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	

Order entered:

PROPOSAL FOR DECISION – EVALUATION, MEASUREMENT, AND VERIFICATION OF THE SMEEP AND ESA PILOT PROGRAM

I. INTRODUCTION

Pursuant to Public Act 150 of the 2018 Vermont legislative session,[1] the 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.

In this proposal for decision, I provide several recommendations for Commission adoption with respect to evaluation, measurement, and verification of the SMEEP and ESA pilot program.

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 three-year period on energy efficiency investments and $3 million over three years.[2] Pursuant to

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

[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.

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]

As required by Public 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 established the ESA pilot program, including the criteria for customer selection.[5] Track two addresses the evaluation, measurement, and verification of ESA and SMEEP measures and projects. Track three will include the review of the Customer Credit Program.

On July 1, 2019, Efficiency Vermont filed comments on track two issues.

On July 24, 2019, the Vermont Department of Public Service ("Department") convened participants to respond to a straw proposal it developed with draft recommendations for track two of this proceeding. The Department solicited and considered written comments following the participant meeting.

On August 8, 2019, the Department filed initial track two recommendations based on participant input.

On August 12, 2019, the Hearing Officer conducted a workshop to discuss track two issues.

On September 10, 2019, the Department filed final track two recommendations.

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[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.

[5] *Order Re Energy Savings Account Pilot Program*, Case No. 19-0302-INV, Order of 5/16/19.

On September 10, Globalfoundries and Omya, Inc. separately filed comments on the Department's track two recommendations.

On September 26, 2019, WestRock filed comments on the Department's track two recommendations.

III. DISCUSSION

The Department filed recommendations with respect to the evaluation, measurement, and verification of the SMEEP and ESA pilot program. Globalfoundries, Omya, and WestRock filed comments on the Department's recommendations.

My recommendations to the Commission are addressed separately below by the following topic areas:

- Cost-effectiveness screening under the ESA pilot program;
- Energy productivity measures;
- Demand management measures;
- Energy storage measures;
- Information required for evaluation, measurement, and verification;
- Tracking and verifying savings claims;
- Responsibility for cost-effectiveness screening;
- Forward capacity market participation for SMEEP;
- Forward capacity market participation for ESA pilot program;
- Guidelines and requirements for reports;
- SMEEP administrative costs; and
- Confidential information.

A. Cost-Effectiveness Screening

The Department supported cost-effectiveness screening that requires projects to be evaluated from a whole society perspective (societal cost test). The Department maintained that all projects under SMEEP and the ESA pilot program should pass this initial screening to be eligible to access energy efficiency charge funds. The Department noted that a project screens under the societal cost test if the benefits of energy efficiency exceed its cost. A project that passes the screening test can then use energy efficiency charge funds to reimburse the total cost of implementing the project.

On the cost side, the Department recommended that the costs include all the specific expenses incurred for the project, including labor and material expenses associated with completing the project. More general costs, like those associated with the development of an Energy Management Plan would not be considered when screening a project but would be

eligible for reimbursement with energy efficiency charge funds. The Department further recommended that screening for market-opportunity measures should be based on the incremental costs of the measure (e.g., the cost differential between a baseline unit and the more efficient unit). For retrofit projects, the Department recommended that the entire cost of the measure should be screened (the screening should also include a benefit of not having to replace the original unit at what would have been the end of its useful life). The Department contended that its approach is consistent with all other efficiency programs in Vermont and that this approach should not change under the ESA pilot program, even though the total cost of the project would be eligible for reimbursement using energy efficiency charge funds.

On the benefit side, the Department recommended that all utility system and customer benefits be accounted, including avoided resource costs (e.g. energy, water), capital costs (e.g., a large, verifiable capital investment avoided due to the efficiency investment), and operation and maintenance avoided costs. The Department recommended that the benefit assessment include the use of the non-energy benefits adder that is in the existing cost-effectiveness screening tools used by Energy Efficiency Utilities ("EEUs"). The existing non-energy benefit adder of 15% is intended to capture the intangible benefits accrued by energy efficiency measures, including improved comfort, convenience, productivity, and health. To capture the requirement of Section 2(c) of Act 150 that cost-effectiveness screening give value to non-energy benefits such as economic development, the Department recommended the benefit assessment include an additional 10% adder. The Department maintained that the 10% adder accounts for economic development associated with job retention, job creation, capital investment, and other local economic activity impacts. The Department asserted that the 10% adder should only apply to ESA pilot program projects and not be added to the existing cost-effectiveness screening tools used by the EEUs for other efficiency programs.

