the framework for the program consists of three-year planning periods and savings goals, followed by the development and implementation of annual plans, with the focus on achieving cost-effective energy efficiency. The 2023 Annual Plan covers the third year of the 2021-23 Three-Year Plan.[4]

For the reasons stated in this Order, the Commission approves the 2023 Annual Plan, with certain modifications set forth herein.

I. RIE's Initially Proposed Energy Efficiency Program Plan for 2023

A. Overview of Costs, Benefits and Savings

The 2023 Annual Plan contained proposed savings goals, budgets, funding plans, and a proposed performance incentive mechanism earning opportunity. The 2023 Annual Plan contained a proposed budget for the electric programs of approximately $105.5 million.[5] RIE proposed an Energy Efficiency Program (EEP) charge of $0.00862 per kWh for all customers for

[4] The PUC approved the 2021-23 Three Year Plan in Docket No. 5076. *See* Order No. 24225 (issued September 21, 2021) http://www.ripuc.ri.gov/eventsactions/docket/5076-NGrid-Ord24225 (9-21-2021).pdf
[5] 2023 Annual Plan at 293, Table E-2. This includes $10.1M in proceeds from the ISO New England (ISO-NE) Forward Capacity Market (FCM). *See* Table E-1, 2023 Annual Plan at 292.

effect January 1, 2023.[6] In terms of bill impact, an A-16 residential customer who uses 500 kWh per month would see a monthly bill decrease of $1.88 or -1.2%.

The proposed 2023 Annual Plan contained a proposed budget for the gas programs of approximately $36.9 million.[7] RIE proposed an Energy Efficiency Program (EEP) charge of $1.172 per dekatherm for residential gas customers and $0.648 per dekatherm for commercial and industrial gas customers for effect January 1, 2023.[8]

The proposed EEP charges are significantly less than the 2022 EEP charges:[9]

Rate Category	**2022**	**2023**	**2022-2023 Percent Change**
Gas Residential Charge	0.1354	0.1172	-13%
Gas C&I Charge ($/therm)	0.0886	0.0648	-27%
Electric Charge ($/kWh)	0.01222	0.00862	-29%

The electric budget includes a projected carryover of $32.3 million from underspending in 2022 from the Commercial & Industrial sector.[10] The largest factor contributing to decreases in the EEP electric charge is the change in the fund balance. The fund balance carryovers in the 2023 Annual Plan substantially depresses the proposed 2023 EEP charge from what it would have been had there been no fund balance carryover. The proposed EEP charge for the electric program is 29% less than the 2022 charge, and a significant portion of that proposed decrease is attributable to the projected large positive fund balance carry-over.[11]

[6] *Id.* at 292, Table E-1.
[7] *Id.* at 309, table G-2.
[8] *Id.*at 308, Table G-1.
[9] *Id.* at 21.
[10] *Id.* at 94.
[11] *Id.* at 21.

The Company noted that even though the 2023 budget is less than the 2022 budget, the proposed budget represents an increase in spending in 2023 relative to forecast 2022 year-end spending. RIE explained that it its proposed budget was lower than the 2022 Annual Plan budget due to several factors. First, the forecasted underspending in 2022 prompted the Company to propose a 2023 budget it thought would be more "realistic," with the objective of providing quality programs and administration in the most efficient manner.[12] The Company noted that it was proposing a budget it is confident it can execute, so as to mitigate the risk of over- or under-spending.[13] In addition, the Company stated that it was mindful of its customers' economic conditions and was focused on striking the best balance between delivering the necessary benefits of energy efficiency and maintaining a budget that reduces bill pressure on customers.[14] Consequently, the Company believed that proposing a higher budget for 2023 would not be prudent.[15]

RIE estimated that the 2023 Annual Plan would generate $447.6 million in total benefits over the life of the installed electric, active demand response, and natural gas energy efficiency measures.[16] Of the total $447.6 million benefits, $314.8 million stems from the electric portfolio and $132.8 million is derived from the natural gas portfolio. The electric-funded portion of the 2023 Annual Plan would create savings of 685,209 net lifetime MWhs, 99,358 net annual MWhs, and 14,633 net annual kW from passive energy efficiency.[17] In addition, the 2023 Annual Plan

[12] *Id.* at 12.
[13] *Id.* at 11. Relatedly, the Company noted that its acquisition of the Narragansett Electric Company in 2022 resulted in lower short-term staffing levels in the area of energy efficiency administration. The Company is working to restaff these positions. The Company noted that the acquisition did not impact the mix of measures and programs proposed to be offered or the proposed cost of administering these programs in 2023. Id. at 10.
[14] *Id.*
[15] *Id.* at 12.
[16] *Id.* at 13.
[17] *Id.*

would generate savings of 43,878 net annual kW from active demand reduction measures.[18] The natural gas portion of the plan would save 3,537,835 lifetime MMBtu over the lifetime of installed natural gas measures and 324,879 annual MMBtu.[19] For all fuels (electric, gas, oil, propane) combined the proposals would save 6,778,177 net lifetime MMBtu and 697,959 net annual MMBtu.[20]

RIE represented that the 2022 Annual Plan satisfied the statutory requirements for LCP as set forth in R.I. Gen. Laws § 39-1-27.7 and the standards approved in Docket No. 5015 because it is cost effective, prudent, reliable, environmentally responsible, and because the cost of energy efficiency savings is less than the cost of additional supply.[21] RIE calculated the cost of procuring the lifetime savings for the electric efficiency portfolio at $159.0 million less than if the electric load was met by purchasing additional electric supply, and $52.8 million less than if the natural gas load was met by purchasing additional natural gas supply.[22]

Rhode Island Energy stated that the energy efficiency portfolio will create $2.51 in monetized lifetime benefits for every $1.00 invested in the Plan's electric portfolio and $2.97 in lifetime monetized benefits for every $1.00 invested in the natural gas portfolio.[23] Overall, RIE represented that the Annual Plan would generate lifetime benefits of more than $358.7 million, with $234.6 million in benefits coming from electric and delivered fuels efficiency, passive demand response, and active demand response, and $124 million in benefits coming from natural

[18] *Id.*
[19] *Id.*
[20] *Id.* at 14-15.
[21] *Id.* at 14. The Company describes how the 2023 Plan satisfies these factors for prudency in Section 7.3 of the 2023 Annual Plan.
[22] *Id*. at 26-27. The methodology for calculating Cost of Supply is detailed in Section 7.5 of the 2023 Annual Plan. Each program contained within the electric and gas portfolios is also cost-effective as shown in Tables E-5 - Primary and G-5 - Primary, respectively.
[23] *Id.* at 15 and Attachment 5, Table E-5-Primary and G-5-Primary. A detailed summary of the benefits and costs included in the Rhode Island Test are included in Attachment 4 of the 2023 Annual Plan. These benefits will flow to all Rhode Islanders. Tables E-5 and G-5 compare the RI Test results without economic benefits and with economic benefits included using the multipliers as applied in the past two annual plans.

