

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 19-0302-INV

Investigation to establish an Energy Savings Account partnership pilot program, establish a methodology for evaluation, measurement, and verification of Self-Managed Energy Efficiency Program and Energy Savings Account projects, and review the Customer Credit Program	
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Order entered:

PROPOSAL FOR DECISION – ENERGY SAVINGS ACCOUNT PILOT PROGRAM

I. INTRODUCTION

Pursuant to Public Act 150 of the 2018 Vermont legislative session,¹ the Vermont Public Utility Commission (“Commission”) opened an investigation to establish an Energy Savings Account (“ESA”) partnership pilot program and a methodology for evaluation, measurement, and verification of the Self-Managed Energy Efficiency Program (“SMEEP”) and ESA pilot program projects. In addition, the Commission is reviewing the Customer Credit Program.

Pursuant to Act 150, the Commission must establish criteria for customer selection to the ESA pilot program in order to allow customer selection for the program to be completed on or before July 1, 2019.

In this proposal for decision, I provide several recommendations for Commission adoption with respect to the structural elements of the ESA pilot program and the criteria for customer selection.

II. BACKGROUND

The Commission has established three types of programs that qualifying customers can use to manage their own energy efficiency projects: the SMEEP; the ESA program; and the Customer Credit Program. Pursuant to 30 V.S.A. § 209(j), the SMEEP allows certain eligible transmission and industrial electric customers to be exempt from the energy efficiency charge provided the customer commits to spending an annual average of no less than \$1 million over a

¹ Public Act No. 150 (2018 Vt. Adj. Sess.).

three-year period on energy efficiency investments and \$3 million over three years.² Pursuant to 30 V.S.A. § 209(d)(3)(B), customers paying an average annual energy efficiency charge of at least \$5,000 may apply to the Commission to self-administer energy efficiency through an ESA.³ The Customer Credit Program allows commercial and industrial customers that meet certain eligibility standards to use most of their energy efficiency charge funds to implement energy-savings measures of their own as a substitute for participation in the system-wide programs of Efficiency Vermont.⁴

Act 150 requires that on or before July 1, 2019, the Commission must establish a three-year partnership pilot program as an expansion of the existing ESA option. The ESA pilot program will allow a participant, working with Efficiency Vermont, to place the participant's energy efficiency charge payments in an ESA and then use 100 percent of the funds on the participant's own energy efficiency projects. Act 150 requires that the total amount of customer energy efficiency charge funds available in the pilot program each year will not exceed \$2 million.

Act 150 requires that the Commission establish by rule or order the criteria for customer selection to the ESA pilot program. On establishment of the selection criteria, Efficiency Vermont, the Vermont Department of Public Service ("Department"), and the Vermont Agency of Commerce and Community Development ("ACCD") are required to jointly issue a request for proposals from customers seeking to participate in the pilot program. Efficiency Vermont, the Department, and ACCD are required to jointly select customers to participate in the program from among the customers that submit responses to a request for proposals and notify the

² The Commission established the SMEEP in 2009 and modified the program in 2010, 2011, and 2018. *See Order Establishing a Self-Managed Energy Efficiency Program*, Order of 12/28/09, *Order Clarifying Self-Managed Energy Efficiency Program*, Order of 4/7/10; *Order Modifying SMEEP*, Order of 8/10/11; and *Order Approving OMYA's Participation in the Self-Managed Energy Efficiency Program*, Case No. 18-3329-PET, Order of 10/24/18.

³ The Commission established the ESA program in 2009 and modified the program in 2014. *See Order Establishing an Option for Certain Business Customers to Self-Administer Energy Efficiency through the Use of an Energy Savings Account*, Order of 12/22/09; *Order Approving Modifications to the Design of the Energy Savings Account Program*, Case No. EEU-2014-02, Order of 6/6/14.

⁴ The Commission established the Customer Credit Program in 1999 and modified the program in 2007 and 2012. *See Investigation into Department of Public Service's Proposed Energy Efficiency Plan*, Docket 5980, Order of 9/30/99 at 28, 29, 75, A-112 through A-117; *Order re Petition of IBM to Amend EEU Customer Credit Program*, Order of 8/14/07; *Clarifying Order re Petition of IBM to Amend EEU Customer Credit Program*, Order of 10/11/07; *Order Re Proposed Modifications to C&I Customer Credit Program and Participation of OMYA, Inc.*, Case No. EEU-2012-01, Order of 8/24/12.

Commission of the selected customers. Customer selection is required to be completed before July 1, 2019.

Under the ESA pilot program, customers may use energy efficiency charge funds for one or more of the following: electric energy efficiency, thermal energy and process-fuel efficiency, energy productivity measures, demand management, and energy storage that provides benefits to the customer and its interconnecting utility. Act 150 requires that the Commission establish a methodology for evaluation, measurement, and verification of projects implemented under the pilot that is consistent with the requirements of 30 V.S.A. § 218c and that includes cost-effectiveness screening that values energy savings across the customer's energy portfolio and non-energy benefits such as economic development.

As required by Act 150, the Commission opened this investigation to establish an ESA pilot program and a methodology for evaluation, measurement, and verification of SMEEP and ESA pilot program projects. In addition, the Commission is reviewing the Customer Credit Program. The Commission is conducting this investigation in three tracks. Track one (the subject of today's proposal for decision) will establish the ESA pilot program, including the criteria for customer selection. Track two will address the evaluation, measurement, and verification of ESA and SMEEP measures and projects. Track three will include the review of the Customer Credit Program.

On March 14, 2019, Efficiency Vermont filed a letter recommending customer selection criteria, that had been jointly developed by Efficiency Vermont, ACCD, and the Department.

On March 19, 2019, the Hearing Officer conducted a workshop to discuss the ESA pilot program, including the customer selection criteria.

On March 26, 2019, the Department, Efficiency Vermont, Vermont Gas Systems, Inc. ("VGS"), the Champlain Water District, the University of Vermont ("UVM"), WestRock, and Vermont Electric Cooperative, Inc. ("VEC") separately filed comments addressing the ESA pilot program and the customer selection criteria.