The Department further contended that the use of the 10% adder is a simplifying assumption that avoids the complicated task of itemizing economic benefits and allows for uniform screening methodology across ESA pilot program customers. The Department maintained that the use of a 10% adder to account for economic development, along with the existing non-energy benefit adder, should facilitate the implementation of the ESA pilot program and should adequately account for the potential benefits of economic development.

WestRock argued that the societal cost test is not always the appropriate test for

screening projects under the ESA pilot program. In particular, WestRock claimed that in certain circumstances the use of the societal cost test may produce screening results in contradiction to the requirement of Section 2(c) of Act 150 that the methodology for evaluation, measurement, and verification of projects "includes cost-effectiveness screening that values energy savings across the customer's energy portfolio." WestRock argued that while certain projects may benefit from societal cost test screening, the test should be an option that is available to customers, and not a requirement. WestRock raised concerns with respect to the Department's proposal to use incremental costs when screening projects. WestRock recommended that both incremental and total cost methodologies be available as options for customers to use as they determine appropriate.

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."

The Commission previously determined that the societal cost-effectiveness test will be used to screen projects under the ESA pilot program.[6] The Commission concluded that the societal cost-effectiveness screening test meets the requirements of Section 2(c) of Act 150 and is consistent with the existing EEU program where it is currently used to screen electric and thermal-energy-and-process-fuel efficiency measures under the existing EEU program.[7] The Commission directed that track two of this proceeding address adapting the existing EEU cost-effectiveness screening tools to reflect the requirements under Section 2(c) of Act 150 that cost-effectiveness screening value energy savings across a customer's energy portfolio and non-energy benefits such as economic development.

I recommend that the Commission adopt the Department's recommendations with respect to the cost-effectiveness screening of ESA pilot program projects. The Department has proposed adaptations to the societal cost-effectiveness test used by existing energy efficiency programs to

[6] Order of 5/16/19, at 16-17 and 30.
[7] Order of 5/16/19 at 30-31.

meet the requirements under Section 2(c) of Act 150 to value energy savings across a customer's energy portfolio and non-energy benefits such as economic development.

First, I recommend that the Commission adopt the recommendation that incremental costs of the measure or project (i.e., the cost differential between a baseline measure and the more efficient measure, rather than the total costs to install the measure) be used in the screening of projects.[8] This methodology is consistent with the existing EEU program and the principles of the societal cost test to assess whether the benefits of energy efficiency will exceed its cost from the perspective of society as a whole. The benefit-side of the test assesses the avoided costs of a measure – that is, the incremental costs society avoids by implementing an energy efficiency measure. The use of incremental costs of the cost side of the test balances the use of incremental costs on the benefit side of the test. Comparing total measure costs to incremental benefits would result in a mismatch and the potential for not screening projects that benefit society and the ESA pilot program customer.

Further, projects that pass the cost-effectiveness screening are eligible for reimbursement from energy efficiency charge funds. The Commission has previously determined that, consistent with the requirements of Section (2)(b)(1) of Act 150, qualified expenses include up to 100% of the costs associated with implementing an eligible project.[9] The use of incremental costs when screening projects does not prohibit a customer from being eligible for reimbursement for the total cost of implementing the project using energy efficiency charge funds.

Second, I recommend that the Commission allow the use of both the 15% adder to account for non-energy benefits and a 10% adder to account for economic development when screening ESA pilot program projects. The non-energy benefit of 15% is used under the existing energy efficiency programs to capture the intangible benefits accrued by energy efficiency programs, such as improved comfort. The 10% adder for economic development adequately captures the benefits associated with job creation, job retention, and capital investment. Both adders avoid the complicated task of itemizing benefits and allow for a uniform and simplified approach for cost-effectiveness screening under the ESA pilot program. Combined with the use

[8] Screening for market-opportunity measures would be the cost differential between a baseline unit and the more efficient unit. For retrofit projects, the entire cost of the measure would be used because the screening includes a benefit of not having to replace the original unit at what would have been the end of its useful life.

[9] Order of 5/16/19, at 28-29.

of societal cost test, the 15% and 10% adders meet requirements of Section 2(c) of Act 150 that cost-effectiveness screening value energy savings across the customer's energy portfolio and non-energy benefits such as economic development.

