

## **ENERGY EFFICIENCY AND RESOURCE MANGEMENT COUNCIL**

### **Minutes-August 20, 2009**

Conference Room B, DOA

Chairman Ryan called the meeting to order at 4:00 PM

**Members Present:** Paul Ryan, Chris Powell, Joe Newsome, Vic Allienello, Sam Krasnow, and Janet Keller

**Staff Present:** Charles Hawkins

**Consultant:** Mike Guerard

**Others Present:** Jerry Elmer, Karina Lutz, Tom Teehan, Steven Surdut, Jeremy Newberger and Dave Brown

### **DSM Subcommittee update of 2010 EE Program Plan**

Mike G. said that at their 9/2 meeting, the DSM Subcommittee will highlight the 2010 EE Program Plan. The goal is to get data before the EERMC before their September meeting.

Paul R. mentioned that he was concerned about a quorum for any meeting held in early September because he could not attend. Chris P. added that there was no designed Vice-Chair. Paul R. felt that the Council should vote for a chairman on the day of the meeting.

Paul R. noted that in the DSM meeting notes there was a reference to concern about RGGI funds that have not been expended. Jeremy N. suggested bringing this up under Agenda Item IV. He did say, however, that because the RGGI spending rules had not been approved the money can't be spent. He said that OER issued draft rules but they needed to be revised because of the public comment received at the 4/3 hearing. Janet K., Sam K. & Dan P. have had discussions about how to proceed and whether another hearing is required. What is the impact on the 2010 EE budget? Assumption was that 60% of RGGI funds would be issue to offset the SBC.

Paul R. noted that the Council now had a quorum with the arrival of Sam K.

Jeremy listed the funding sources of the EE Plan as: the SBC; the FCM; and the fund balance. The fund balance projected at the beginning of 2009 was positive. When the above funding sources are rolled in, plus the 60% of RGGI funds, NGrid projects there will be \$44.3M in EE funding for 2010. The number for 2009 was roughly \$34M. When NGrid did their LCP plan for 2010 it was projected that \$45.4M was needed, based on NGrid modeling, to fund EE. That leaves a \$1.1M gap. The main driver of the gap is the sales forecast which is 12-15% behind last year because of the economy, a mild

winter and a cool summer. This will effect the fund balance. Implementers of the EE Plan will now have to make their targets using less money. Chris P. asked if this would mean moving EE money from rate classes that are more efficient to those that are not. This could cause a conflict, between low income and C&I. Jeremy answered yes, this could happen.

Jeremy N. said that NGrid will have to sharpen their pencils to make their EE goals. One way to close the 12-15% gap is to find another source of funding. He mentioned the 40% RGGI pot for innovative projects. Of the \$44.3M committed for 2010 EE Program Plan \$10.3M will go to: The Council budget of \$300,000; Shareholder incentives; and evaluation of the EE Programs. That leaves \$34M for direct spending on EE for the electric programs in 2010. This compares to \$22M for 2009.

On the gas side, the main funding source is the DSM charge for gas customers. Another source of revenue is the EE fund for gas which is currently running negative because demand is outstripping the funds. Available funds for the gas side are \$5M and that compares to \$6.8M that was projected in the 2009 program plan that had a three year look. NGrid does not want to ask for an increase in the DSM. One of the areas that NGrid will not be spending the full budget on is the 20% allocated to low-income programs. Jeremy N. stated that this was being caused by administrative bottlenecks at the OER which prevent work from being processed. NGrid staff has been working with OER low-income staff to help move things along. NGrid anticipates budgeting 10% for low income in 2010.

Joe N. asked what the administrative bottlenecks were with OER. Chris P. asked if it is manpower. Jeremy N. said it is mostly manpower. Chris P. said that the staffing issue could be a long term problem if low income is not funded properly. What can the council do to alleviate this problem. Chris P. said the Council can not ignore this. It needs a game plan on how to communicate this to the administration. Mike G. said it will be more of a problem next year when ARRA funding kicks in. Paul R. said this is a real problem for RI's congressional delegation. Janet K. said that she was meeting with HR on Friday to get positions posted but it will take at least a month to get anyone on board. Chris P. asked is there is a plan that will get the OER to where it needs to be. Janet said yes.

Paul R. said it goes beyond staffing and cited the state's contracting system as one reason for the slowdown. This system could add 3-5 more months to the process. As a result the RI congressional delegation feels that no matter what RI does now it won't make a difference because RI started too late compared to other states and some ARRA money will leave RI. Other states have better bidding processes. Chris P. mentioned that other states were hiring additional staff beyond their resource requirements. Chris P. asked what is OER's plan to met ARRA requirements in the near future. He feels that OER not only has to get back to staff levels of 2007 but go beyond that. Janet K. said that the new staffing would beef up the fiscal reporting unit where the problem in the Weatherization Program has existed. She mentioned new OER head Ron Renaud and emphasized that steady progress was being made to achieve ARRA goals.