III. DISCUSSION

The participants' comments addressed several topic areas concerning the ESA pilot program, including establishing the criteria for customer selection under the request for proposals. Participants agreed that the structural elements of the ESA pilot program established under Act 150 need to be reviewed and addressed by the Commission before a request for

proposals is issued. In this proposal for decision, I address these structural elements along with the customer selection criteria.

My recommendations are addressed separately below by following topic areas:

- Eligibility for ESA pilot program participation;
- Total funds available for pilot program;
- ESA pilot program start and end date;
- Customer energy efficiency charge funds;
- Eligibility for other Energy Efficiency Utility (“EEU”) services;
- Eligibility for certain natural gas customers;
- Scope of allowed activities and program design;
- Evaluation, measurement, and verification;
- Energy Management Plans;
- Program accounting and invoicing;
- Customer selection criteria;
- Annual reporting requirements; and
- Program evaluation and recommendations.

A. Eligibility for ESA Pilot Program Participation

Efficiency Vermont and the Department requested that the Commission reiterate, for clarity purposes, the eligibility requirements for the ESA pilot program defined under Section 2(a)(3) of Act 150 and 30 V.S.A. § 209(d)(3)(B).

UVM requested that program eligibility be clarified, including whether customers of the City of Burlington Electric Department (“BED”) are eligible for the ESA pilot program or whether a separate duplicate program with the same terms and conditions could be created for Burlington residents. UVM also requested the Commission clarify program eligibility for customers with more than one electric account.

Champlain Water District asked the Commission to clarify whether a participant in the ESA pilot program may return or enroll in the existing ESA program at the end of the pilot program. Champlain Water District also requested the opportunity to submit a proposal that allows it to maintain its participation in the existing ESA program, but participate under the rules of the pilot program.

Discussion

Section 2(a)(3) of Act 150 and 30 V.S.A. § 209(d)(3)(B) define the eligibility requirements for the ESA pilot program.

Under Section 2(a)(3) of Act 150, a customer is defined as “a commercial or industrial electric customer that is located in a service territory in which Efficiency Vermont delivers energy efficiency programs and measures and that does not qualify for SMEEP.” Section 2(a)(10) of Act 150 defines energy savings accounts as those meeting the requirements under 30 V.S.A. § 209(d)(3)(B). Section 209(d)(3)(B) specifies that a customer must pay an average annual energy efficiency charge of at least \$5,000 to “apply to the Commission to self-administer energy efficiency through the use of an energy savings account.”

Therefore, as defined by Act 150 and statute, I recommend that a commercial or industrial electric customer who meets the following criteria is eligible to participate in the ESA pilot program: (1) the customer is located in Efficiency Vermont’s service territory;⁵ and (2) the customer must pay an average annual energy efficiency charge of at least \$5,000 in the 12 months preceding the customer’s request to participate in the program. Customers in BED’s service are not eligible for the ESA pilot program.

In addition, I recommend that the Commission adopt the eligibility requirements under the existing ESA program concerning customers with more than one electric account.⁶ Thus, a single business (a single legal entity) with more than one electric account may combine the energy efficiency charge amounts paid on multiple accounts to determine eligibility.

In response to the concerns raised by UVM about participation of BED customers, I note that BED customers meeting the eligibility requirements under Section 209(d)(3)(B) may participate in the existing ESA program established by the Commission.⁷ The existing ESA program will remain in place during the three-year pilot program. In addition, BED customers who are natural gas users may participate in efficiency programs offered by VGS.

With respect to Champlain Water District’s concerns about eligibility once the ESA pilot program ends, I conclude that Act 150 allows customers, once the ESA pilot program is complete, to return or enroll in the existing ESA program.

With respect to Champlain Water District’s request to participate in the existing ESA program under the rules of the pilot program, I recommend the Commission deny this request.

⁵ Vermont Energy Investment Cooperation (“VEIC”) serves as Efficiency Vermont, which provides energy efficiency services throughout the state except for BED’s service territory, under an Order of Appointment issued by the Commission on February 12, 2016, in Docket 8455.

⁶ See Case No. EEU-2014-02, Order of 6/6/14 at Attachment A.

⁷ See Case No. EEU-2014-02, Order of 6/6/14.

Act 150 contains no provisions that allows the Commission to expand the pilot program to existing ESA customers. Further, allowing existing ESA program customers to participate under the rules of the ESA pilot program would be inconsistent with the requirements of 30 V.S.A. § 209(d)(3)(B), which limits the existing ESA program to electric efficiency services.

B. Total Funds Available for ESA Pilot Program

Efficiency Vermont and the Department noted that that Section 2(b) of Act 150 limits the total amount of customer energy efficiency charge funds available in the pilot program each year to \$2 million. Efficiency Vermont stated that the annual cap is likely to be reached in response to the request for proposals. Efficiency Vermont further noted that the annual budget cap could be reached with as little as four or five large businesses or with a dozen or more small-to-medium sized businesses.

Discussion

Section 2(b) of Act 150 requires that, on or before July 1, 2019, the Commission “by rule or order” establish a three-year pilot program for customers to self-direct the use of their energy efficiency charge funds, working with Efficiency Vermont. The total amount of customer energy efficiency charge funds “available in the pilot program each year shall not exceed \$2 million.”

Therefore, I recommend that the annual budget for the ESA pilot program not exceed \$2 million. As discussed further below, customers will be selected through a request for proposals process. The number of customers selected in the request for proposals will depend on the average annual energy efficiency charge amounts billed to each customer. In order to determine the number of customers that may be selected in the request for proposals, I recommend that the annual energy efficiency charge amount billed to each customer be determined by using the 12 months of available charges that precede the request for proposals issue date. As noted by Efficiency Vermont, the ESA pilot program has the potential to be fully subscribed with a few large customers or a larger mix of small-to-medium sized businesses customers.

C. ESA Pilot Program Start and End Date

Efficiency Vermont suggested the start date for the ESA pilot program could be either July 1, 2019, January 1, 2020, or retroactive to January 1, 2019. Efficiency Vermont requested that once a starting date is determined that a reasonable process be established for incorporating

each customer's energy projects and goals into Efficiency Vermont's budget and performance goals.

