

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

IN RE: THE NARRAGANSETT ELECTRIC COMPANY :
d/b/a RHODE ISLAND ENERGY 2023 RENEWABLE : **DOCKET NO. 23-24-REG**
ENERGY GROWTH PROGRAM FACTOR FILING :

REPORT AND ORDER

I. Introduction

On August 7, 2023, The Narragansett Electric Company d/b/a Rhode Island Energy (RI Energy or Company) filed with the Public Utilities Commission (Commission) proposed Renewable Energy Growth (RE Growth) Program factors and RE Growth Program Reconciliation factors (reconciliation factors) for effect October 1, 2023.¹ The effect of the proposed RE Growth Factors and RE Growth Reconciliation Factors on the monthly bill of a residential Last Resort Service (LRS) customer using 500 kWh is an increase of \$2.54, or approximately 1.9%.²

The proposed program factors were based on an estimate of costs for the 2023 program year which commences on April 1, 2023 and continues through March 31, 2024. The proposed reconciliation factors were based on the actual costs for the program year, April 1, 2022 through March 31, 2023, plus carryover costs from prior years. The program factors and reconciliation factors are fixed monthly charges that vary by rate class and appear together as a single separate line item on customer bills.

On August 30, 2023, the Division of Public Utilities and Carriers' (Division) filed a memorandum which reviewed the filing and concluded that the proposed program recovery factors and reconciliation factors were in accordance with law and the approved tariff. The Division

¹ RI Energy's 2023 Renewable Energy Growth Factor Filing (Aug. 7, 2023); All filings in this docket can be found at: <https://ripuc.ri.gov/Docket-23-24-REG> or reviewed at the Commission's office at 89 Jefferson Boulevard, Warwick, Rhode Island.

² Blazunas and Oliveira Test. (Jt. Test.) at 37.

further recommended that the Commission approve the factors, for an effective date of October 1, 2023.³ At an Open Meeting held on September 26, 2023, the PUC approved the factors.

II. RI Energy's Filing

In support of the factors, RI Energy submitted the joint testimony of Peter R. Blazunas, Senior Project Manager for Concentric Energy Advisors, Inc. ("Concentric"), a management consulting firm, and Jeffrey D. Oliveira, a Regulatory Programs Specialist of PPL Corporation. Their testimony presented the Company's estimate of the incremental cost subject to recovery for the period April 2023 through March 2024 to administer the RE Growth program and the calculations of the proposed RE Growth program factors designed to recover that cost. The filing also presented the reconciliation of revenue to actual costs for the prior program years.

A. Renewable Energy Growth Program

The RE Growth tariff provides for the recovery of incremental costs associated with the RE Growth Program from all retail delivery customers through a fixed monthly service charge. The Company is required to purchase the output generated by qualified Distributed Generation projects and compensate program participants in the form of Performance Based Incentives (PBI). The program participants assign all energy, capacity, and Renewable Energy Certificates (RECs) to the Company. The Company sells the generated energy. The Company may also sell the RECs, or they may be used to satisfy the Company's Renewable Energy Standard compliance obligations. The Company may also bid eligible RE Growth projects into the Independent System Operator-New England's Forward Capacity Market (FCM) with customers receiving 90% of the proceeds and RI Energy receiving 10%. The proceeds from the sale of the energy, the RECs, and the customer's share of FCM proceeds are used to offset the costs of the RE Growth Program.⁴

³ Division's Memorandum (Aug. 30, 2023).

⁴ Joint Test. at Sched. NECO-2.

1. Estimated Costs for the 2023 RE Growth Program

In its filing, the Company projected net expense for the 2023 program year totaling \$32,428,374.⁵ PBI payments comprise \$49,902,169 but from this is deducted the estimated value of the market products of \$18,680,398 along with the customers' share of Forward Capacity Market proceeds of \$42,624. The remaining \$1,249,227 was estimated administrative expenses which included \$663,229 of remuneration on the 2022 Program Year PBI payments.⁶

Prior to June 24, 2023, the Company was entitled to receive remuneration on PBI payments under R.I. Gen. Laws § 39-26.6-12(j). On June 24, 2023, Governor McKee signed two bills into law, 2023 P.L. 301, eliminating remuneration from the law. In response to the Company's filing, the Commission directed the parties to file legal memoranda on whether the passage of 2023 P.L. 301 affected RI Energy's right to remuneration for the 2022 RE Growth Program Year. RI Energy and the Division both concluded that the public law did not affect RI Energy's right to remuneration applied to PBI payments made through March 31, 2023, prior to passage of Public Law 301. Both parties agreed that at the time payments were made upon which remuneration was calculated, RI Energy had a right to remuneration on those payments.⁷ Both parties agreed that R.I. Gen. Laws § 43-3-22 applies to this situation.⁸ It provides that "[t]he repeal of any statute shall in no case affect any act done, any right accrued, acquired, or established...before the time when repeal takes effect."⁹ According to RI Energy, the Rhode Island Supreme Court has found

⁵ Sched. NECO-2.

⁶ Sched. NECO-2 and Sched. NECO-3, page 3 of 5; In its filing, RI Energy explained that as a result of the accounting of labor costs during the transition, additional work will be required to true-up those expenses so RI Energy proposed including them in the 2023 RE Growth Program Year reconciliation. In a data response, the Company explained the steps it was taking to ensure a complete and accurate accounting of those costs. The Division accepted the Company's explanation and proposed steps to ensure an accurate accounting as reasonable subject to final review in the future. RI Energy Response to PUC 1-1; Brennan Mem. at 3-4.