gas efficiency.[24] The Company further asserted that the investments made to achieve these savings would add $358.9 million to Rhode Island's state gross domestic product.[25]

RIE calculated that an average residential electric customer on the A-16 rate would see a monthly bill decrease of $1.88 or -1.2%, while an average residential electric customer on the A-60 rate with a 25% discount would see a monthly bill decrease of $1.40 or -1.2%.[26] An average residential gas customer on the Residential Heating rate would see an annual bill decrease of $15.86 or -1.0%. An average residential gas customer on the Residential Heating Low Income rate would see an annual bill decrease of $11.89 or -1.1%.[27]

B. Rhode Island Energy's Initial Proposals for the 2023 Annual Plan

The 2023 Annual Plan identified the energy savings goals for 2023 and described the detailed strategies, programming, and investments the Company proposed to undertake to achieve these goals, in pursuit of the overarching goals, savings, and benefits outlined in the 2021 -2023 Three-Year Energy Efficiency Plan. RIE pointed out several differences between the savings goals proposed in the 2023 Annual Plan and the 2021-23 Three-Year Plan and noted several keys drivers for these differences. First, the Company noted that budgets for 2023 are lower than anticipated in the Three-Year Plan as the Company is attempting to balance concern about the rising cost of energy during a period of economic uncertainty with its energy efficiency objectives. Second, costs to acquire energy efficiency per lifetime MMBtu and lifetime kWh are higher in 2023 than anticipated in the Three-Year Plan. Supply chain disruptions and inflation are increasing the cost per unit savings for 2023, resulting in fewer savings being achieved for every dollar spent.

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[24] *Id.* at 48. Total benefits do not include quantified economic benefits.
[25] *Id*. at 48-49.
[26] *Id.* at 19. An average electric residential customer means a customer who consumes an average of 500 kwh per month.
[27] *Id.* at 20. An average gas residential customer means a customer who consumes an average of 845 therms per year.

Additionally, claimable savings in the electric portfolio have been influenced by measure mix and evaluation results, most significantly in C&I lighting where evaluation results significantly reduced the claimable measure lives by approximately 40% compared to assumptions used in the Three-Year Plan. Finally, differences in benefits are also attributable to the application of avoided costs from the 2021 Avoided Energy Supply Component Study (AESC 2021), completed as an update and replacement of the AESC 2018 Study that provided the monetization of most benefit categories in the Three-Year Plan.[28]

An overview of specific programs was included in Tables E-2 and G-2 of the filing and the specific programs were set forth in detail within the proposal.[29] The Commission will not re-state all the programs here which have undergone extensive review in prior years. The Commission emphasizes that the absence of any substantial discussion in this Order regarding many of the programs in the filing should not be construed as meaning that they were not evaluated by the Commission. It is simply a matter of necessity that the Order would focus on those matters where the Commission found discussion or modifications to be needed. Nor should it be construed that the Commission has reviewed and approved every program, measure or strategy contained in the filing. The Commission's review – while thorough and extensive – is constrained by the size of the filing and the limited time that the Commission has to review it.

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[28] *Id.* at 55-56.

[29] The non-income eligible residential programs are: (1) Residential New Construction; (2) Energy Star® HVAC; (3) EnergyWise; (4) EnergyWise Multi-Family; (5) Energy Star® Lighting; (6) Residential Consumer Products; (7) Home Energy Reports; (8) Residential ConnectedSolutions; (9) Energy Efficiency Education Programs; (10) Residential Pilots; (11) Community Based Initiatives – Residential; and (12) Comprehensive Marketing – Residential. The income eligible residential programs are: (1) Single Family – Income Eligible Services; and (2) Income Eligible MultiFamily. The commercial and industrial programs are: (1) Large Commercial New Construction; (2) Large Commercial Retrofit; (3) Small Business Direct Install; (4) Commercial ConnectedSollutions; (5) Commercial Pilots; and (5) Community Based Initiatives – C&I. *See* 2023 Annual Plan at Tables E-2 and G-2 and Attach. 1 and 2.

Attachment 1 of the Annual Plan provides detailed descriptions of the residential energy efficiency and active demand programs, including detail on the market (customer/building types) targeted, eligibility requirements, offers, the implementation and delivery design, and new items for 2023.

The main focus of the remainder of this written Order is to address a limited number of matters which were reviewed in detail by the Commission in the course of the proceedings this year. These include budget issues, the performance incentive mechanism, and income-eligible heat pump installations. Immediately below is a summary of the information that was included in RIE's filing.

i. Initially Proposed Program Budget

The Company initially proposed energy efficiency portfolio budgets for 2023 that were slightly lower than the final approved budgets for 2022. In developing the 2023 Annual Plan, RIE claims to have focused on finding the best balance between delivering the necessary benefits of energy efficiency and maintaining a budget that reduces bill pressure on customers given present economic realities affecting Rhode Island. The Company asserted that its approach in developing the budget for 2023 was consistent with the prudency requirements of the LCP Standards.[30] The Company explained that the 2023 budgets for electric and natural gas efficiency investments are dependent on a number of projections that inform the amount of funding, including projections of electricity and natural gas sales, year-end 2022 large C&I program commitments, capacity payments received from ISO-NE (electric only), and forecast year-end 2022 spending.[31]

To collect these funding sources for the 2023 electric programs, the Company initially proposed a charge on the customers' bill labeled "Energy Efficiency Charge" at $0.00862 per kWh, composed of the existing energy efficiency program charge of $0.01222 per kWh plus a fully reconciling funding mechanism charge of ($0.0036) per kWh in accordance with the

[30] The budget is segmented into three sectors: residential income eligible, residential non-income eligible, and commercial and industrial. Proposed sector and program budgets are provided in Attachment 5 Electric EE Program Tables, Table E-2 and Attachment 6 Gas EE Program Tables, Table G-2. A comparison of these proposed budgets to the 2022 budget is provided in Attachment 5, Table E-4 and Attachment 6, Table G-4.
[31] The sources of funding and the amounts of the funding proposed for the 2023 energy efficiency programs are shown in Table E-1 for electric programs and Table G-1 for natural gas programs.

requirements of R.I. Gen. Laws § 39-1-27.7. To collect these funding sources for the 2023 gas programs, the Company initially proposed a charge on the customers' bill labeled "Energy Efficiency Charge" at $1.172 per dekatherm for residential customers and $0.648 per dekatherm for non-residential customers, composed of the existing energy efficiency program charge of $1.354 per dekatherm plus a fully reconciling funding mechanism of ($0.182) per dekatherm for residential customers and the existing energy efficiency program charge of $0.886 per dekatherm plus a fully reconciling funding mechanism of ($0.238) for non-residential customers in accordance with the requirements of R.I. Gen. Laws § 39-1-27.7.[32]