The Department argued that the definition for customer energy efficiency charge funds under Section 2(a)(4) of Act 150 prohibits a program start other than July 1, 2019. The Department did not object to the program and payments starting on July 1, 2019 and projects being undertaken January 1, 2020 or later to allow the customers' energy efficiency charge payments to build to an amount that would allow for a particular project to be completed.

Champlain Water District noted that if a January 1, 2020, start date is chosen, it may be difficult for the Commission or a third-party consultant to complete an evaluation of the pilot program and provide a report to the General Assembly by January 15, 2023, as required by Section 2(j) of Act 150.

Discussion

Section 2(b) of Act 150 requires that, on or before July 1, 2019, the Commission establish a three-year ESA pilot program. In addition, Section 2(d)(5) requires that the customer selection under the program also be completed by July 1, 2019. Further, Section 2(a) defines customer energy efficiency charge funds to mean a customer's payments during the period of the ESA pilot program.

Based on my review of these statutory requirements, I recommend that the ESA pilot program begin on July 1, 2019, and end on June 30, 2022. This is consistent with the Section 2(b) requirement that the Commission establish an ESA pilot program by July 1, 2019, and with the Section 2(a) definition of energy efficiency funds available under the program.

The July 1, 2019, start date should provide sufficient time for customers to plan and implement projects during a three-year program. I conclude that Section 2 of Act 150 does not prohibit payments under the program starting on July 1, 2019 and projects being started at a later date to allow the customers' energy efficiency charge payments to accumulate before a pilot program project is started or completed. Further, Section 2(b)(2) of Act 150 allows customers to receive payments in advance of project completion based on the Energy Management Plan required under the program. However, under Section 2(b)(2), a customer cannot receive advance payments that exceed the amount of energy efficiency charge the customer has already paid.

Finally, an end date of June 30, 2022, allows the Commission to complete an evaluation of the ESA pilot program and provide a report to the General Assembly by January 15, 2023, as required by Section 2(j) of Act 150.

D. Customer Energy Efficiency Charge Funds

The Department maintained that Section 2(a)(4) of Act 150 requires that the energy efficiency charge payments made by a customer during the period of the ESA pilot program be the source of funding under the program and that only these funds may be used for the costs of eligible projects under the pilot program. The Department further maintained that a customer participating in the existing ESA program cannot transfer its existing ESA funds into the new ESA pilot program.

Efficiency Vermont pointed out that the amount of energy efficiency charge funds available for each customer includes a portion that would pay for technical assistance and other services from Efficiency Vermont and for evaluation, measurement, and verification activities, as required by Section 2(b)(1) of Act 150. Efficiency Vermont noted that on average evaluation, measurement, and verification costs represents approximately 5% of total program costs, but actual costs vary significantly from project to project.

WestRock asked for clarity on the disposition of existing funds that ESA pilot program customers have made to their energy efficiency charge for the first half of 2019 and the status of ongoing projects that are tied to existing EEU programs. WestRock recommended that customers be given the option of rolling energy efficiency charge funds from the first half of 2019 into the pilot program. In the alternative, WestRock recommended that the Commission allow energy efficiency charges paid in the first half of 2019 to be available for use under the existing rules until the end of 2019 when the ESA pilot program becomes fully implemented. WestRock also requested that the expected costs for evaluation, measurement, and verification activities be identified.

VEC argued that projects already in process with Efficiency Vermont should be allowed to continue during the ESA pilot program, and energy efficiency charge payments made prior to pilot participation should be allowed to be allocated toward the pilot.

Discussion

Section 2(b)(1) of Act 150 allows for the following energy efficiency funds to be available for each ESA pilot program customer:

Notwithstanding any contrary provision of 30 V.S.A. § 209(d)(3)(B), the customer shall continue to pay its [energy efficiency charge] and be able to receive an amount equal to 100 percent of its ESA account balance to pay for the full cost of projects that are eligible under subdivision (3) of this subsection; for technical assistance and other services from Efficiency Vermont; and for evaluation, measurement, and verification activity conducted by the Department or [Efficiency Vermont].

Therefore, I recommend that a customer in the ESA pilot program be able to receive funds that match its energy efficiency charge payments made during the three-year program period. This payment includes a portion that would pay for technical assistance and other services from Efficiency Vermont, and for evaluation, measurement, and verification activities by the Department and Efficiency Vermont. The costs for technical assistance and evaluation, measurement, and verification will vary depending on the particular efficiency projects implemented by the program customer. As discussed below, I recommend that an estimate of these costs be provided during the development of the Energy Management Plans required under Section 2(e) of Act 150.

Section 2(a)(4) of Act 150 requires that the energy efficiency charge payments made by a customer during the period of the ESA pilot program be the source of funding under the program. I conclude that only these funds may be used for the costs of eligible projects under the ESA pilot program. I also conclude that Section 2(a)(4) prohibits a customer in the existing ESA program from transferring its existing ESA funds into the new ESA pilot program. However, I conclude that Act 150 does not prohibit a customer selected for the ESA pilot program from participating in the existing ESA pilot program through the first half of 2019, before the ESA pilot program starts. This participation includes completing projects after the first half of 2019, as long as the project funds were available and committed in the first half of 2019. This participation will avoid the loss of opportunity to participate in energy efficiency investments during the first half of 2019.

Finally, Section 2(h) of Act 150 requires that at the end of the ESA pilot program, any customer energy efficiency charge funds that have not been expended or committed under the pilot program revert to use for systemwide energy efficiency programs and measures.