⁷ RI Energy Mem. at 4; Division Mem. at 1.

⁸ RI Energy Mem. at 3; Division Filing Letter at 1.

⁹ R.I. Gen. Laws § 43-3-22.

that this “general savings clause” establishes that a statutory repeal will not extinguish any right accrued before its passage.”¹⁰ Both parties also agree that Rhode Island law is clear that statutes are to be applied prospectively unless the legislature expressly intends otherwise through “clear, strong language or by necessary implication that the Legislature intended to give the statute retroactive effect.”¹¹

2. Calculation of 2023 Rate Class RE Growth Factors.

The estimated expense for the 2023 program year is allocated to each rate class based on a rate base allocator developed from the allocated cost of service study approved in the PUC’s Order No. 23823 in Docket No. 4770.¹² The allocated amount for each rate class is divided by the forecasted number of bills during the period of October 2023 through September 2024 to determine the monthly charge for each rate class. The result is further adjusted to include an uncollectible factor of 1.3%.¹³

B. Reconciliation & Proposed Factors

The Company is required to annually reconcile RE Growth program revenue and costs. The excess or deficiency after reconciliation, including interest at the Company’s short-term interest rate, is credited to or recovered from all customers through the RE Growth reconciliation factors. For billing purposes, the reconciliation factors for 2022 are included with the 2023 program factors on a single line item of the customers’ bills.¹⁴

¹⁰ RI Energy Mem. at 3, citing *Brennan v. Kirby*, 529 A.2d 633, 641 (R.I. 1987).

¹¹ RI Energy Mem. at 3-4, citing *Pion v. Bess Eaton Donuts Flour Co.*, 637 A.2d 367, 371 (R.I. 1994) (internal citations omitted); Division Filing Letter at 1.

¹² Commission Order 23823, Docket No. 4770; [http://www.ripuc.ri.gov/eventsactions/docket/4770-4780-NGrid-Ord23823%20\(5-5-20\).pdf](http://www.ripuc.ri.gov/eventsactions/docket/4770-4780-NGrid-Ord23823%20(5-5-20).pdf).

¹³ Jt. Test. at Sch. NECO-2.

¹⁴ *Id.* at 20.

The 2022 RE Growth program reconciliation summary¹⁵ showed revenue of \$17,405,710, total costs of \$24,104,455,¹⁶ and forfeited performance guarantee deposits credited to customers of \$730,930, resulting in an under-recovery of \$5,967,815, plus interest. The total amount to be collected from customers was \$6,014,811.¹⁷ The calculation of reconciliation factors for each rate class followed the same steps as the calculation of the 2023 program factors, including the allocation to rate classes based on a rate base allocator and the adjustment for uncollectible accounts.¹⁸ In its filing to calculate the 2022 REG Factors, made in August 2022 for effect October 1, 2022, the Company had forecasted the market value of the RE Growth Products at approximately \$23 million.¹⁹ The instant filing shows the net proceeds from the market products for the 2022 Program Year at only \$15.36 million. Therefore, the rates calculated in the prior docket were based on higher offsetting value of the products than actually occurred. This resulted in rates too low to collect the actual costs of the 2022 Program Year.

III. Division of Public Utilities and Carriers

On August 30, 2023, the Division of Public Utilities and Carriers' (Division) filed a memorandum authored by Mike Brennan, its consultant. In his memorandum, Mr. Brennan reviewed the filing and concluded that the proposed program recovery factors and reconciliation factors were correctly calculated and are in accordance with the statute and approved tariff.

IV. Commission's Decision

At an Open Meeting held on September 26, 2023, the PUC reviewed the record and consistent with the Division's determination that the factors and reconciling factors were

¹⁵ Sch. NECO-3.

¹⁶ Sch. NECO-3.

¹⁷ Joint Test. at Sch. NECO-3 at 1, Section 1.

¹⁸ Joint Test at Sch. NECO-3 at 1, Section 2.

¹⁹ Dkt. 22-04-REG, NECO-2, page 2 of 6; https://ripuc.ri.gov/sites/g/files/xkgbur841/files/2022-07/22-04-RIE-REGReconci_06-30-22.pdf.

calculated in accordance with the tariff, approved the proposed RE Growth factors as filed. The Commission has also reviewed the legal positions provided by RI Energy and the Division and agrees that 2023 P.L. 301, striking any reference to remuneration from R.I. Gen. Laws § 39-26.6-24 was not intended to have retroactive application. Where the remuneration is being calculated on PBI payments made during the 2022 RE Growth Program Year that ended prior to the passage of the law, the Commission finds the Company is entitled to include them in the administrative cost calculation of the RE Growth Reconciling Factors for the Program Year Ending March 2023.

Accordingly, it is hereby

(24835) ORDERED:

1. The Narragansett Electric Company d/b/a Rhode Island Energy's 2023 RE Growth Factors are approved as filed for effect October 1, 2023.
2. Rhode Island Energy shall comply with all commitments and timelines as set forth in its Response to PUC 1-1 pertaining to the administrative labor costs, marketing, and meter expenses from program year 2022.

EFFECTIVE AT WARWICK, RHODE ISLAND ON OCTOBER 1, 2023 PURSUANT TO AN OPEN MEETING DECISION ON SEPTEMBER 26, 2023. WRITTEN ORDER ISSUED OCTOBER 6, 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 days from the date of the order, petition the Rhode Island Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or order.