The decrease in the proposed EE Program Charge per kWh was driven by a positive 2022 year-end fund balance forecast of $32.3M. The decrease in the C&I and Residential Program Charge per dekatherm was driven by the positive 2022 Year End Gas Fund Balance forecast of $1.7M. The fund balances include a $2,489,697 credit from shareholder funds, with interest, to the electric and gas fund balances which the Company made in May and June 2022 based on the Company's involvement in Docket 22-05-EE.[33]

ii. Performance Incentive Mechanism

RIE proposed to continue the structure of the performance incentive mechanism that was approved by the PUC in Docket No. 5076.[34] The Company has proposed one change - removing statutorily mandated OER and Rhode Island Infrastructure Bank ("RIIB") transfer costs from PIM eligible costs because the Company believes that these costs do not necessarily influence Company energy efficiency program investments.[35] The statutes authorizing both transfers provide that RIIB and OER can utilize the transferred funds for projects and initiatives other than energy efficiency

[32] *Id.* at 57. See also Attachment 5, Table E-1 and Attachment 6, Table G-1 for calculation of each charge.
[33] *Id.* at 59.
[34] *Id.* at 27.
[35] *Id.* at 27-28.

programs administered by the Company.[36] Therefore, the Company posits that neither transfer should be included in a PIM that is focused specifically on guiding the Company's investments of energy efficiency funds to create net benefits to customers. The Company is not proposing the same exclusion for the funds transferred to the EERMC from PIM-eligible costs.[37]

The Company sought electric performance incentives of $3.5 million (through the Commercial & Industrial (C&I) sector and the non-income eligible sectors) and natural gas performance incentives of $0.72 million (also all through the C&I sector).[38] The electric design performance payout is a 3.3% increase over the level set by the Commission in 2022. The 2023 proposed electric incentive also differs from the 2022 incentive in that the 2022 electric incentive was earned in the C&I sector only. The natural gas design performance payout is a 27.8% decrease from the level set by the Commission in 2022.[39]

The proposed performance incentive values were calculated by multiplying the 2022 payout rates approved by the Commission by 2023 PIM-eligible net benefits. The Company proposed to maintain the same proportion of Plan benefits that accrue to customers in order to continue to align utility performance with the public interest. In 2023, the Company proposed an electric portfolio payout rate of 10.1% of 2023 planned PIM eligible net benefits and a gas portfolio payout rate of 11.7% of 2023 planned PIM-eligible net benefits. Both percentages are the same rates used to calculate the 2022 payout.[40]

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[36] Rhode Island General Laws Title 39, Chapter 2, Section 39-2-1.2, Article (n) states that the RIIB transfer, "shall be eligible to be used in any energy efficiency, renewable energy, or demand-side management project financing program administered by the Rhode Island Infrastructure Bank notwithstanding any other restrictions on the use of such collections set forth." Article (j) of the same section states that the OER transfer can be used, "for activities associated with 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 office of energy resources."
[37] 2023 Annual Plan at 101. See R.I.G.L. Section 39-2-1.2(j).
[38] *Id.* at 28; Tables E-8C and G-8C.
[39] *Id.* at 28.
[40] *Id.* at 28-29.

iii. Income-Eligible Heat Pump Installations

The Company proposed that oil/propane heating systems that are identified as near end-of-life be replaced with efficient electric heat pump systems, when feasible, in the income eligible multifamily program.[41] The Energy Efficiency funding will be used to support these heating system replacements and leveraged funding will also be deployed if available. The Company will work with supporting stakeholders (OER, Rhode Island Department of Human Services, United States Department of Energy, and others) to identify funding that can be leveraged to replace oil/propane heating systems with high efficiency heat pumps.[42]

RIE represented that it has been approached by many RI housing authorities with original heating systems from the 1960's that are entering the end of useful life. The Company claims that it was approached by one housing authority with a specific failed heating system and that other similar systems at other housing authorities may also be approaching end of useful life. The Company proposes to replace eligible systems as part of the income eligible multifamily program. The Company asserts that it would benefit the residents of the housing authorities with lower heating costs while lowering climate emissions as supported by the Act on Climate.[43]

iv. Social Cost of Carbon

The Company proposed using a hybrid approach for quantifying the non-embedded cost of carbon by leveraging both the New England Marginal Abatement Cost ("MAC") of the electric sector and the Social Cost of Carbon ("SCC"), the latter of which is adjusted to reflect an update recommended by a Supplemental Study to AESC 2021 released by Synapse Energy Economics in

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[41] The Company plans to continue to offer enhanced incentives for customers installing heat pumps using allocated RGGI funds from OER, to the degree that those funds extend into 2023. Id. at 40. The Company also plans to coordinate with OER on the new $25M heat pump program to facilitate the customer experience, ensure that all available incentives are communicated, and explore synergies in implementation. Id.

[42] *Id.* at 29.

[43] *Id.* at 30, 120.

October 2021.[44] This hybrid approach employs the New England MAC method for energy efficiency measures that involve new fossil fuel process heating, space heating, or water heating equipment regardless of the customer's prior heating source and employs the SCC method for all other measures.

This differs from the method used in prior years. The Company believes that using the SCC more closely aligns with Rhode Island's Act on Climate ambitions for carbon reduction by 2050.[45]

v. External Funding Sources

The Company recognized the increased external funding that may be available to provide additional support for the budget proposed for the 2023 energy efficiency program. In particular, the Company noted that OER is currently developing a heat pump program using funds allocated under the state budget. The Company stated that it intends to work with OER to optimize program delivery to their common customer markets. Similarly, the Company stated it intends to coordinate closely with state agencies regarding the designated uses for federal funding and leverage that funding, if allowed and practical, as a driver of additional participation in the 2023 energy efficiency program.[46]

The Company also has previously received Regional Greenhouse Gas Initiative (RGGI) funding allocated to the State of Rhode Island based on quarterly auctions for emissions allowances. In 2022, a portion of RGGI proceeds was allocated to the Company for three specific work area: enhanced incentives for deliverable fuel to electric efficient heating equipment,

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[44] In 2023, as in prior years, the Company will primarily measure performance through lifetime energy savings. The Company will also track net annual and lifetime all-fuel MMBtu (electric, gas, oil, and propane) savings for both the electric and gas portfolios. The Company believes that the tracking effort will provide useful information and benchmarking for state efforts to support decarbonization of the thermal energy sector and better support State and Company greenhouse gas reduction goals now and in the future. Id. at 54.

[45] *Id*. at 31-32.

