



**Comments of the Rhode Island Office of Energy Resources on
Docket #4943 Public Utility Commission's Guidance on Principles
for the Development and Review of Performance Incentive Mechanisms**

February 28, 2020

The Rhode Island Office of Energy Resources (OER) submits these comments regarding the Commission's Draft Guidance Document on the Development and Review of Performance Incentive Mechanisms (PIMs) in Docket #4943.

OER continues to have significant concerns about the Principles as proposed, many of which were voiced in our written comments (submitted May 13, 2019) and during the Commission's January 22, 2020 technical session. It is unclear how the proposed Principles have changed in response to stakeholder feedback since first proposed by the Commission. Below, we detail our continued concerns and suggest revisions to the Principles where applicable:

1. If the utility or any other stakeholder proposes a PIM to the Commission, OER believes that the first question for consideration should be whether the utility is the appropriate entity to deliver the proposed benefits. Currently, the proposed Principles, when viewed on their own, do not clearly encourage this initial screening. Without this first filter, it would be hypothetically possible for a PIM to adhere to all the proposed Principles while also promoting the expansion of a monopoly business model into markets that are not, nor should be, natural monopolies.

OER suggests the following additional Principle to be added to remedy this concern:

A performance incentive mechanism can be considered for any action that is an appropriate function or service for a utility to perform.

2. The Commission heard substantial comments and concerns on the details included in Commissioner Anthony's earlier discussion documents. OER strongly encourages the Commission to state in the final Guidance Document that only the language in the final Guidance Document is being considered for formal adoption by the Commission. It should be made clear that previous documents should not be relied upon to properly interpret the final Guidance Document. Instead, each Commissioner may operationalize the principles as they deem most appropriate and prudent.
3. Proposed Principles 2¹ and 3² use the terms "quantifiable" and "cash" to describe the benefit types Commissioners would consider during their review of a PIM. These terms seem to exclude qualitative benefits from the Commission's decision-making process. OER does not believe that benefits that have been quantified or monetized should be explicitly favored over qualitative and/or non-quantified benefits. By explicitly preferring quantification, the Commission may inadvertently limit stakeholder participation to only those stakeholders with access to quantitative experts and/or financial resources to hire those experts. Moreover, if the process of accurately quantifying a benefit

¹ Commission [Proposed Principle 2](#): *Incentives should be designed to enable a comparison of the cost of achieving the target to the potential quantifiable and cash benefits.*

² Commission [Proposed Principle 3](#): *Incentives should be designed to maximize customers' share of total quantifiable, verifiable net benefits. Consideration will be given to the inherent risks and fairness of allocation of both cash and non-cash system, customer, and societal benefits.*

would cost more than the service/effort proposed, and the likelihood of success for the service/effort is high, it is unclear why the Commission would seek quantification. It is OER's opinion that not all possible costs and benefits can be or should be quantified in an era of increasingly complex regulatory and policy drivers. Therefore, OER would like to see the explicit preference for quantified benefits removed from the Principles.

Although OER does not believe that quantified benefits should be preferred, it would be logical to tie incentive levels to only verifiable and measurable things. In other words, although the Commission may support a PIM structure due to qualitative benefits, the payment or penalty to a utility should be tied explicitly to measurable, verifiable outcomes. Moreover, as written, it is unclear if Principles 2 and 3 refer to the overall structure of a PIM, or if they are focused only on the level of incentive. OER believes they should apply to both.

Based on these concerns, OER recommends the following amendments to Principles 2 and 3:

Principle 2: *Performance Incentives Mechanisms and performance incentive levels* should be designed to enable a comparison of the cost of achieving the target to the potential ~~quantifiable and cash~~ benefits. *Incentive disbursements should be tied to measurable, verifiable outcomes.*

Principle 3: *Performance Incentives Mechanisms and performance incentive levels* should be designed to maximize customers' share of total ~~quantifiable~~, verifiable net benefits. Consideration will be given to the inherent risks and fairness of allocation of ~~both cash and non-cash~~ system, customer, and societal benefits.

4. Operationalizing proposed Principle 5³ remains unclear to OER for three reasons:
 - a. It seems unlikely that benefits would ever be considered individually. OER believes it is far more likely for benefits to be created in suites and one suite may be considered more valuable than another suite of benefits; and
 - b. The phrase "the same benefit" is very difficult to define. Does this phrase refer to who gets the benefit, the type of benefit, how the benefit is delivered, when the benefit is delivered, or where the benefit is delivered?
 - c. Principle 5, as written, may limit the Commission's ability to prefer one action over another. There may be a scenario in which one action is more desirable than another, even if both actions result in the same benefit. OER encourages the Commission to retain flexibility in determining if certain means of achieving a benefit are preferred.
5. Lastly, OER recommends the following document changes for improved clarity:
 - a. Provide explanations on when and where each Principle is expected to be applied. It is OER's interpretation that proposed Principle 1⁴ acts as a threshold review to determine if a PIM structure should be considered further; proposed Principles 2-3 establish guidance

³ Commission [Proposed Principle 5](#): *The utility should be offered the same incentive for the same benefit. No action should be rewarded more than an alternative action that produces the same benefit.*

⁴ Commission [Proposed Principle 1](#): *A performance incentive mechanism can be considered when the utility lacks an incentive (or has a disincentive) to better align utility performance with the public interest and there is evidence of underperformance or evidence that improved performance will deliver incremental benefits.*

for stakeholders on overall PIM structure; and proposed Principles 4-5⁵ establish guidance for stakeholders on PIM incentive levels.

- b. Consider adding principles to encourage PIM proposals to provide robust and convincing plans for evaluating causal performance; to present sufficient key metric details; and to include a clear statement of a PIM's objective.
- c. The Guidance Document should state explicitly if these proposed Principles are intended to be applied to action-based incentives. OER does not believe that these proposed Principles have been appropriately vetted by stakeholders for their application to action-based incentives. For example, these Principles would likely result in a rejection of action-based incentive proposals that would provide incentives to build institutional capacity or processes for the utility to perform in new ways. OER believes action-based incentives do have an appropriate time and place and should not be subjected to the same review as outcome-based incentives. OER does believe the proposed Principles have been reviewed for outcome-based incentive applications.

Overall, OER does not feel that the proposed Guidance Document has adequately addressed the concerns described above and is unable to support the proposal as written. We urge the Commission to continue iterating on stakeholder comments and address the concerns above prior to taking any formal action.

Thank you for your consideration.

⁵ Commission [Proposed Principle 4](#): *An incentive should offer the utility no more than necessary to align utility performance with the public interest.*