

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 17-4632-INV

Continuing issues related to the implementation of the Renewable Energy Standard	
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Order entered: 08/24/2018

ORDER RE: WASHINGTON ELECTRIC COOPERATIVE, INC.'S TIER III SAVINGS CLAIMS FOR WEATHERIZATION WORK COMPLETED BY CAPSTONE COMMUNITY ACTION

I. INTRODUCTION

On June 7, 2018, Washington Electric Cooperative, Inc. (“WEC”) filed a petition with the Vermont Public Utility Commission (“Commission”) requesting that the Commission allow WEC to claim energy savings under Tier III of the Renewable Energy Standard (“RES”) for weatherization work completed by Capstone Community Action’s (“Capstone”) Weatherization Program in 2017. In this proposal for decision, I recommend that the Commission allow WEC to claim the Capstone weatherization work under Tier III of the RES.

II. BACKGROUND AND PROCEDURAL HISTORY

The requirements under Vermont’s RES are divided into three categories or “Tiers.”¹ Tier III requires each Vermont electric distribution utility to achieve fossil-fuel savings through energy transformation projects or procurement of distributed renewable energy in amounts equal to 2 percent of the utility’s annual retail electric sales during the year beginning January 1, 2017, and increasing by an additional two-thirds of a percent each subsequent year until reaching 12 percent on and after 2032.²

On November 1, 2016, WEC filed its 2017 Annual Plan for Tier III Compliance.³

On March 15, 2018, WEC filed its 2017 Tier III savings claims,⁴ which included 580 MWh of savings claimed for weatherization work completed in WEC’s service territory by Capstone in 2017.

¹ 30 V.S.A. § 8005.

² 30 V.S.A. §8005(a)(3).

³ As required by *Investigation re: establishment of the Renewable Energy Standard program*, Docket 8550, Order of 6/28/2016 at 77.

⁴ As required by Docket 8550, Order of 6/28/2016 at 72.

On June 1, 2018, the Vermont Department of Public Service (“Department”) filed its Tier III Report,⁵ evaluating the electric distribution utilities’ compliance with their Tier III requirements. In the Tier III Report, the Department posited that the Capstone weatherization work claimed by WEC did not meet the statutory requirements for Tier III and therefore recommended that the Commission not allow the work to be counted towards WEC’s 2017 Tier III requirement.

On June 7, 2018, WEC filed a response to the Department’s Tier III Report (the “WEC Comments”),⁶ arguing why the Capstone weatherization work should be allowed to satisfy WEC’s 2017 Tier III requirement.

On June 13, 2018, the Department filed a response to WEC’s comments.

On June 14, 2018, Capstone also provided a response to the Department’s Tier III Report (the “Capstone Comments”),⁷ providing further argument and support for why its weatherization work should be allowed to satisfy WEC’s 2017 Tier III requirement.

On August 2, 2018, the Department filed a letter providing background information about Capstone (the “Department Letter”).

III. FINDINGS

1. Capstone provides weatherization services as part of the State’s low-income Weatherization Assistance Program authorized under 33 V.S.A. § 2502. Department Letter at 1.
2. In 2017, WEC provided support to Capstone by conducting outreach to WEC members and notifying them of Capstone’s weatherization services, which drove low-income WEC members to Capstone for weatherization services. Capstone Comments at 3.
3. Capstone completed weatherization work in 2017 in the homes of WEC members, which produced verifiable thermal lifetime energy savings. WEC Comments; Capstone Comments at 3.
4. WEC is withholding payment to Capstone for 580 MWh of energy savings completed in 2017 until it receives a ruling as to whether it may claim the 2017 Capstone weatherization work as energy savings to satisfy its Tier III requirement. WEC Comments at 2.

⁵ As required by Docket 8550, Order of 6/28/2016 at 72.

⁶ As allowed by Docket 8550, Order of 6/28/2016 at 73.

⁷ As allowed by Docket 8550, Order of 6/28/2016 at 73.

5. WEC's payment to Capstone for 580 MWh of energy savings completed in 2017 in WEC's service territory will be in addition to Capstone's regularly budgeted work. WEC Comments at 2; Capstone Comments at 3-4.