[46] *Id.* at 35.

weatherization of small businesses, and enhanced incentive for moderate income residential customers. Funds that were not spent in 2022 will be rolled over to 2023.[47]

vi. OER, RIIB, and EERMC Transfers

Rhode Island General Laws § 39-2-1.2 sets forth the provisions for both the EERMC and OER to receive ratepayer funding for certain stipulated activities. RIE proposed allocating approximately $1.13 million to the EERMC.[48] Consistent with recent revisions to the LCP statute RIE allocated $5 million to the Rhode Island Infrastructure Bank (RIIB).[49] RIE proposed allocating approximately $3.74 million from the electric budget and $1.26 million from the gas budget to RIIB.[50]

On November 22, 2022, Commission staff convened a workshop to examine EERMC's budget request. Following the workshop, the EERMC submitted a revised budget request for $1,096,299.14 which the Company incorporated in its updated budget proposal filed with the Commission on November 29, 2022.[51]

II. Other Parties Positions

The Division and EERMC filed pre-filed testimony and their positions are summarized below. OER was a party to this docket and filed comments but did not file any supporting testimony.[52]

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[47] *Id.* at 96.
[48] *See Id.* at 293, 309; Tables E-2 and G-2. Rhode Island Energy proposed an allocation of ratepayer dollars to OER of approximately $1.7 million – an amount equal to the full statutory cap. *See* R.I. G.L. § 39-2-1.2.
[49] *See* R.I. Pub. Laws Ch. 224 (2021): http://webserver.rilin.state.ri.us/PublicLaws/law21/law21224.html
[50] *See* RIE Updated Budget Proposal, Tables E-2 and G-2.
[51] EEMC's updated budget request was a decrease of $37,475.86 from its original request. *See* EERMC Revised Budget Request located at https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-11/2233-EERMC-RevBudgetTable%2011-23-22.pdf.
[52] The Acadia Center also submitted written public comment, a copy of which is located at https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-11/2233-AcadiaCenter-PublicComments%2011-23-22.pdf.

A. Division of Public Utilities and Carriers' Position

The Division reviewed the 2022 Annual Plan and the Provisional Plan and submitted the joint testimony of Joel Munoz, Tim Woolf, and Jennifer Kallay.[53] The Division reviewed the 2023 Annual Plan to ensure: (1) compliance with R.I. Gen. Laws § 39-1-27.1 (Least Cost Procurement Statute); (2) adherence to the LCP Standards; (3) advancement of the State of Rhode Island's energy policies and the goals of R.I. Gen. Laws § 42-6.2-2 (Act on Climate); and (4) promotion of the general interest and welfare of Rhode Island ratepayers.[54] The Division found that the 2023 Annual Plan is consistent with the LCP Statute and LCP Standards and supports the Act on Climate, particularly in meeting GHG reduction goals.[55] The Division also supported the Company's PIM proposal, including the payout rates and the removal the OER and RIIB transfers from the PIM-eligible costs.[56]

However, the Division recommended several changes. First, the Division recommended that the Company's proposed change in methodology for calculating the value of non-embedded GHG emissions should be rejected for the 2023 Annual Plan. Instead, the Division recommended that the Company complete the three-year plan cycle using the same methodology used in 2022 and should update the RI Test and TRC test benefit-cost ratios and the cost of supply in the 2023 Annual Plan accordingly.[57]

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[53] A copy of their joint testimony (Div. Jt. Test.) is available at https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-11/2233-DIV-Munoz-Kallay%2011-4-22.pdf. Mr. Munoz is a Rate Analyst employed by the Division. Mr. Woolf and Ms. Kallay are employed by Synapse Energy Economic Inc. (Synapse), the Division's consultant.
[54] Div. Jt. Test. at 5-6.
[55] *Id.* at 8.
[56] Id. at 10. The Division was unclear as to how RIE proposed to treat the transfer to the EERMC.
[57] Id. at 9. The Division recommended that discussions of a proposed new methodology for calculating the value of GHG emissions should be deferred until early 2023, to allow for a thorough vetting and analysis by all parties, with a goal of resolving for implementation in the next three-year plan. Id. at 9-10. The Division also took issue with the Company's application of inflationary impacts to costs and not to benefits and recommended that this issue also be reviewed in the next three-year plan. Id.

Further, and more significantly, the Division recommended that Commission consider reducing the overall budget for 2023 to be aligned with historical spending in 2020, 2021, and 2022. The Division stated that, based on the Company's performance in recent years, it did not have confidence that RIE presently has the ability to utilize the proposed 2023 budget.[58] The Division specifically noted that the Company projects an end-of-year balance for the 2022 EE Plan of $32 million, coming exclusively from the Commercial & Industrial sector. The Company has not identified with any specificity what incremental steps or activities it will undertake to effectuate substantial and necessary course corrections to right-size its activities to match its proposed budget in 2023. The Division noted that it was not criticizing the Company's efforts and that the fund balance was the result of a combination of post-pandemic realities such as inflation, supply-chain delays, labor issues, and unrest across the globe affecting energy markets.[59] In the Division's opinion, the ripple effects of inflation, workforce shortages, and supply chain issues will likely have the same impact relative to budgetary spend on the 2023 EE Plan that it did on the 2020, 2021, and 2022 EE Plans.[60]

The Division described that the average spend on the electric energy efficiency plans over the 2020-22 period was about $92.7 million with the average percentage of actual budget spend to proposed budget at 86 percent. The average spending in the three years prior to the pandemic (2017, 2018, and 2019 EE Plans) was about $91.4 million. As such, the Division recommended that this plan year may present an opportunity for the Commission to reset and right-size the budget

[58] Based on the Company's filed Year-End Reports, the 2020 EE Plan had a year-end balance of almost $23 million, the 2021 EE Plan had a year-end balance of over $20 million.
[59] Id. at 24.
[60] Id. at 26.

for post-pandemic conditions to be aligned with realistic spending projections, based on the year-end results of 2020, 2021, and 2022.[61]

B. Rhode Island Energy Efficiency and Resource Management Council's Position

The EERMC submitted the testimony of Samuel Ross, Senior Consultant at Optimal Energy (Optimal), the prime contractor for the EERMC's Consultant Team, and Craig Johnson, a consultant at Optimal.[62] Mr. Ross and Mr. Johnson describe the EERMC's process for finalizing its 2022 budget following the PUC's rulings on Docket 5189 and to describe its process for developing its proposed budget for 2023. Mr. Ross and Mr. Johnson submitted additional testimony describing the EERMC's process for engaging in the development of RIE's 2023 Plan.[63] This testimony includes a high-level overview of the review and feedback provided during the plan development process, as well as more specifics around the EERMC's engagement in the review of planned costs, methodology for quantifying the cost of carbon, and the review process of the 2023 Plan Technical Reference Manual.