E. Eligibility for Other EEU Services

The Department and Efficiency Vermont asked that the Commission provide additional clarity concerning Section 2(f) of Act 150, which requires that a customer that participates in the ESA pilot program not be eligible for other EEU services, except for the services provided by the natural gas EEU. The Department and Efficiency Vermont maintained that this provision prohibits participants from receiving new or additional EEU services while participating in the ESA pilot program but agreed that it is appropriate for Efficiency Vermont to honor agreements with customers for incentives or payments that are in place prior the start of the program. The Department recommended, given the amount of lead time needed for some large and complex projects to be completed, that as long as there is a signed agreement between the customer and Efficiency Vermont prior to their selection into the ESA pilot program, the customer should be allowed to complete that project and receive the incentive, services, or any payments put forth in the agreement. Efficiency Vermont suggested that the customer should have the ability to choose whether existing agreements are pursued or withdraw from the commitment after being selected for the ESA pilot program – thereby freeing up the project to under the terms of the ESA pilot program.

WestRock also recommended that projects funded by the energy efficiency charge that may be ongoing when the ESA pilot program begins should be allowed to be completed during the ESA pilot program.

Discussion

Section 2(f) of Act 150 requires that a customer who participates in the ESA pilot program “not be eligible for other EEU services, except for an EEU appointed to deliver natural gas efficiency programs and measures.”

Thus, Section 2(f) prohibits a customer who is enrolled in the ESA pilot program from participating in other EEU services, except those offered by VGS.⁸ However, I conclude that this provision does not limit ESA pilot program customers from carrying out commitments for EEU services made prior to their selection in the program. I conclude that it is appropriate for Efficiency Vermont to honor signed agreements with customers for incentives or payments that are in place prior to the start of the ESA pilot program, even if the projects may be completed

⁸ VGS provides natural gas energy efficiency services in its service territory, under an Order of Appointment issued by the Commission on June 13, 2016, in Docket 8694.

after the start of the program. This allowance of additional time to complete projects recognizes that some large and complex projects may need a significant time to plan and complete. In addition, this will avoid the loss of opportunity to participate in energy efficiency investments during the first half of 2019.

Efficiency Vermont also proposed that the customer should have the ability to choose whether existing signed agreements for uncompleted projects are pursued or withdrawn after being selected for the ESA pilot program. I recommend the Commission adopt this proposal. The proposal provides the customer with additional flexibility and allows the customer to pursue efficiency services that best meet the customer's needs.

Further, Section 2(g) of Act 150 allows a customer that participates in the ESA pilot program to "receive funding from an energy program administered by a government or other person that is not the participant, including an EEU appointed to deliver natural gas efficiency services, but shall not count such funds as part of the investment commitment" of the ESA pilot program. This provision allows the customer in the ESA pilot program to pursue funding for energy efficiency services from VGS and other entities not designated as an EEU. Therefore, I recommend that these funding sources not be counted toward the customer's commitments under the ESA pilot program.

F. Eligibility for Certain Natural Gas Customers

The Department and Efficiency Vermont noted that Section 2(b)(3) of Act 150 allows customers in the ESA pilot program who are a manufacturer and who purchased over 600,000 MCF of regulated fuel to use energy efficiency charge funds for thermal-energy-and-process-fuel efficiency for regulated fuels. Efficiency Vermont further noted that Section 2(b)(3) requires that any natural gas savings attributable to the ESA pilot program be counted towards Efficiency Vermont's performance goals. Efficiency Vermont stated that it will coordinate with VGS on any qualifying customer who seeks to pursue such thermal-energy-and-process-fuel efficiency projects. Efficiency Vermont recommended that coordination of the ESA pilot program projects and natural gas EEU projects should be addressed in the customer's Energy Management Plan, and the plan should delineate the funding streams for all projects to reasonably avoid duplication of efforts and effect.

VGS stated that it will coordinate with Efficiency Vermont on thermal-energy-and-process-fuel projects that are located in VGS's service territory. VGS requested that the

Commission clarify how the incentive structure and savings claims for ESA pilot program projects would be divided between Efficiency Vermont and VGS.

WestRock maintained that for customers eligible to participate in the thermal portion of the ESA pilot program, the energy efficiency charge funds should be eligible for use as matching funds against programs administered by VGS. WestRock recommended that claims towards performance goals for Efficiency Vermont and VGS should be granted in proportion to the funds contributed by each EEU against the overall amount of funds provided for a project.

Discussion

Section 2(f) of Act 150 allows a customer that participates in the ESA pilot program to be eligible for EEU services provided by the natural gas EEU. In addition, Section 2(b)(3) of Act 150 allows that a customer who is a manufacturer and whose purchases of a regulated fuel exceeded 600,000 MCF in 2017, may use energy efficiency charge funds for thermal-energy-and-process-fuel efficiency for “regulated fuels.” Under 30 V.S.A. § 209(e)(3)(E), regulated fuels are defined as electricity and natural gas delivered by a regulated utility, and under Section 209(e)(3)(F), unregulated fuels are defined as fuels other than electricity and natural gas delivered by a regulated utility.

Thus, I recommend that customers in the ESA pilot program located in VGS’s territory be eligible for EEU services provided by VGS. In addition, I recommend that certain customers under the ESA pilot program, manufacturers that purchase over 600,000 MCF of natural gas, be also eligible for thermal-energy-and-process-fuel efficiency services using the energy efficiency charge funds contributed under the program. This eligibility for manufacturers using natural gas is unique under the ESA pilot program because Section 2(f) of Act 150 provides only thermal-energy-and-process-fuel efficiency services for unregulated fuels for the remaining customers in the program.

Further, Section 2(b)(3) of Act 150 provides that any regulated fuel savings attributable to the investment of energy efficiency charge funds through the ESA pilot program (i.e. the savings by certain customers who are manufacturers and are VGS customers) be counted towards Efficiency Vermont’s performance goals.⁹ Section 2(b)(3) allows Efficiency Vermont to allocate the cost of the ESA pilot program across regulated and unregulated fuel funding

⁹ I note that customers in the ESA pilot program who are also VGS customers continue to pay the natural gas energy efficiency charge and are eligible for EEU services provide by VGS.

sources in a manner that avoids or reduces the need to adjust savings goals approved by the Commission.