IV. DISCUSSION

For energy transformation projects, an electric distribution utility may provide incremental support to a state weatherization program, "but may take credit only for the additional amount of service supported and shall not take credit for that program's regularly budgeted or approved investment."⁸

In its Tier III Report and June 13 response to WEC's comments, the Department raises two concerns with WEC's Capstone energy savings claim: (1) that WEC is claiming 580 MWh of savings for work completed as part of Capstone's "regularly budgeted or approved investment," rather than "the additional amount of service supported" by WEC, and (2) that WEC has not yet paid Capstone for the 2017 savings.

The Department's first concern goes to the statutory requirement that energy transformation projects support additional work. If WEC were to claim the savings created by Capstone without providing incremental support for the creation of those savings, those savings would not satisfy the requirements of 30 V.S.A. § 8005(a)(3)(E)(ii) and would not qualify as additional work. However, WEC and Capstone have confirmed that WEC's payment to Capstone for 580 MWh of verifiable energy savings completed in 2017 in the homes of WEC members will be in addition to Capstone's regularly budgeted work. Moreover, WEC and Capstone have shown that WEC provided Capstone support in 2017 by conducting outreach to its members and notifying them of Capstone's services, thereby driving low-income WEC members to Capstone for weatherization services. I recommend that the Commission determine that these combined facts establish that WEC has complied with its Tier III RES obligations.

The Department's second concern goes to the timing of payment. While true that WEC has not yet paid Capstone for the 2017 savings, there are many situations in which payment for energy savings may occur after the year in which the savings were created, and such delay in payment should not disqualify a utility from counting the savings towards Tier III compliance for

⁸ 30 V.S.A. § 8005(a)(3)(E)(ii).

the year in which the savings were created. For example, Capstone cited a scenario in its comments in which Efficiency Vermont contracts with Capstone to complete work. Capstone completes an energy audit in November, replaces an inefficient appliance in December, reports the activity to Efficiency Vermont in January, and gets paid by Efficiency Vermont in February. While payment does not occur until February of the year following the year in which the work occurred, Efficiency Vermont counts the savings towards the year in which the work was completed.

While payment may occur after work is completed, proof of payment must be provided as part of an electric distribution utility's filing demonstrating compliance with *all* Tiers of the RES (due by August 31), so the Commission can ensure the utility has satisfied the additionality component of Section 8005(a)(3)(E)(ii).⁹

WEC, the only electric distribution utility to include weatherization work to satisfy its Tier III requirements in 2017, is commended for supporting this work. However, WEC did not specifically identify the Capstone work as a part of its 2017 Annual Plan for Tier III Compliance. Therefore, WEC is reminded that going forward all changes to its annual plan for Tier III compliance must be submitted to the Commission and Department at least 30 days prior to implementing Tier III projects and programs not already included in the annual plan, so that the Department may review the proposed changes.¹⁰

V. CONCLUSION

Based on the foregoing, I recommend that the Commission allow WEC to claim the 580 MWh of 2017 Capstone weatherization work under Tier III of the RES, provided that WEC provides proof of payment to Capstone for the savings claimed as part of its filing demonstrating compliance with *all* Tiers of the RES, which is due no later than August 31, 2018.

This PFD has been circulated to all parties to this proceeding in accordance with 3 V.S.A. § 811.

⁹ As required by Docket 8550, Order of 6/28/2016 at 79.

¹⁰ Docket 8550, Order of 6/28/2016 at 56.

Dated at Montpelier, Vermont, this 13th day of August, 2018.



Elizabeth Schilling, Esq.
Hearing Officer

VI. COMMISSION DISCUSSION

On August 20, 2018, the Department filed comments on the proposal for decision recommending that the Commission reject the hearing officer's conclusions. In its comments, the Department states that the energy savings claimed by WEC run counter to the RES statute, which provides that "[a]n energy transformation project may provide incremental support to a program ... but may take credit only for the additional amount of service supported and shall not take credit for that program's regularly budgeted or approved investments."¹¹ The Department argues that the savings claimed by WEC already occurred as a result of funding provided to Capstone as part of the low-income weatherization program administered through the Office of Economic Opportunity, and therefore the savings occurred as a result of Capstone's "regularly budgeted or approved investments" and cannot be claimed by WEC under the RES. Additionally, the Department notes that if the Commission rejects the savings claim, 30 V.S.A. § 8005(a)(3)(G) provides mechanisms to minimize the adverse impacts to WEC, including reducing the utility's required savings amount and allowing the provider to achieve the required savings during the following year. Finally, if the Commission supports the hearing officer's recommendations, the Department requests that the Commission either provide clear guidance or convene a workshop process regarding what qualifies under Section 8005(a)(3)(E)(ii).