Chris P. echoed Paul R.'s concern about the state contracting system. Paul R. said that improvement in this area would require statute change. Paul R. said that the Council can say to both the legislature and the governor that one of the problem's is that RI's contracting laws are too cumbersome and could slow down the ARRA process and cost the state money. Chris P. suggested sending a letter. Paul R. brought up the possibility of a meeting with the Governor's staff. Chris P. said it was the council's job to bring this problem up to the highest levels of state government. Joe N. asked how the council can interact with the governor. Paul R. felt that the Council has to identify the proper power person to help the Council achieve its priorities. That is the most effective way to move the process.

Janet K. said that the OER needed clarification of expectations. What are the five steps needed to reach X result? Is the council at that point where it can present these 5 points? Chris P. thought that it was clear what those steps are. We know what is lacking and we know what the challenges are. What is the plan to get the things accomplished that are on OER's Plate? Joe N. commented that nothing that has been discussed today is very plan. Is the problem with work getting done? Joe N. wants a clearer picture. Jeremy N. said that Matt G. could explain things better. His understanding is that it is both work not being done and work not being processed. Work being done is not entered into the system that keeps track of spending and savings. NGrid does not have the data to determine how much energy has been saved on the low-income programs for the second quarter. Mike G. said that about half of the goals for the low-income electric audits will not be met. There are stacks of unprocessed work and CAPs are not getting paid.

Chris P. asked Janet K. about the current staffing levels at the OER. Janet responded that in November 2007 there were 22 positions; and today there are eight. Chris P. said they need 30. Janet said it is opportunity to find out what resources the OER actually needs to accomplish its goals. In her view the new hiring should work. She cited calls from constituents that have unrealistic expectations for ARRA funding. She said can't speak to how other states handle contracting. Chris P. asked about hiring short term contractors. Janet said the state has hired a contractor to help with the RFPs. Joe N. asked if one position could solve the low income bottleneck? Of the new positions how many will be working in low income and how many strictly on ARRA? Janet could not answer. Mike G. mentioned that that NGrid's contract with the OER on low income programs expires in Jan 2010. He added that some states contract with a lead CAP agency to do the work that OER does in RI. If concerns about staffing continue, NGrid could look at other options to deliver low income. **Paul R. suggested going to the ARRA update next and then going on to RGGI.**

### **ARRA Update**

Janet K. gave the update. The ARRA grants the State has applied for are: WAP; Appliance Rebates; The SEP; the EECBGs; and an Energy Assurance and Smart Grid grant. So far the State has received half of the weatherization money and half of the SEP funding. The funding is in the bank but not ready to be distributed because of federal

conditions. Before the money can be spent the state has to abide by certain federal thresholds. One of the most important considerations is the ARRA provision that requires compliance with Davis-Bacon. The Feds set the Davis-Bacon prevailing rates and then the states must adhere. This has to be done before the state spends the funding. RI is not the only state that is waiting for the feds to do the surveys necessary to set the rate. OER is now pushing out the WAP work that is not tied to ARRA Davis Bacon requirements now and then do the ARRA WAP work when the prevailing wage is set. NEPA compliance is another threshold. The State needs to receive categorical exceptions on certain EE activities like the: C&I sector; utility scale renewables; and public buildings.

The RI's SEP & WAP plans have been approved by USDOE. The OER staff is preparing RFPs for the ten activities in the RI SEP. Joe N. asked about timetable. He wanted to know if money would be awarded and people employed by December; or are we looking at a February-March timeframe. The plan is to get the RFPs out by October; then they would be ranked by OER staff; reviewed by the ERT to make sure they are in compliance with ARRA; and then go to the governor's office for final approval. Hopefully at least a chunk of the money will be awarded by December. Joe N. asked if staff needed to be in place to conduct the ranking of the projects. Chris asked if this staff will also work on the 40% RGGI proceeds. Janet said yes to both. Paul R. asked how much SEP money was going to EDC for renewables. Janet responded \$13.4M.

### **RGGI Update**

Sam K. said there were two steps needed to move RGGI along. The first step is to respond to the public comments from the 4/3 hearing and incorporate those changes in the rules. The plan does not require another public hearing to satisfy RI administrative law. The next step is to have DOA lawyers work with the OER to satisfy the administrative rule making requirements needed to make the rules final. Janet K. said they had to look at the 4/3 comments. Although Janet K. has not consulted the DOA lawyers as of yet she feels it will be a fairly straight forward process. Paul R. commented that it was Dan P. who actually got the legal work done.

