

**To:** Sustainable Energy Advantage

**From:** Handy Law, LLC

**Date:** April 5, 2023

**Regarding:** OER's Distributed Generation Policy Planning Initiative – Comments on “Stakeholder Workshop #3 – Methodology for Estimating DG Capacity and Evaluating Policy Approaches”

With respect to all of you - this is no stakeholder process. For the sake of maintaining integrity of public administrative processes, it would be disrespectful not to call it what it is. We do have deep respect for the new leadership at RI OER. We've worked closely with Chris Kearns for 15 years, dating back to when we formed a group of real stakeholders to come up with new policy ideas to actually fulfill RI's RES commitment by actually sourcing our own electricity from renewable energy sited in RI. That stakeholder process resulted in the Distributed Generation Standard Contract Program, which then evolved into the Renewable Growth Program. Over many years we have kept Karen Bradbury well informed of energy issues on which we were advocating in RI that had implications for Senator Whitehouse's input on federal policies. Karen has been a very helpful agent in and facilitator of that dialogue and we have long maintained good relations.

My perception is that this process is not driven by leadership at OER, or even much less by its consultant. This appears to be driven by political pressure applied at a higher level, that is beyond their control. That is the focus of our concern. We hope this expression of dissent will help restore integrity to the study of costs and benefits of RI's energy policy choices and help those leading this misdirected process to correct it.

As we (and others) feared from its outset, this fast-tracked process is driving toward a foregone conclusion. It harkens back to the Ucci administration's study processes that were “stakeholder processes” in name only. Those processes never actually accounted for stakeholder input – they merely drove toward a policy position they chose to establish despite stakeholder participation, not through it (for example, see the attached filing re our APRA appeal of OER's 100% by 2030 study, which appeal is still pending in Superior Court).

One of eight principles of the National Standard Practice Manual for Benefit-Cost Analysis of Distributed Energy Resources (NSPM) published by industry experts (including the RIPUC's Todd Bianco) in August 2020 is to “ensure transparency.” They describe that principle as follows:

Transparency helps to ensure engagement and trust in the BCA [Benefit-Cost Analysis] process and decisions. BCA practices should therefore be transparent, where all relevant assumptions, methodologies, and results are clearly documented and available for stakeholder review and input.

Starting on page 2-7, the NSPM describes the importance of transparency in more detail:

DER BCAs require many detailed assumptions and methodologies, and they typically produce detailed results. For regulators, utilities, and other stakeholders to properly assess and understand BCAs—and therefore to ultimately ensure that BCA conclusions are reasonable and robust—key inputs, assumptions, methodologies, and results should be clearly documented in sufficient detail.

Transparent documentation helps to ensure that the approach to cost-effectiveness analysis is consistent with fundamental principles, regulatory objectives, and applicable policy goals. It also facilitates and expedites regulatory and stakeholder understanding and review of cost-effectiveness analyses.

Transparency also entails ensuring that stakeholder input allows for review and discussion of the BCA assumptions, methods, and results.

This process, like others conducted by OER in the recent past (e.g., technical sessions on community net metering, 100% by 2030), is not transparent in keeping with the NSPM’s principles. It’s unclear how state officials and their consultants generated the proposed scope of this BCA exercise. But, it is clear that its scoping and development has never been open to stakeholder review, input or impact.

The BCA scoping has been handed down to stakeholders as a given. Only after scoped and completely baked, stakeholders have been allowed to comment. The comments seemingly go into a black box leaving stakeholders with no understanding of how they might impact subsequent output. There is no record of any such impact or of any real consideration of stakeholder comment. We have provided substantive comments throughout this “stakeholder process” but, there is no evidence that any of our comments were considered at all or had any impact of the issuance of the reports and conclusions addressed in these workshops.

This process is not at all “ensuring transparency” as discussed in the NSPM. This kind of process does not ensure that the “BCA conclusions are reasonable and robust” or that “key inputs, assumptions, methodologies, and results [are] clearly documented in sufficient detail.” The lack of transparent documentation means that stakeholders cannot “ensure that the approach to cost-effectiveness analysis is consistent with fundamental principles, regulatory objectives, and applicable policy goals.” As a result of the lack of transparency, stakeholders cannot meaningfully understand and review the cost-effectiveness analyses.