C. Office of Energy Resources

OER submitted written comments to the Commission supporting the 2023 Annual Plan and encouraging the Commission to approve it as filed.[64] OER did note a couple of areas that it believed could be improved, specifically noting a shortage of staff dedicated to energy efficiency planning. OER stated that it would like to see the Company make it a priority to quickly fill open positions and to show improvement in their in-house energy efficiency capacity moving forward.[65]

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[61] *Id.* at 26. In its second corrected response to PUC Data Request 1-1, the Division reiterated that collections from customers should align with the spending necessary to meet customers' demand for energy efficiency measures.

[62] A copy of their October 26, 2022 testimony is available at https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-10/2233-EERMC-Testimony%2010-26-22_0.pdf.

[63] A copy of their November 4, 2022 testimony is available at https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-11/2233-EERMC-JointTestimony%2011-04-22.pdf.

[64] OER's written comments are located at https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-11/2233-OER-Letter%2011-03-2022.pdf.

[65] *Id.* at 2.

III. RIE's Reply Testimony and Corrected and Revised Budget Proposal

A. RIE's Reply Testimony

On November 14, 2023, RIE filed the Joint Reply Testimony of David Moreira, Brett Feldman, Angela Li, Joshua Kessler and Michael O'Brien Crayne.[66] Initially, the Company identified areas where the Company and the Division were in agreement concerning the 2023 Plan - specifically that the 2023 plan is consistent with the LCP Standards, supports the Act on Climate, and that the proposed PIM is consistent with the Commission's guidance in Order No. 24225 as part of Docket 5076 and Order No. 24440 as part of Docket 5189.

However, the Company disagreed with the Division's concerns regarding the Company's ability to utilize the proposed 2023 budget. The Company believed that its C&I spending would be higher in 2023 than in 2020 through 2022 because it has a strong pipeline heading into 2023. The Company also believed that rising energy supply costs would generate greater interest in energy efficiency among customers as a means of mitigating cost increases. Finally, the Company expected to ramp up programs and marketing activity and to hire additional Sales staff to cover underserved segments, particular "mid-sized customers" with 1,000,000 to 2,000,000 kWh per year of consumption, generating additional savings from these customers and utilizing a commensurate amount of budget.[67]

The Company did not propose any changes to its proposed budgets but stated that it was evaluating its spending forecast for 2023 in light of actual spending in 2022 to determine whether any adjustments to the 2023 Plan budget were warranted. The Company stated that it would

[66] https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-11/2233-RIE-ReplyTestimony%2011-14-22_0.pdf.
[67] *Id.* at 3-5.

promptly inform the Commission and parties if it determines that an adjustment to the 2023 EE Plan budget is warranted upon completion of this evaluation. [68]

The Company also withdrew its proposal to use the SCC methodology when estimating the value of greenhouse gas emissions in the 2023 EE Plan and instead proposes to continue to use the New England MAC methodology. The Company stated that although it believes that this two-tiered approach to the valuation of avoided carbon emissions has merit for Rhode Island and should be adopted, the Company also recognizes that the question of how to reflect the avoided cost of meeting state carbon reduction mandates in energy efficiency program planning is a policy question. The Company also noted that the use of the MAC method of quantification would not materially impact the Company's proposed 2023 EE Plan.[69]

Lastly, the Company clarified that it was not seeking to remove EERMC regulatory costs from its proposed 2023 EE Plan budget. However, the Company is proposing to remove the legislatively mandated transfers to the Rhode Island Infrastructure Bank (RIBB) and OER from PIM eligible costs. The Company explained that pursuant to Rhode Island law, the RIIB and OER legislative transfers can be used for projects and initiatives other than energy efficiency programs administered by the Company. Therefore, neither transfer should be included in a PIM which is focused specifically on guiding Company's investments of energy efficiency funds to create net benefits to customers. The Company is not proposing the same exclusion for the funds transferred to the EERMC because the primary focus of the EERMC is planning and reviewing the Company's EE programs.[70]

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[68] Id. at 7.
[69] *Id.* at 8-9.
[70] *Id.* at 9-10.

B. RIE's Updated Proposed Budget and Corrections

On November 29, 2022, the Company filed an updated proposed budget for the 2023 Annual Plan first filed on September 30, 2022.[71] In addition to an updated budget proposal, the Company also made twelve corrections to the 2023 Annual Plan.

The Company revised its proposed budget and savings targets downward for the C&I sector to reflect reduced levels of anticipated program activity. The C&I Program Implementation budget was reduced by $2.4 million (5.2%), and savings were reduced by 17,058 lifetime MWh (3.6%). The Company further explained this reduction in response to Commission data requests.[72] In developing this revised 2023 spending forecast, the Company stated that it undertook a detailed analysis of its 2022 spending forecast, then adjusted the forecast to account for planned activities and factors expected to impact 2023 spending relative to 2022.[73] The Company then used the results of this analysis in developing an updated budget proposal. Specifically, the Company forecasted that energy efficiency incentive spending would increase by $7.5 million, and that non-incentive spending would increase by $2.9 million in 2023. Overall, the Company forecasted a $10.4 million increase in C&I Electric EE spending compared to 2022 actual spending, which represented a $4.6 million (10.1%) reduction from the C&I Electric EE budget approved for the 2022 Plan and a $1.1 million increase over actual spending levels in 2021.[74]

The Company also updated and corrected the projected fund balance for the electric program. The Company increased its projected fund balance for the electric program to $40.8

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[71] A copy of Rhode Island Energy's Corrections and Updated Budget Proposal is located at https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-11/2233-RIE-UpdatedBudget%2011-29-2022.pdf.
[72] *See* Responses to PUC 5-26 through 5-28; https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-12/2233-RIE-DR-PUC5%2012-01-22.pdf.
[73] The Company's spending forecast for the C&I sector in the 2022 EE Plan year decreased by $5.1 million. *See* Response to PUC 5-28.
[74] *See* Response to PUC 5-26.

million.[75] This fund balance amount includes unspent funds from the 2022 electric program and a $1,859,499 credit from shareholder funds, with interest, which the Company made in January, May, and June, 2022 based on the Company's involvement in Docket 22-05-EE. The fund balance also includes $5.0 million in 2021 regulatory funds that were initially allocated to the RIIB for program year 2021 but were not transferred to RIIB.

IV. Discovery, Hearing and Findings

The Commission conducted a comprehensive and in-depth review of the 2023 Annual Plan. In conducting this review, the Commission issued extensive pre-hearing and post-hearing discovery to RIE and the parties, convened 2 days of hearings, and conducted several open meetings.[76] A significant portion of the discovery and hearing in this docket was focused on addressing the 2022 program year fund balance and setting the appropriate budget and collection charge for the 2023 program year.

