



DESAUTEL LAW

MEMORANDUM

RE: RECOMMENDED REVISIONS TO STANDARDS
FROM: MARISA DESAUTEL, ESQ. - DESAUTEL LAW
TO: EERMC
DATE: 3/18/2020

This Memorandum is provided to the Energy Efficiency & Resource Management Council (“EERMC”) in response to the following question, posed by members:

Does the EERMC possess authority to propose certain recommended revisions to the Standards submitted to the Rhode Island Public Utilities Commission (“RIPUC”) pursuant to the Rhode Island System Reliability and Least-Cost Procurement statute¹?

Under the Rhode Island System Reliability and Least-Cost Procurement statute, the EERMC is required to provide input and recommendations to the RIPUC. RIGL §39-1-27.7. The scope of that input is governed by both the Rhode Island System Reliability and Least-Cost Procurement statute and by the EERMC’s own enabling statute.

The statutory authority granted to the EERMC, by and through its enabling act, is broad. The EERMC was created to address the state’s energy needs in an integrated, comprehensive manner to secure the full benefits of energy efficiency, energy conservation, and energy resources management. RIGL §42-140.1-2. Based on review of the recommended revisions from the EERMC and review of the relevant state law, there appears to be statutory support for all of the proposed recommendations to the RIPUC.

¹ The EERMC submitted a list of 16 specific recommendations, which are reproduced at the end of this memorandum for reference.

Statutory support, enacted as The Rhode Island Energy Efficiency & Resource Management Council Act, is as follows:

RIGL §42-140.1-3. Establishment of council – Purposes.

- (1) Evaluate and make recommendations, including, but not limited to, plans and programs, with regard to the optimization of energy efficiency, energy conservation, energy resource development; and the development of a plan for least-cost procurement for Rhode Island; and
- (3) Monitor and evaluate the effectiveness of programs to achieve energy efficiency, energy conservation, and diversification of energy resources.

RIGL §42-140.1-5. Powers and duties.

- (a) Develop and recommend for implementation plans, programs and standards for energy conservation, energy efficiency, and diversification of energy resources.
- (b) Monitor and evaluate plans and programs for energy conservation, energy efficiency and diversification of energy resources; in order to effectuate such evaluations the council may request audits, including performance audits, of any program for energy conservation, energy efficiency or diversification of energy resources, that is established pursuant to Rhode Island law or is administered by a state agency, a request for an audit of any program operative pursuant to an order or decision of the public utilities commission shall be made to the commission; the council may make findings and recommendations with regard to changes, modification or continuation of any programs which it has authority to monitor or evaluate.

RIGL §42-140.1-6. Additional general powers.

- (a) To make any studies of conditions, activities, or problems related to the state's energy needs, usage, and supplies to carry out its responsibilities.

The EERMC's statutory scheme provides the EERMC with enumerated powers to ensure that the council carry out the following task list:

- Make findings and recommendations;
- Conduct audits and studies;
- Monitor and evaluate plans and programs, and;
- Develop and recommend plans, programs, and standards.

Under these laws, the task list corresponds to the following EERMC jurisdictional subject matter areas: energy conservation, energy efficiency, diversification of energy resources, energy needs, usage, and supplies, energy resource development, and planning for least-cost procurement (hereinafter, "EERMC subject matter").

From a legal standpoint, it is clear that the EERMC's enabling act was written to vest the council with broad power and authority in carrying out its task list. Likewise, the EERMC subject matter areas appear to be broad as well. So long as the EERMC is making recommendations that coincide with the EERMC task list and subject matter areas, those recommendations are supported by state law.

Based on review of the recommendations to the RIPUC regarding the Standards, each of the recommendations appear to comply with both the task list and the EERMC's subject matter areas.

RECOMMENDATIONS TO RIPUC

1. Ensure that the definition of Energy Efficiency supports *active* demand response for at least gas and electric, *heating electrification*, and energy savings measures for all fuels
2. Clearly allow the energy efficiency programs to deliver location-specific energy efficiency & *demand response*
3. Require on-going review of the RI Test used by the Energy Efficiency Programs
4. Provide more details on reporting requirements and accounting practices
5. Ensure that the programs are comprehensive (both short and long-term savings measures), space (state-wide and location-specific offerings) and participation (equitable access for all types of customers)
6. Expansion of definition of **reliable** to explicitly include references to workforce development, program scalability, system planning coordination, and Company program management capabilities
7. Expansion of definition of **prudence** to include a reference to being mindful of bill impacts to all customer classes
8. Include clear direction for “equity requirements” including more clarity on definition of equity
9. Explicit requirement to conduct potential studies at least every 6 years to inform Targets setting process every 3 years
10. Clearly define what to include in 3-Year & Annual Plan filings – e.g. explanations of variances from Targets; EM&V plans; coordination with pilots, demonstrations and assessments
11. Coordination of performance incentive approaches with other Company earning mechanisms
12. Desire for greater / explicit coordination between EE plans and other utility planning activities and processes

SRP

13. Clarify the Council’s role in reviewing SRP Plans – the EE portion of the standards clearly lists all the EERMC’s role
14. Change the timing so that SRP Plans can be filed in December with Infrastructure, Safety and Reliability (ISR) Plans
15. Explicitly include natural gas in SRP
16. Ensure that SRP includes focus on creating a comprehensive map of systems planning and management