The stakeholder comment process is critical to accurately direct future energy policy for RI. CBA recommendations must not be promulgated around stakeholder participation - they must be developed and informed through meaningful stakeholder participation.

This is yet another sad day for RI administrative proceedings on energy policy. As a result, we respectfully:

- 1) only comment on this “Stakeholder Workshop 3” as needed to substantiate our position that it and these are not true “stakeholder proceedings;”

- 2) pronounce our withdrawal from this process;
- 3) encourage other stakeholders to withdraw from these proceedings, as currently conceived and conducted;
- 4) request termination of this current policy planning process;
- 5) ask the consultants to stop their work on this assignment and agree to cease billing on this account until if/when the process is redesigned for its proper conduct; and
- 6) request that OER management seek the Governor's permission to redesign this as a true stakeholder process.

Here is just some of the evidence that this is not a real "stakeholder process."

- 1) *No recognition or dialogue regarding any stakeholder input.*

Not once has the consultant (or anyone else) actually acknowledged the content of any stakeholder input or made any element of any "Stakeholder Workshop" presentations responsive to even one single stakeholder comment.

As just one example, many "stakeholders" have commented their concern that this process has been scheduled and designed to move during an extremely busy time and much quicker than those "stakeholders" believe practical to achieve its intended result. (see eg, Handy Law, Ecology, Newport Solar, Audubon, Nature Conservancy). The decision to launch this process at the beginning of the typically busy legislative season while many other initiatives of great substantive importance and complexity proceed in parallel (eg, "the future of gas," PUC dockets on interconnection, storage, infrastructure safety and reliability, advanced metering infrastructure and more) and to drive it to completion of a cost benefit analysis of program alternatives (including those yet to be identified) is alone indicative of a lack of consideration and care for stakeholder engagement and impact. The identified study alternatives were just presented in this purported "Stakeholder Workshop 3," and they are still subject to dispute by stakeholders (and, moreover, are actually inconsistent with the program alternatives you have subsequently proposed for study in Workshop #4). If OER and its consultants listened to stakeholders, they would understand and concede that there is no way that any cost benefit analysis can be properly conducted in the limited amount of time offered for that process with proper stakeholder engagement in its formation and analysis.

The consultant has conveyed that the goal of such a contrived process is to produce cost benefit studies of RI's energy programs that will help inform policy makers regarding alternatives proposed in this pending legislative session. However, there are no pending legislative proposals that reflect the cost benefit analyses currently proposed for this process. Are these analyses actually proposed to support legislation already drafted but

not yet presented? If so, such a process clearly puts the cart well ahead of the horse and would portend to establish stakeholder support for a result that is preordained but is not at all understood or vetted by the stakeholders.

2) *Divergence from Stakeholder Comment on Process Purpose – The Faulty Premise.*

Stakeholder comments have made it clear that this OER process and analysis is proceeding under an entirely faulty premise that has long been pedaled by Narragansett Electric only to serve its own economic interests, not to serve the public interest. This despite Narragansett's legislatively granted charter allowing it monopoly control over our electric distribution system only as long as it manages that system for the public interest.

The whole structure of this CBA analysis is based on the faulty premise that renewable energy programs drive excessive ratepayer costs in RI. That premise has long been propounded by our utility (and tragically even taken up by some of its regulators) despite clear evidence that all local, distributed clean energy programs actually save costs on the system, lowering rates to all ratepayers. It is a faulty premise that comparing costs of renewable energy programs and preferring least cost renewable energy programs or reducing incentives offered to well-performing renewable energy programs is the way to reduce rates. It's clear that rates are primarily driven by our overreliance on natural gas. Distributed generation of local, clean electricity can reduce our reliance on natural gas in a way that promises to reduce rates, per standard supply and demand economic theory. Rates are also driven by utility overinvestment in the transmission and distribution systems used to move electricity as called out in RI's Power Sector Transformation study and made evident in the recent sale of Narragansett Electric for \$5.4 billion. The local, distributed generation of clean electricity also promises to reduce those excessive utility costs/profits.

But, instead of focusing on the real opportunity to avoid the costs that have long driven rates up and up in RI, this study seeks to compare costs of renewable energy programs in order to justify reducing the incentives that are (rightly) offered for the development of local, distributed clean energy projects that save ratepayers. This is right in line with utility mythmaking – it takes our eyes off the real cost drivers while looking to justify further inhibiting their real solutions.