A. Discovery and Hearing

The Commission held two days of hearings on December 6 and 8, 2022.[77]

Company witnesses testified that, since the filing of the proposed budgets, the Company and OER had signed a new memorandum of understanding allowing the Company to continue to utilize RGGI funds that OER had previously provided. Consequently, some proposed program expenses, such as the 100% moderate income weatherization incentives offered through the electric and gas EnergyWise programs, would now be funded with RGGI funds rather than ratepayer funds.[78]

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[75] *See* Corrections and Updated Budget Proposal, Table E-1.
[76] The Commission also served data requests to the Division, OER, and the EERMC.
[77] The following witnesses testified for Rhode Island Energy: Brett Feldman, manager of customer energy management group; David Moreira, senior manager of the electric and gas connections team; Angela Li, supervisor of low/moderate income residential energy efficiency programs; Joshua Kessler, lead specialist; Michael O'Brien, program strategy analyst; and Jeremy Newberger, Associate Director of Guidehouse.
[78] Hr'g Tr. at 93-100 (Dec. 6, 2022); see also RIE Response to PUC 1-28.

The Commission also questioned the Company about the need for the increased Innovation Pipeline spending. The Company had described the Innovation Pipeline as "not a specific demonstration but rather a budget to enable the Company to fund emerging ideas that arise during the course of the year."[79] At hearing, the Commission questioned the Company as to why the programs were not planned and funded through the annual planning cycle. The Company described that the projects funded through this program involved initiatives where speed was "desired rather than needed."[80]

Relatedly, the Commission questioned the Company about its ability to spend its proposed EM&V budget. The Commission noted that the Company's proposed budget was higher than the Company had spent in previous years. The Company had explained in discovery that its inability to spend the prior budgets was due to delays caused by contractors.[81] However, at hearing the Company explained that the delays were from a combination of contractor delays and internal delays within the Company.[82]

Regarding the overall budget, the Commission had issued a data request to the Division asking if the Division had a recommendation as to what the right-size budget should be for 2023. The Division responded that its primary goal of right sizing the budget was to ensure that the Company collects the appropriate amount of revenue from customers at the appropriate time and was not intended to direct the Company to redesign their programs or to curtail their efforts to implement cost-effective programs that meet customers' demand for energy efficiency services.[83] The Division recommended a right-sized budget for the 2023 EE Plan Electric Budget of

[79] RIE Response to PUC 1-63.
[80] Hr'g Tr. at 121-124 (Dec. 6. 2022).
[81] RIE Response to PUC 3-8.
[82] Hr'g. Tr. at 138-142 (Dec. 6, 2022).
[83] *See* Division's Second Corrected Response to PUC 1-1; https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-12/2233-DIV-DR-PUC2-Corrected.pdf

$95,000,000, or 96% of the Company's proposed 2023 Electric Implementation Budget. The Division arrived at that figure by examining the budgets and spending levels for the 2020, 2021 and 2022 EE Plan Years to determine a potential funding level for 2023. The Division noted that in one of the COVID years, Program Year 2021, the Company spent $95,000,000. The Division further noted that many of the factors which have negatively affected the EE program in the prior three years - supply chain issues, labor constraints, inflation, and higher interest rates for commercial customers - remained problematic. The Division also noted that the Company's EE team is in a reorganizing and rebuilding mode. As such, the Division recommended the right-sizing adjustment so that collection from ratepayers will realistically align with the Company's recent ability to spend its allocated budgets.[84]

At hearing on December 8, 2022, the Commission posed two questions to RIE and the parties:

1. Whether to approve two different System Benefit Charges for effect January 1 and April 1, 2023 to expedite the return of the existing Energy Efficiency fund balance to customers over the months of January, February and March 2023; and

2. Whether to decouple the Energy Efficiency budget from the approved System Benefit Charge for collection of the Company's forecasted expenditures for 2023 so that the Company would collect some amount less than the forecasted expenditures.

In response, the Company stated that it was agreeable to both proposals under the circumstances presented in this docket.[85]

With respect to the approval of two seasonal rates, the Company stated that the proposed bifurcated rate structure would return the Energy Efficiency fund balance to ratepayers quicker than approval of a year-long rate that would return the fund balance to customers over the entirety

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[84] *Id.*
[85] *See* RIE's December 14, 2022 correspondence o the Commission, a copy of which is located at https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-12/2233-RIE-Resp-PUC%2012-14-22.pdf.

of calendar year 2023. This accelerated fund balance reconciliation would also provide relief to customers at a time of year when heating costs and electricity supply costs are higher.

The Company also agreed that, due to the facts and circumstances present in this docket, setting the approved collections through the System Benefit Charge at a level that is lower than the proposed 2023 EE Budget setting collections would not place ratepayers at undue risk. The Company acknowledged that the global pandemic, supply chain disruptions, inflationary pressures, rising energy costs and interest rates have contributed, and will continue to contribute, to uncertainty with respect to customers' demand for measures incentivized through the Energy Efficiency program. At the same time, the Company shares stakeholders', including the EERMC, goals of maintaining the robustness of the 2023 Annual Plan.

The Company believed that the Division's proposal to reduce collections posed little risk to ratepayers as any potential under-recovery would be relatively modest. Therefore, the Company's position was that the Commission should approve the following budgets and collections for the 2023 Energy Efficiency Plan year:

	Total Budget $(000)	**Collections $(000)**
Electric	$102,661.7	$98,286.3
Gas	$36,898.0	$36,898.0

The proposed budgets reflect the implementation budgets submitted in the Company's November 29, 2022 filing which the Company viewed as the most accurate forecast of 2023 implementation spending. The Company proposed to reconcile any under-recovery in next years' annual Energy Efficiency filing, or, if an under-recovery become significant, through an interim System Benefit Charge adjustment.

The Division also submitted written post-hearing comments addressing the Commission's questions.[86] The Division reiterated its position that the right size for the electric budget should be $95,000,000 plus the $3,286,300 performance incentive. However, the Division stated that it was amendable to the Company maintaining its proposed budget level - but limiting the funding to the Division's proposed budget level. The Division also proposed that if the Company anticipates spending more than the Division's proposed budget level, then the Company should notify the Division and Commission by June 30, 2023. The Division also recommended that the Commission the Commission should flow back $15 million of fund balance to ratepayers over the first quarter of 2023. The Division believed this proposal would provide rate relief to customers during the period of high energy prices while also preventing the SBC from exceeding any previously approved SBC charge for the remaining nine months of 2023.

The EERMC also submitted written responses to the Commission's questions.[87] In response to the Commission's inquiry regarding the fund balance, the EERMC stated that the Commission should focus on three priorities. First, the SBC should be designed to meet the full collections, although not necessarily the full budget, for 2023. Second, the 2022 fund balance should be returned to ratepayers quickly. And three, the Commission should try to limit upward pressure on the SBC during the winter months due to the potential for high winter supply rates. The EERMC was also in support of the option to set collections at a lower amount then the approved budget. EERMC specifically noted that approving a higher budget would send a stabilizing signal to the market – that robust and sustainable EE programs continue to be supported, despite the recent history of underspending.