After consideration of the Department's comments and the hearing officer's proposal for decision, we adopt the proposal for decision, while also agreeing to convene a workshop on these matters, as requested by the Department. The Commission seeks to encourage low-income weatherization, an underfunded energy efficiency category, which achieves cost-effective fossil-fuel reductions while providing low-income Vermonters with lower heating and cooling bills and healthier homes. WEC's incremental support of Capstone through its purchase of the verifiable

¹¹ 30 V.S.A. § 8005(a)(3)(E)(ii).

energy savings created in 2017 in the homes of WEC members will result in Capstone completing commensurate additional energy savings in the near term that are not part of its regularly budgeted investments. As stated by Capstone, “additional revenue Capstone receives as a result of its grant-funded weatherization activity ... must be the next dollars expended toward the weatherization of additional units.”¹²

To be clear, the Commission will allow WEC to count the 580 MWh of actual verifiable energy savings created in its member homes in 2017 towards WEC’s Tier III compliance, not the additional savings that Capstone will achieve as a result of WEC’s payment. However, WEC’s payment for the savings is key because it will ensure that commensurate additional energy savings are created in the near term, thus satisfying the language of Section 8005(a)(3)(E)(ii) – that energy transformation projects may take credit for the additional amount of service supported, in this case for low-income weatherization, but not for a program’s regularly budgeted investments.

The Department raises the concern that because Capstone created the 2017 energy savings using grant funds from the Office of Economic Opportunity, the work completed in WEC’s service territory reduced the work conducted in the service territories of other utilities. This may have been true in the short term, but Capstone may now use the revenue it receives from WEC to conduct low-income weatherization work where it chooses.

While the Commission will allow WEC to claim the Capstone energy savings in this instance, this decision does not preclude the Commission from establishing different or additional requirements in the future to comply with Section 8005(a)(3)(E)(ii). The Commission plans to convene a workshop to gather the information it needs to provide clear guidance in the future regarding what activities constitute incremental fossil-fuel reductions under Section 8005(a)(3)(E)(ii) and when such reductions must occur to count towards Tier III requirements. At the workshop, the Commission will ask that WEC and Capstone provide additional explanation, including:

¹² Capstone Comments at 3.

1. Whether the model followed in this case (i.e., energy-saving renovations, MWhs claimed, payment for savings, and then completion of additional activity) is the appropriate order of activities for weatherization programs;
2. Whether federal laws and rules always require that any additional revenue a community-action group such as Capstone receives for its weatherization activity must be the next dollars expended toward the weatherization of additional units, ahead of grant dollars, and
3. Whether the parties think any statutory changes may be needed to clarify Section 8005(a)(3)(E)(ii) or better align the Section with the needs of the federal Weatherization Assistance Program.

The Commission reminds WEC that there are mechanisms in place to avoid disagreement regarding whether an energy transformation project will comply with the RES. First, as stated in the proposal for decision, changes to a utility's annual plan for Tier III compliance must be submitted to the Commission and Department at least 30 days before implementing Tier III projects and programs not already included in the annual plan.¹³ Submitting changes ahead of time will allow the Department to review the proposed changes and flag any issues ahead of project implementation. Second, utilities may seek prior approval for energy transformation projects through the Technical Advisory Group or by petitioning the Commission.¹⁴ Going forward, the Commission expects WEC to comply with the requirements of the Docket 8550 Order of 6/28/2016 and utilize the appropriate mechanisms available under the Order to clarify potential foreseeable issues before submitting its Tier III savings claims.


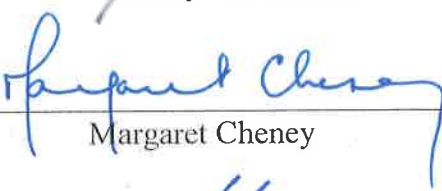

VII. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Vermont Public Utility Commission that the findings, conclusions, and recommendations of the Hearing Officer are adopted.

¹³ Docket 8550, Order of 6/28/2016 at 56.

¹⁴ Docket 8550, Order of 6/28/2016 at 69-70.

Dated at Montpelier, Vermont, this 24th day of August, 2018

)	
Anthony Z. Roisman)	PUBLIC UTILITY
)	
)	
Margaret Cheney)	COMMISSION
)	
)	
Sarah Hofmann)	OF VERMONT

OFFICE OF THE CLERK

Filed: August 24, 2018

Attest: 
Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

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