Beyond that, RI Energy wants RI to prefer Renewable Energy Growth to net metering for some clear, self-interested motives: 1) REG offers RIE a financial incentive for each project enrolled (net metering customers do not generate that totally unwarranted ratepayer cost); 2) REG is a capped program (net metering does not have such restricted potential for cost suppression); 3) REG is a complex program that RIE can easily manipulate in its weeds to reduce its effectiveness, by (for one example) moving the goal posts of cost of essential development inputs like interconnection (net metering offers a simple and steady incentive that cannot be manipulated – retail rates); 4) REG requires project development on a schedule that the utility can (and does) commonly manipulate, leaving RIE with added benefit of forfeited performance bonds (net metering customers

suffer no such bonding and schedule manipulation); 5) REG is already broken and vastly underperforming.

In the end, there is and can be no justification to further hamper the purpose and execution of net metering on the premise that it is subsidized or costs RI too much. Too many existing studies refute that proposition and make it clear that: 1) the highest cost is business as usual; and 2) net metering projects still are typically not paid what they are worth for their cost avoidance benefits pursuant to any accurate cost benefit analysis (such as that required for RI per docket 4600). Sadly, this CBA process (like too many others before it) proposes to overlook the real impact of cost avoidance offered by the programs that incentivize production of local, distributed clean energy.

Beyond this simple cost proposition writ large, this process also has not responded to stakeholder comment seeking an explanation of how the proposed cost benefit study of possible reductions in incentives offered to developers of local, distributed, clean energy renewable energy could possibly be considered consistent with the general assembly's mandates for 100% renewable energy by 2033 and its requirement that we Act on Climate. It is completely counterintuitive that we can move toward complying with the general assembly's new laws by reducing the compensation offered to developers of local, distributed clean energy. If that does not stand to reason, then perhaps it needs to be communicated once again (next time maybe in some other language).

### *3) Divergence from Stakeholder Comment on Specifics.*

This process has also overlooked stakeholder input on specific cost benefit elements.

As one example, not one comment supports the consultant's proposal to study the costs and benefits of transferring the Renewable Energy Credit (REC) value for net metered systems to the EDC without any compensation. No other comments disputed our firm's observation (in our 3<sup>rd</sup> set of comments) that:

The project developer is entitled to the value of the electricity, the RECs, the capacity and any other such earned attributes (eg, "ancillary benefits"), simply because they earn it and nobody else does. This is right in line with the following docket 4600 principles cited earlier in your presentation: i) appropriately compensate distributed energy resources for the value they provide to the electricity system, customers, and society; ii) appropriately charge customers for the cost they impose on the grid; iii) appropriately compensate the distribution utility for the services it provides; and iv) align distribution utility, customer, and policy objectives and interests through the regulatory framework, including rate design, cost recovery, and incentives. As discussed below, it is very bad (and even forbidden) policy to give such benefits of DG to anyone other than those that earned them.

The only other comments that would have supported giving the REC value from net metering to the EDC without compensation did not provide any explanation for that position rooted in RI cost benefit policy. Sunwatt Solar, LLC posits that:

DG project owners would retain the full value of the energy used in the form of direct offset per kWh and as a carried forward volumetric bill credit. In turn, the EDC would be assigned the full value of RECs which would be used to offset the cost to rate payers.

The guiding principles of docket 4600 do not support giving RECs to a distribution utility that has not earned them.<sup>1</sup> Incentives are promulgated to reward those that have earned them. They are not designed to be forfeited to those that haven't.

### *Conclusion*

It makes no sense for “stakeholders” to participate in a “stakeholder workshop” that is proposed and presented to run right past them rather than through them. We are all too busy to give our time, attention and effort to that kind of a process. Consequently, we respectfully:

- 1) only comment on this “Stakeholder Workshop 3” as needed to substantiate our position that these are not “stakeholder proceedings;”
- 2) pronounce our withdrawal from this process;
- 4) ask all other stakeholders to also withdraw from these proceedings as they are currently conceived and conducted;
- 4) request termination of this current policy planning process;
- 5) ask that the consultants stop work and agree to stop billing on this account until if/when the process is redesigned for its proper conduct; and
- 6) request that OER management ask the Governor for leave to redesign this as a proper stakeholder process.

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<sup>1</sup> The notion that RECs are only retired toward RI's goals if they are transferred to the utility free of cost is absolutely unsubstantiated.