[86] A copy of the Division's December 14, 2022 written comments is available at https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-12/2233-DIV-PostHrg-Statement%2012-14-22.pdf
[87] A copy of the EERMC's December 12, 2022 written comments is available at https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-12/2233-EERMS-BSCComments%2012-12-22.pdf

B. Findings

On December 20, 2022, the Commission convened an open meeting and engaged in an extensive discussion of the hearing and discovery undertaken by that point.

i. Electric Resistance to Heat Pump Conversions

As an initial matter, the Commission took notice of the RI Energy Efficiency Market Potential Study prepared by Dunsky Energy Consultants. This study was prepared for the Energy Efficiency Resource Management Council (EERMC) and filed in Docket No. 5023.[88] The Dunsky study found that electric resistance to heat pump conversions was the number one residential and residential low-income electric energy measure during the period 2021-2026. The study also indicated that the energy efficiency program could ramp up over three years (from 2021-2023), to a point where the program would be conducting 750 electric resistance to heat pump residential conversions per year, with about 75% in non-income eligible residences and about 25% in income-eligible residences. The Dunsky study found that approximately 7% of Rhode Island residential customers heat their home with electric resistance, similar to the 8% figure cited by the company's witness.

The Commission directed the Company to file with the Commission, the EERMC and the Division, within 60 days, a plan for ramping up to 750 electric resistance to high efficiency heat pump conversions annually within the next three years. Approximately 25% of those conversions should be in income eligible residences. The Commission directed the Company to include a plan for identifying electric resistance customers, identifying critical challenges, and proposing methods to overcome those challenges. The Commission expects the Company to achieve the 750

[88] A copy of the RI Energy Efficiency Market Potential Study prepared by Dunsky Energy Consultants in Docket No. 5023 is located at https://ripuc.ri.gov/sites/g/files/xkgbur841/files/eventsactions/docket/5023-EERMC-Targets-Yrs2021-2032Memo---Slides_2020_03_23.pdf

benchmark. If the Company believes that 750 is not possible, then the Company can propose a different number and provide evidence to justify that number. The plan should include any incremental electric resistance to heat pump conversion incentives, and any additional spending, that the Company can include in the program year 2023 energy efficiency plan. The plan should also include any adjustments to the performance incentives mechanism for any additional expenses or savings the company would realize.

ii. Budget Adjustments

The Commission made a series of budget adjustments to reallocate money for the electric resistance to heat pump conversions. First, the Commission directed the Company to reallocate $1,092,000 million, specifically $900,000 from the income eligible multi-family and $192,000 from income eligible single-family, from the fuel switching program to electric resistance to heat pump conversions. Second, the Company was directed to reallocate $93,750 from the electric innovation pipeline, specifically $31,250 from the C&I innovation pipeline and $62,500 from the Residential innovation pipeline, toward electric resistance to heat pump conversions. The Commission determined that RIE had not shown a specific need for these funds and had not spent any of the electric Innovation Pipeline budget for 2022.[89]

Third, the Company was directed to reallocate $37,132 from the electric moderate-income incentives to the electric resistance to heat pump conversion study. This budget amount is no longer needed to provide moderate-income incentives because the Company indicated that RIGG funds are available for this purpose. Finally, the Company was directed to maintain their EM&V budget at $2.4 million and reallocate the difference to the electric resistance to heat pump conversion study. The Commission noted that $2.4 million is the highest amount that the Company

[89] *See* RIE Response to PUC 3-22.

has actually spent on its EM&V program in the last five years and is the same amount that the Commission approved in 2022.

The Commission directed the Company to show the reallocated amounts as a new line under regulatory on Table E-2 and subsequent tables when they submit their compliance filing.

The Commission also directed the Company to reduce the gas program budget by $54,486 and remove the moderate-income incentives as these incentives are also funded by RIGG funds.

iii. Allocation to Office of Energy Resources (OER) and EEMRC Budgets

The Commission directed the Company to transfer the full statutory allocation to OER subject to the statutory cap contained in R.I. Gen. § 39-2-1.2. The Commission approved the EEMRC's revised budget as filed on November 23, 2022, and directed the Company to transfer the allocation subject to the statutory cap contained in R.I. Gen. § 39-2-1.2. The Commission also directed the Company to transfer any funds remaining from the 2022 budget allocation to the EERMC, and any funds remaining from the prior transfer of the EERMC bank account to the Company after retaining sufficient funds to pay any invoices already received or expected to be received for EERMC's expenses, to the 2023 program year.

iv. Energy Efficiency Program Budgets

The Commission approved the Company's proposed gas and electric energy efficiency budgets as filed on November 29, 2022, subject to the Commission's budget adjustments and updated fund balance projections. However, the Commission directed the Company to set the SBC to collect $95 million plus the recalculated Performance Incentive Mechanism (PIM), minus other sources of funding. The Commission agreed with the Division's recommendation that collections from ratepayers should realistically align with the Company's ability to spend its allocated budgets and shared the Division's concern that many of the factors that have recently impacted the energy efficiency program in the prior three years, namely supply chain issues, labor constraints, inflation, and higher interest rates for commercial customers, remain problematic for 2023 as well. Moreover, the Company has also acknowledged that the global pandemic, supply chain disruptions, inflationary pressures, and rising energy costs and interest rates have contributed and will continue to contribute to uncertainty with respect to customers' demand for measures incentivized through the program.

In order to avoid the possibility of a significant under collection, the Commission required the Company to make an updated spending forecast filing by no later than June 30, 2023.

v. Fund Balance

The Commission noted that the Company underspent approved collections in program year 2022 by approximately $38.7 million. Given the high energy supply cost, the Commission was not comfortable having the company hold on to this amount, especially, when relief is needed during the current winter period. In order to provide more immediate relief, the Commission directed the Company to refund unspent ratepayer funds of $20 million during the months of January, February and March. The Company was directed to set the SBC for January, February and March 2023, that would return $20 million to customers during that period. The Company was directed to then propose a rate effective April 1, 2023 to collect the remaining necessary funds for the energy efficiency programs. The Company was directed to submit a compliance filing by the close of business December 21, 2022.

C. Compliance Filings

On December 21, 2022, the Company submitted its compliance filing for Commission review. Commission staff reviewed the compliance filing and was concerned that proposed electric SBC charge effective April 1, 2023, was incorrectly calculated.[90] At the Commission's December 22, 2022 open meeting, the Commission voted to approve the Company's proposed gas and electric system benefit charges for effect January 1, 2023, but reserved decision on the system benefit charges for effect April 1, 2023 in order to permit additional review of the calculations contained in the Company's compliance filing.

After reviewing the updated compliance filing, and in light of Commission staff's concerns, the Commission approved an electric energy efficiency rate in the form of a credit of $0.00137 per kWh effective for usage on or after January 1, 2023. The Commission also approved gas energy efficiency rates of $1.136 per Dth for the residential classes and $0.6200 per Dth for C&I classes effective for consumption on or after January 1, 2023.