### **Decoupling**

EERMC hired an expert witness, with a 95 page resume. Paul asked when the pre-file testimony was due. It is 9/15 for pre-trial interveners. Chris P. wanted to make a few points before he had to leave. His concern is making sure that decoupling is not just wide open. It must include ways to improve NGrid's EE delivery. It is also important to make sure costs are contained and that it not just an open checkbook for NGrid going forward. If sales go down 12-15%, rates will go up accordingly to make up for that drop in kilowatts usage. The biggest concern of the C&Is that he has spoken with is making sure that there are controls in place and that the PUC and the DPU are both still important players in the rate setting process. Decoupling is good for EE but is it good for the overall cost structure for ratepayers. He would like to get more clarity and he does not think the Council has enough information. He would like a 2-3 page document that goes

over the details and issues will help us all understanding what decoupling really is. What the mechanics are. Paul R. asked if the witness can get the pre-trial testimony to the council before the 9/10 meeting. Sam K. instructed him to get it done by the end of August.

Joe N. asked Paul if he had met the expert witness and if he had been engaged. Sam K. said that he has been engaged and his name was Mark Lowry. Paul R. said he has not met him but just had his resume. Sam K. noted that most expert witnesses were going for \$35-40,000 but he negotiated Lowry down to \$25,000. This is \$5,000 more than the council authorized at the July 27<sup>th</sup>. meeting. Sam K. felt that the Council can look at this increase at the next meeting. Paul R. agreed. Sam K. will continue to copy members on e-mails on the decoupling case. Sam K. said there were multiply issues involved in this case including: capitol tracker; the increase in rates need to recover EE expenditures; and the true-up piece. The third bucket, the true-up, is probably the most important. Paul R. asked Jerry E. if the PUC intended to segregate the issues in this rate case. Jerry E. understood from the last meeting that the EERMC witness would focus only on decoupling. There are 18 issues in this case but the EERMC witness's only concern is decoupling. PUC has committed to segregating the issue by date to every extent possible, to accommodate witnesses from out of state, and setting the date well in advance. He has seen PUC make this commitment before and not follow through, but he does not sense that happening in this case. His only questions is, if the conference call with the expert witness to orient him is next week, which is the end of August, how will the expert witness be able to get the draft testimony done by then? Sam K. said the witness already has a sense of what is going on and will get more direction in the 8/31 conference call.

Joe N. asked if there are parties that think decoupling is a fundamentally bad idea. Paul R. said the primary objectors were the DPU. Jerry E. said the opposition may come from the DPU but he sees the real opposition being the three PUC members who will vote. Two of them voted against decoupling last year and the third commissioner lead the fight against decoupling before the PUC last year. Although Jerry E. believes decoupling can be won; the opposition is the PUC. DPU has been very cagey but it is possible that the improvement in this year's NGrid proposal could at least dull the DPU's opposition.

Jerry E. noted that the Wiley Center, who opposed in the gas decoupling case, appears to be setting out this decoupling case because the A60 rate class being excluded. He hopes they only contest the rate case. He thinks the DPU's opposition is being addressed by changes in NGrid's presentation this time. Paul R. asked about TecRI. TecRI opposed last time and will probably do it again.

Jerry E. stated that the reason EERMC participating, with a witness, is so important is because the Council has a high degree of credibility with the PUC. It can have a potentially major impact on the outcome. Others involved in the case have a monetary interest, but the concern of the EERMC is providing EE to constituents.

Dave Brown from People's P&L said that the indexing part of the case and decoupling are very closely related (capitol tracker), Grid says they can not be separated. CFL feels

that the capitol tracker is not tied to decoupling and that they can be disaggregated. CFL does not take a position on the capitol tracker; only on decoupling. Paul R. expressed the opinion that the EERMC has to flex their muscle with both the PUC and the State House. EERMC has been around for two years and is not an infant anymore and it is time to try to effect positive changes.

### **Opportunity Report**

Mike G. gave a quick update. The residential surveys have been done but data is not meaningful yet. Should have results in the next few weeks.

### **Public Comment**

Jeremy N. wanted to give NGrid's plans to update the Council of the 2010 EE plan at the next two meetings. At the first meeting NGrid will present: preliminary budgets and savings; key program issues; and preliminary illustrations of shareholders incentives. They will have a draft of the full plan at the October meeting. They will get data in draft form to the council by 10/2 for the 10/10 meeting. It may not be in final form by 10/10 and they may have to talk about contingency. Plan goes to the PUC on 11/1. Paul R. wanted to do the October meeting on 10/15. Paul R. reminded members that they will have to vote on a chairman at the 9/10 meeting.

Karina L. is curious about a process for getting more information from the expert witness on the direction of his testimony. Paul R. said that members have e-mail access to the witness so nay member can send ideas to him. Joe N. asked if communication with the expert witness would be done individually or as a group? Paul R. said e-mail him individually to avoid open meeting concerns. Interact directly with the witness.

The meeting was adjourned at 5:30.