For customers eligible for thermal-energy-and-process-fuel efficiency services for regulated fuels, I conclude that Section 2(b)(3) of Act 150 does not prohibit the implementation of projects that might use both natural gas and pilot program energy efficiency charge funds. Further, Efficiency Vermont and VGS agreed to coordinate the implementation of such projects. With respect to the division of incentives and savings claims, I recommend that claims towards performance goals for Efficiency Vermont and VGS should be granted in proportion to the funds contributed by each EEU against the overall amount of funds provided for an ESA pilot program project. Further, I recommend that the coordination of the ESA pilot program projects and natural gas EEU projects should be addressed in the customer's Energy Management Plan. The Energy Management Plan would identify any overlapping funding streams on ESA pilot program projects and specifically identify how the incentive structure and savings claims would be divided between Efficiency Vermont and VGS.

G. Scope of Allowed Activities and Program Design

The Department and Efficiency Vermont both agreed that the scope of activities under the ESA pilot program include the completion of one or more projects meeting the criteria identified in Section 2(b)(3) of Act 150.

UVM asked the Commission to clarify how the energy efficiency charge funds under the ESA pilot program can be used, including whether the funds can be used for internal staffing costs, managing the preparation of project proposals, studies, designs, construction, validation, and measurement.

WestRock contended that customers should be given significant discretion to plan and manage projects. WestRock further maintained that customers should be able to select from a variety of vendors and contractors for project consulting, and engineering, and those costs should be eligible for recovery using pilot program funds. WestRock argued that where customers are required to use a single vendor, the Commission should require that vendor to charge a prevailing market rate.

Discussion

Section 2(b)(3) of Act 150 allows, notwithstanding any contrary provision of 30 V.S.A. § 209, energy efficiency charge payments by a customer in the ESA pilot program to be “used for one or more of the following: electric energy efficiency, thermal energy and process-fuel efficiency for unregulated fuels, energy productivity measures, demand management, and energy storage that provides benefits to the customer and its interconnecting utility.” In addition, as discussed above, for a customer who is a manufacturer and whose purchases of regulated fuel exceeded 600,000 MCF, the energy efficiency charge funds may be used for thermal-energy-and-process-fuel efficiency for regulated fuels.

Further, Section 2(a)(9) of Act 150 defines energy productivity measures as “investments that reduce the amount of energy required to produce a unit of product below baseline energy use.” Section 2(a)(9) requires that the baseline energy use “be calculated as the average amount of energy required to make one unit of the same product in the two years preceding implementation of the program or measure.”

Thus, I conclude that customers in the ESA pilot program can use energy efficiency charge funds to complete one or more projects meeting the criteria identified in Section 2(b)(3). These self-administered energy efficiency efforts differ from the existing ESA program, where projects can involve only electric efficiency measures.

With respect to expenses eligible for reimbursement under the ESA pilot program, I recommend that the Commission adopt the program design approach developed for electric energy efficiency efforts under the existing ESA pilot program.¹⁰ Under the existing ESA program, customers self-administer their own electric energy efficiency efforts with technical assistance provided by Efficiency Vermont. Customers use funds collected through the electric energy efficiency charge for qualified expenses associated with four project categories: market driven, retrofit, planning, and prescriptive.

In summary, under the existing ESA program, for **market-driven** projects, qualified expenses are defined as the incremental costs associated with identifying, investigating, analyzing, designing, implementing, and/or installing societally cost-effective efficiency projects at facilities owned, operated, or controlled by the participating customer. For **retrofit** projects, qualified expenses are defined as costs associated with identifying, investigating, analyzing,

¹⁰ See Case No. EEU-2014-02, Order of 6/6/14 at Attachment A.

designing, implementing, and/or installing societally cost-effective efficiency retrofit projects at facilities owned, operated or controlled by the customer and where the ESA is in effect. For **planning** projects, qualified expenses may include costs associated with development of an energy efficiency investment plan and cost for a customer's internal or external project design and engineering expenses associated with a market-driven or retrofit project. For **prescriptive** projects, defined as electric projects or measures where a prescriptive rebate offer is available from the EEU to non-ESA customers, qualified expenses are defined as the level of EEU prescriptive rebate available to non-ESA customers.¹¹

For all eligible measures under the ESA pilot program (electric energy efficiency, thermal-energy-and-process-fuel efficiency for unregulated fuels, energy productivity measures, demand management, and energy storage), I recommend that the Commission adopt the above described approach for program design and qualified expenses that is used in the existing ESA program. Because the above described approach for program design and qualified expenses addresses electric efficiency measures only, the approach for other measures may need to be tailored more specifically to these other measures. Therefore, I further recommend that the specific details for program design and qualified expenses be developed for each ESA pilot program customer in its Energy Management Plan.

Under the recommended program design approach, consistent with the existing ESA program and other EEU program, I recommend that customers be given discretion to plan and manage projects. Thus, customers will be able to select their own vendors and contractors for project consulting and engineering, and those expenses will be eligible for recovery using ESA pilot program funds as identified above.

H. Evaluation, Measurement, and Verification

Efficiency Vermont requested that the Commission reiterate, for clarity purposes, that Section 2(c) of Act 150 establishes requirements for the evaluation, measurement, and verification projects under the ESA pilot program.

WestRock requested that potential customers be provided with some general information on the level of evaluation, measurement, and verification that will be required under the ESA pilot program. WestRock recommended that evaluation, measurement, and verification

¹¹ Further details on program design and qualified expenses are found in the Commission's Order implementing the existing ESA program. *See* Case No. EEU-2014-02, Order of 6/6/14 at Attachment A.

standards be linked to industry-standard key performance indicators. WestRock contended that customers should be allowed to conduct measurement and verification in an independent fashion, subject to a series of pre-determined parameters. WestRock further maintained that customers should be able to select from a variety of vendors and contractors to conduct evaluation, measurement, and verification.

Discussion

Section 2(c) of Act 150 requires that the Commission shall establish a methodology for evaluation, measurement, and verification of projects implemented under the ESA pilot program “that is consistent with the requirements of 30 V.S.A. § 218c and that includes cost-effectiveness screening that values energy savings across the customer’s energy portfolio and non-energy benefits such as economic development.” Economic development includes “job creation, job retention, and capital investment.”