Thereafter, Commission staff met with the Company and the parties and reached a common understanding regarding the method of calculating the gas and electric system benefit charges that should take effect on April 1, 2023. On January 13, 2023, RIE filed an updated compliance filing containing new proposed rates to begin April 1, 2023.[91] The Company changed the treatment of the accelerated return of $20 million of energy efficiency fund balance from a refund to customers, which would then need to be recovered in the last three quarters of the year, to an accelerated use of this portion of the fund balance to comport with the system benefit charges approved for effect on January 1, 2023.[92]

The change in the treatment of the accelerated use of $20 million of fund balance resulted in the need to make other changes to the approved energy efficiency budgets in 2023. The

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[91] *See* Updated Compliance Filing Following December 20, 2022 Open Meeting filed on January 13, 2023, a copy of which is located at https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2023-01/2233-RIE-UpdatedCompliance%201-13-23.pdf.

[92] *Id.*

reduction in collections lowered the OER and EERMC budgets for 2023 because those budgets are based on a percentage of collections. The changes in the amount of the EERMC and OER budgets led to several other proposed changes. First, the Company proposed a reallocation of the EERMC budget between electric and gas, since the EERMC budget as previously allocated to the electric portfolio would have exceeded the statutory cap. Second, the proposed PIM was slightly changed for both the gas and electric portfolios since the EERMC expenses are PIM-eligible costs. The Company updated the proposed April 1, 2023 electric and gas system benefit charges to reflect the proposed changes.[93]

On January 23, 2023, the Company filed another updated compliance filing.[94] The updated compliance filing provided non-substantive formatting changes to Table E-1 and also updated to Tables G-1 and G-10 to note a minor forecasted underrecovery of approximately $135,800 resulting from changes made to the Company's calculations since the gas system benefit charge. Specifically, after consultation with the parties and the Commission's staff, changes were made to reflect the manner in which the existing Energy Efficiency fund balance is credited to customers on an accelerated basis. These changes led to a minor change to the amount of gas customer funding that would be required to fully fund the approved budget. The Company did not propose an adjustment of the gas system benefit charge that was previously approved as the change in required customer funding was not significant.

The Division reviewed the updated compliance filing and recommended approval. The Division determined that the changes to Table E-1 were consistent with discussions among the

[93] The Company proposed several other small adjustments. In the gas portfolio, the update corrected a minor calculation error included in the Company's December 21, 2022 compliance Filing for the OER budget. The Company also decreased the Electric EM&V budget by $60,280 to correct an error in made in compiling budget data in the Company's December 21, 2022 compliance filing. *Id.*

[94] A copy of the January 23, 2023 updated compliance filing is located at https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2023-01/2233-RIE-UpdatedCompliance%201-23-23.pdf.

parties on how to properly credit customers from the Energy Efficiency fund balance on an accelerated rate for the first three months of the year. The Division also agreed with the Company that it should not adjust the gas system benefit charge previously approved by the Commission at its December 22, 2022, Open Meeting as the change to the customer funding requirement was minor and the Company has noted that there is a forecasted under-recovery.

On January 31, 2023, the Commission reviewed the updated compliance filing and approved an electric Energy Efficiency rate of $0.00956/kWh for effect for usage on or after April 1, 2023. The Commission did not make any changes to the previously approved gas energy efficiency rate.

Accordingly, it is hereby

(24845) ORDERED:

1. Rhode Island Energy is authorized to implement the programs described in the 2023 Energy Efficiency and Conservation Procurement Plan as modified by this Order.
2. The following budgets are approved for the 2023 Energy Efficiency and Conservation Procurement Plan for 2023. The Commission approved the electric and gas budgets as presented by Rhode Island Energy in its January 23, 2023 Compliance Filing and as modified by this Order.
3. Rhode Island Energy is directed to set the electric system benefit charge to collect $95 million plus the recalculated Performance Incentive Mechanism (PIM), minus other sources of funding.
4. Rhode Island Energy is directed to set the electric system benefit charge based on kWh projected to be sold in January, February and March to return $20 million to customers

and then propose a rate effective April 1 for the remaining kWh in 2023 to collect the remaining necessary funds for the energy efficiency programs.

5. The allocation to the Office of Energy Resources is an amount equal to 60% of the three percent of funds authorized to be collected from ratepayers through the system benefit charge.
6. The allocation to the Energy Efficiency Resource Management Council is the amount contained in its revised budget as filed on November 23, 2022 subject to the statutory cap contained in R.I. Gen. 39-2-1.2. Rhode Island Energy is also directed to transfer to the fund balance any funds remaining from the 2022 budget allocation to the EERMC and the funds remaining from the transfer of the EERMC bank account, after retaining sufficient funds to account for any invoices already received but not yet paid and retaining a reasonable estimation of funds needed to pay further invoices that are not yet been received for 2022.
7. Rhode Island Energy shall make an updated spending forecast filing by June 30, 2023.
8. Rhode Island Energy is directed to file with the Commission, the EERMC and the Division, within 60 days, a plan for ramping up to 750 electric resistance to high efficiency heat pump conversions annually in the next three years. Approximately 25% of those conversions should be in income eligible residences. The plan should include any incremental electric resistance to heat pump conversion incentives that the Company can include in the program year 2023 energy efficiency plan. Also, the plan should include any additional spending the Company will need for those incentives and include adjustments to the performance incentives mechanism for any additional expenses or savings the company would realize. The Company should also include a

plan for identifying electric resistance customers, identifying the benefits and costs associated with these conversions, identifying critical challenges, and proposing methods to overcome those challenges.

9. Rhode Island Energy's Energy Efficiency Program electric charge in the form of a credit of $0.00137 per kWh is hereby approved for effect on and after January 1, 2023 until March 30, 2023. Rhode Island Energy's Energy Efficiency Program electric charge of $0.00956 per kWh is hereby approved for effect on and after April 1, 2023.

10. Rhode Island Energy's Energy Efficiency Program gas charges of $1.136 per Dth for residential customers and $0.6200 per Dth for Commercial and Industrial customers are hereby approved for effect on and after January 1, 2023.

EFFECTIVE AT WARWICK, RHODE ISLAND ON JANUARY 1, 2023 PURSUANT TO OPEN MEETING DECISIONS ON DECEMBER 20 AND 22, 2022 AND JANUARY 31, 2023. WRITTEN ORDER ISSUED OCTOBER 17, 2023.

PUBLIC UTILITIES COMMISSION

Ronald T. Gerwatowski, Chairman

Abigail Anthony, Commissioner

John C. Revens, Jr., Commissioner

NOTICE OF RIGHT OF APPEAL: Pursuant to R.I. Gen. Laws §39-5-1, any person aggrieved by a decision or order of the PUC may, within seven (7) days from the date of the order, petition the Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or order.