Section 2(c)(1) of Act 150 states that the evaluation, measurement, and verification methodology established by the Commission “may be considered for future establishment of performance criteria under 30 V.S.A. § 209(d).”

Section 2(c)(2) of Act 150 requires that Efficiency Vermont and the Department evaluate and verify the electricity savings of each project funded under the ESA pilot program “with no less rigor than is required by ISO-New England for its Forward Capacity Market (FCM) program.”

The Commission has established a methodology for the cost-effectiveness screening of electric and thermal-energy-and-process-fuel efficiency measures.¹² The Commission has long required energy efficiency providers over which it has jurisdiction to make decisions regarding which energy efficiency programs and measures to implement based on the societal cost-effectiveness test.¹³ The Department developed cost-effectiveness screening tools based on decisions made by the Commission in the context of electric, thermal-energy-and-process-fuel, and natural gas energy efficiency programs. The Commission has required EEU’s to use these screening tools since the EEU program’s inception. Therefore, I recommend these screening tools be used under the ESA pilot program.

¹² See *Order Re: EEU Avoided Costs, Externality Adjustments, and Other Screening Components for 2017-2018 Time Period*, Case No. EEU-2015-04; Order of 10/20/2017.

¹³ See Docket 5270, Orders of 4/16/90 and 6/6/90; Docket 5980, Order of 9/30/99 at 58.

Under track two of this proceeding, the Commission will establish a methodology for cost-effectiveness screening for new measures not currently offered by Efficiency Vermont (i.e., energy productivity measures, demand management, and energy storage). I recommend that this methodology be consistent with the societal cost-effectiveness screening used for existing EEU measures and the requirements of 30 V.S.A. § 218c. In addition, I recommend the Commission consider methodologies proposed by participants, including the proposal by WestRock to use key performance indicators.

In addition, track two will include defining how energy productivity programs and measures will qualify under the SMEEP and the ESA pilot program. Track two will also establish a methodology for cost-effectiveness screening that values energy savings across the customer's energy portfolio and non-energy benefits such as economic development.

Consistent with the requirements of Section 2(c)(2) of Act 150, I recommend that Efficiency Vermont and the Department be responsible for evaluation, measurement, and verification under the ESA pilot program. This responsibility is also consistent with the requirements under Section 2(b)(3) of Act 150 that savings from thermal-energy-and-process-fuel efficiency for regulated fuels be counted towards Efficiency Vermont's performance goals. In addition, this provision is consistent with the existing ESA program and other EEU programs administered by Efficiency Vermont. Finally, I recommend that the Commission require that customers under the ESA pilot program work with Efficiency Vermont and the Department to conduct evaluation, measurement, and verification activities, even though Efficiency Vermont and the Department, not customers, are ultimately responsible for these activities.

I. Energy Management Plans

Efficiency Vermont requested that the Commission reiterate, for clarity purposes, that Section 2(e) of Act 150 requires development of an Energy Management Plan.

WestRock requested that the Commission provide more information on the requirements for the Energy Management Plan.

Discussion

Section 2(e) of Act 150 requires that each customer selected for the ESA pilot program, working with Efficiency Vermont, "develop an energy management plan for the three-year period of the pilot with projects to be implemented, energy savings targets, and a timeline for

projects and investments.” Section 2(e) also require that a copy of each plan shall be submitted to the Commission, the Department, and ACCD.

I recommend that the Energy Management Plan identify the specific projects that will be implemented over the three-year period and the expected annual budgets for the three-year pilot period. The budgets should include an estimate of the costs for technical assistance by Efficiency Vermont and the evaluation, measurement, and verification by Efficiency Vermont or the Department (as identified in Section (b)(1) of Act 150). Customers should work with Efficiency Vermont and the Department to development a budget estimate of technical assistance cost and evaluation, measurement, and verification costs.

In addition, as discussed above, I recommend that the Energy Management Plan include the specific details for program design and qualified expenses for eligible measures under the ESA pilot program (electric energy efficiency, thermal-energy-and-process-fuel efficiency for unregulated fuels, energy productivity measures, demand management, and energy storage).

Further, for customers eligible for thermal-energy-and-process-fuel efficiency services for regulated fuels, I recommend that the Energy Management Plan identify any overlapping funding streams for ESA pilot program projects and identify how the incentive structure and savings claims would be divided between Efficiency Vermont and VGS.

J. Program Accounting and Invoicing

Efficiency Vermont provided background on the accounting and invoicing system used under the existing ESA program. Under the existing ESA program, customers report their energy efficiency contributions each month to Efficiency Vermont, and Efficiency Vermont tracks the balance of those ESA funds. When an ESA customer creates an invoice for a qualified expense, Efficiency Vermont reviews and issues the payment directly to the customer. Under the terms of the Order of Appointment, these payments are assessed a corporate indirect billing rate, which is charged against the existing EEU electric budget and billed in the monthly EEU invoice.

Efficiency Vermont recommended that for the ESA pilot program, with a potential spending budget of up to \$2 million per year, that the indirect billing rate not be charged when customer payments are processed. Instead, Efficiency Vermont recommended that an ESA pilot program customer be paid directly out of the Electric Efficiency Fund. Efficiency Vermont

noted that for the same reason of avoiding the expense of a corporate indirect rate, a similar process was established to pay the invoices under the Customer Credit Program.¹⁴

Champlain Water District, WestRock, and UVM requested that the Commission clarify the process for accounting and invoicing. Champlain Water District and WestRock supported direct invoicing for customer reimbursement of project expenses.

Discussion

I recommend that the Commission adopt the procedure for accounting and invoicing recommended by Efficiency Vermont. Thus, ESA pilot program customers will be paid directly by the Fiscal Agent out of the Electric Efficiency Fund for eligible reimbursable expenses incurred or incentives provided under the program. Customers will file their monthly invoices for reimbursable expenses with the Department and Efficiency Vermont for review. When the review is completed, the Department will direct the Fiscal Agent to make payment to the customer.

Once the customers are selected under the ESA pilot program, I recommend that the Commission, working with the Department, establish a process with the Fiscal Agent for payment of customers' invoices.

K. Customer Selection Criteria

Efficiency Vermont, the Department, and ACCD recommended the following customer selection criteria be included in the request for proposals soliciting applications from customers who might participate in the ESA pilot program:

- Geographic equity, considering both the county and electric utility service territory in which the customer is located;
- Diverse pool of industries and business types (e.g., manufacturers, institutions, breweries);
- Priority given to the following:
 - Key employers that serve as anchor companies (large employers that are recognized as key to a region's economic vitality) in rural areas;
 - Large energy users;
 - Companies with demonstrated experience in energy management including employing staff who promote and implement energy management and completion of past energy management projects; and
 - Demonstrated ability to quantify energy, energy productivity, and non-energy benefits of participation, as described by the selected customer.

¹⁴ See Case No. EEU-2016-03, Order of 11/9/17.

- Non-energy benefits that include demonstrated job growth or job retention due to participation in the pilot; and
- Applicants must include a proposed workplan to be evaluated by the selection committee. The workplan must include the following data, at a minimum:
 - Organizational goal;
 - Proposed measures or projects to meet goal; and
 - Timelines and budgets.

Efficiency Vermont added that customers selected for the ESA pilot program should be located throughout the state, and not be limited to one geographic area. For example, it would be reasonable to limit participation to no more than two customers in any one county.

Efficiency Vermont maintained that responses to the request for proposals should include a workplan that articulates how the energy efficiency charge funds will be used for proposed projects. Efficiency Vermont recommended that the workplan consist of organizational goals, proposed measures, timelines, and estimated budgets. Efficiency Vermont also recommended that the workplan identify the category of projects that will be pursued under the program: electric energy efficiency, thermal-energy-and-process-fuel efficiency for unregulated fuels, energy productivity measures, demand management, and energy storage. Efficiency Vermont clarified that budget and project costs in the workplan do not need to include estimates of leveraged funds, or projections of capital budgets and financing that will supplement funds available through the ESA pilot program.

VEC maintained that requests for timelines and budgets in the request for proposals must be reasonable and allow for the needed planning processes for large organizations. VEC further maintained that customers should not be required to leverage additional capital to participate in the program, nor should customers be given a preference for offering to do so as a part of the response to the request for proposals. VEC recommended that at least one customer be chosen who implements thermal projects, in order to access these opportunities under the ESA pilot program.

WestRock stated that it generally agreed with the proposed selection criteria. In addition, WestRock recommended that priority be given to applicants who have demonstrated that it have reached the boundaries of the current EEU program and are no longer able to use them for significant benefit. WestRock maintained that the ESA pilot program should include at least one customer who will use energy efficiency charge funds for thermal projects. WestRock also maintained that any timeline and budgeting requested during the request for proposals should be

viewed as tentative in nature, and once selected, customers should have the ability to modify timelines and budgets. WestRock argued that participation in the ESA pilot program should not be predicated upon a participant committing additional funds above and beyond those available through the program.

WestRock recommended that the request for proposals should clearly state the level of detail expected in the responses. WestRock also recommended that the request for proposals process allow an adequate period of time for questions to be submitted to the issuing body, including contact information for someone who can answer those questions, and allow the answers to be distributed to all anticipated participants in the request for proposals.

Discussion

Section 2(d) of Act 150 requires that customers apply to participate in the ESA pilot program through a competitive solicitation process conducted jointly by Efficiency Vermont, the Department, and ACCD. Section 2(d)(1) of Act 150 requires that after the Commission's rule or order, Efficiency Vermont, the Department, and ACCD establish "criteria for customer selection that are consistent with that rule or order and that take into account energy efficiency and economic development." Section 2(d)(2) of Act 150 requires that on establishment of the selection criteria, Efficiency Vermont, the Department, and ACCD jointly issue an request for proposals from customers seeking to participate in the ESA pilot program.

Section 2(d)(3) of Act 150 requires Efficiency Vermont, the Department, and ACCD to jointly select customers to participate in the pilot program from among the customers that timely submit proposals in response to the request for proposals and notify the Commission of the selected customers. Section 2(d)(4) of Act 150 requires that if Efficiency Vermont, the Department, and ACCD are unable to resolve an issue arising during the request for proposals process, they would bring the issue to the Commission for resolution. Finally, Section 2(d)(5) of Act 150 requires that the customer selection be completed before July 1, 2019.

I recommend that the Commission adopt the customer selection criteria for use in the request for proposals soliciting applications from customers that were proposed by Efficiency Vermont, the Department, and ACCD. Participants in this proceeding generally agreed with the proposed selection criteria. VEC and WestRock recommended that priority be also given to customers implementing thermal energy projects. I recommend that Commission also adopt this proposal.

The criteria, including the proposal to give priority to customers implementing thermal energy projects, are intended to encourage a diverse set of responses to the request for proposals. The proposed criteria will also enable the selection committee to identify customers who would have opportunities to benefit from participation in the ESA pilot program while serving as examples and case studies to inform future program development and evaluations.

WestRock also recommended that the selection criteria include a priority for applicants who have demonstrated that they have reached the boundaries of the current EEU program. The selection criteria giving priority to companies with demonstrated experience in energy management, including employing staff who promote and implement energy management and completion of past energy management projects, appears to address WestRock concerns. Therefore, I recommend that the Commission not adopt any further selection criteria to address the concern raised by WestRock.

Efficiency Vermont proposed that request for proposals responses should include a work plan that articulates how the energy efficiency charge funds will be used for proposed projects. The workplan would identify proposed measures, timelines, estimated budgets, and the category of projects that will be pursued under the program. As supported by other participants in the proceeding, the workplan would not require estimates of leveraged funds, or projections of capital budgets and financing that will supplement funds available through the ESA pilot program. By articulating the goals customers have for participation in the ESA pilot program, the workplan will also aid Efficiency Vermont, the Department, and ACCD in the customer selection process. Therefore, I recommend the Commission adopt the requirement for the workplan.

Finally, I recommend that the Commission adopt the recommendations made by WestRock concerning the request for proposals document and process. Therefore, the request for proposals should contain background detail on the ESA pilot program and should clearly state the level of detail expected in the responses to the request for proposals. The process should include a deadline for questions on the request for proposals and deadline for responses to the questions. Questions and responses on the request for proposals should be provided to all potential responders (e.g. posted on the same website on which the request for proposals is posted).

L. Annual Reporting Requirements

Efficiency Vermont requested that the Commission reiterate, for clarity purposes, that Section 2(i) of Act 150 requires the submission of annual reports.

Discussion

Section 2(i) of Act 150 requires that on or before each November 1 from 2020 through 2022, Efficiency Vermont and the customers in the program jointly submit written progress reports to the Commission, the Department, and the standing committees of jurisdiction that include projects under the ESA pilot program and their associated energy and cost savings.

Section 2(i) also requires that a customer's projects under the ESA pilot program and the associated data and results be made public through the annual reports. However, a customer may request that the Commission order customer-specific data to be used in preparing a report under this subsection be kept confidential if the data would qualify for exemption from disclosure under 1 V.S.A. § 317. If the Commission issues such an order, the data subject to the order will be disclosed only in accordance with a protective agreement approved by the Commission and signed by the recipient of the data, unless a court directs otherwise.

M. Program Evaluation and Recommendations

Efficiency Vermont requested that the Commission reiterate, for clarity purposes, that Section 2(j) of Act 150 requires the Commission to evaluate the ESA pilot program upon the program's completion.

Discussion

Section 2(j) of Act 150 requires that, upon completion of the three-year ESA pilot program the Commission conduct or have a third party conduct an independent evaluation of the program. Section 2(j)(1) of Act 150 requires that the evaluation:

analyze and compare, among pilot participants and companies of similar size outside the pilot: job creation and retention, energy savings, total energy cost reductions, energy productivity measures, amount of capital applied and leveraged, greenhouse gas reductions, and other criteria as defined by the Commission. The evaluation shall also study the effects of the pilot on other ratepayers.

Section 2(j)(2) of Act 150 requires that the evaluation provide electric system results for the ESA pilot program and compare them to the electric system results that would have been obtained had the customer energy efficiency charge been expended pursuant to the electric

energy efficiency programs otherwise authorized under 30 V.S.A. § 209(d). For purposes of this provision, electric system results are defined as “total electric energy savings, total avoided cost of purchasing power, total avoided costs of transmission and distribution improvements, and resulting FCM program revenues.”

Finally, Section 2(j)(3) of Act 150 requires that after considering the results of the evaluation, the Commission submit a written recommendation to the standing committees of jurisdiction on whether to continue the ESA pilot program and, if so, under what recommended conditions and revisions, if any. In addition, the Commission is required to submit this recommendation to the General Assembly on or before January 15, 2023.

IV. CONCLUSION

Based on the consideration of the participants’ comments and requirements under Act 150, I recommend that the Commission adopt the above proposal with respect to the structural elements of the ESA pilot program and the criteria for customer selection.

This proposal for decision is being circulated to the participants for their review and comment in accordance with 3 V.S.A. § 811.

Dated at Montpelier, Vermont this 22nd day of April, 2019



Mary Jo Krolewski
Hearing Officer

V. ORDER

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

Dated at Montpelier, Vermont this _____

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

OFFICE OF THE CLERK

Filed:

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)

PUC Case No. 19-0302-INV - SERVICE LIST

Melissa Bailey
Vermont Public Power Supply Authority
P.O. Box 126
5195 Waterbury-Stowe Road
Waterbury Center, VT 05677
mbailey@vppsa.com

Justin B Barnard
Dinse P.C.
209 Battery Street
Burlington, VT 05401
jbarnard@dinse.com

(for
GLOBALFOUNDRIES
U.S. 2 LLC)

Jerry Brown
WestRock
jerry.brown@westrock.com

(for WESTROCK)

Victoria J. Brown, Esq.
Vermont Electric Cooperative, Inc.
42 Wescom Road
Johnson, VT 05656
vbrown@vermontelectric.coop

(for Vermont Electric
Cooperative Inc.)

William F. Ellis
McNeil, Leddy & Sheahan
271 South Union Street
Burlington, VT 05401
wellis@mcneilvt.com

(for Champlain Water
District)

Lauren Hammer
Vermont Gas Systems, Inc.
85 Swift Street
South Burlington, VT 05403
lhammer@vermontgas.com

(for Vermont Gas
Systems, Inc.)

John W Kessler
Agency of Commerce and Community Development
National Life Building, Drawer 20
Montpelier, VT 05620-0501
john.kessler@vermont.gov

(for Vermont Agency of
Commerce and
Community
Development)

Megan Ludwig
Vermont Department of Public Service
112 State Street
Third Floor
Montpelier, VT 05620-2601
megan.ludwig@vermont.gov

(for Vermont
Department of Public
Service)

Michael Pelletier
University of Vermont - Physical Plant Dept.
284 East Avenue
Burlington, VT 05405
michael.pelletier@uvm.edu

James Porter, Director of Public Advocacy
Vermont Department of Public Service
DPS-PA@vermont.gov

(for Vermont
Department of Public
Service)

Shapleigh Smith, Jr.
Dinse P.C.
209 Battery Street
Burlington, VT 05401
ssmith@dinse.com

(for
GLOBALFOUNDRIES
U.S. 2 LLC)

Matthew J. Walker
Efficiency Vermont-Vermont Energy Investment Corporation
128 Lakeside Avenue, Suite 401
Burlington, VT 05401
mjwalker@veic.org

(for Efficiency Vermont
- Vermont Energy
Investment Corporation)

Matthew Wells
WestRock
501 S. 5th Street
Richmond, VA 23219
matthew.wells@westrock.com

(for WESTROCK)

David C. Westman
Efficiency Vermont - Vermont Energy Investment Corporation
128 Lakeside Avenue, Suite 401
Burlington, VT 05401
dwestman@veic.org

(for Efficiency Vermont
- Vermont Energy
Investment Corporation)