With respect to WestRock's concerns about the societal cost-effectiveness screening test, I recommend that the Commission reject the WestRock proposal to make the societal cost-effectiveness screening optional and allow the use of total project costs when screening projects. As discussed above, the societal cost test, with the Department's recommended adaptations, meets the requirements of Section 2(c) of Act 150 for cost-effectiveness screening and will result in the implementation of projects under the ESA pilot program that benefit both customers and society as a whole. WestRock has provided no specific examples of why the societal cost-effectiveness screening test does not meet the requirements under Act 150 or why the test would result in less projects screening when compared to other cost-effectiveness screening methods, such as a simple participant cost-benefit test.

B. Energy Productivity

The Department noted that the ESA pilot program allows for energy productivity measures that are not currently within the scope of the existing energy efficiency utility program, and thus there is not a current practice for evaluating, measuring, and verifying these measures.

The Department stated that energy productivity can be a measure of energy intensity used to produce an established amount or volume of material and recommended that energy productivity be described in terms of weather-normalized MMBtu/$ output or $ output/MMBtu. Recognizing that the same metric may not apply to all ESA pilot program or SMEEP customers, the Department recommended that flexibility be provided in determining a metric to apply to a customer's energy productivity measures, including allowing customers to report productivity changes by MMBtu/unit of output (e.g. tons of product). The Department contended that the Commission need not prescribe the specific details for determining cost-effectiveness and recommended that methodologies be developed on a case-by-case basis, at either the facility or machine/production-line level, as described below:

- Facility level – total energy in divided by total product out. Under this aggregated method, a baseline would be established at the facility level and would measure large-scale changes such as moving from three shifts to two shifts.
- Machine/production-line level – improvements to existing equipment or replacement of

old equipment. Measurements of existing energy input to machine throughput can be established as a baseline and any decreases to energy use and machine throughput levels can be measured to determine productivity gains.

The Department stated that other methods to quantify energy productivity may be appropriate, such as avoided capital spending, and recommended that metrics be determined on a case-by-case basis. The Department supported using the MMBtu/$ output or $ output/MMBtu metric when possible, because this would allow consistent reporting across all customers and allow for overall program evaluation.

The Department contended that while Section 2(a)(9) of Act 150 calls for baselines for energy productivity measures to use two years of data, there may be certain instances where a customer's process or equipment may not allow for two years of data. The Department maintained that if a shorter period is needed to establish a baseline, a minimum requirement of two weeks of data be established.

WestRock supported the flexibility to measure energy productivity using metrics that are industry-specific (such as MMBtu per ton of product). WestRock expressed concerns about the use of weather-normalized MMBtu/$ output (or $ output/MMBtu) to compare results across industries. WestRock maintained that metrics such as MMBtu per dollar will not produce meaningful data, since both costs and revenues can be variable and subject to forces outside of the control of customers. WestRock stated that the U.S. Department of Energy has developed a methodology to compare energy performance across the whole industrial sector and suggested that this methodology may be more useful in total program evaluation.

Omya supported the Department's proposal allowing the use of industry-specific measurements of energy productivity and allowing the use a two-week baseline for project measurement. Omya noted that for its processes the relevant units of productivity measurement would be MMBtu/dry metric ton and kWh/dry metric ton.

Globalfoundries raised concerns that the Department's proposal for baseline data may be unworkable given that Globalfoundries operates a number of machines at its facility. Globalfoundries suggested that where two weeks of data cannot be gathered but the project would advance energy productivity goals, the Department and the customer be allowed to work together to establish an appropriate baseline that will permit for the proper evaluation of energy productivity gains.

Discussion

Under 30 V.S.A. § 209(j)(4)(D), SMEEP customers may use energy efficiency charge funds to implement energy productivity measures. Under Section 2(b)(3) of Act 150, ESA pilot program customers may use energy efficiency charge funds to implement energy productivity measures. Both Section 209(j)(4)(D) and Section 2(a)(9) of Act 150 define energy productivity measures as investments that "reduce the amount of energy required to produce a unit of product below baseline energy use" and require that baseline energy use "shall 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."

I recommend that the Commission adopt the Department's recommendations with respect to the measurement and baseline period of energy productivity measures. The Department has recommended an approach that is consistent with the requirements of Section 209(j)(4)(D) and Section 2(a)(9) of Act 150 and that recognizes that there is no current practice for evaluating, measuring, and verifying energy productivity measures.

First, I recommend that the Commission allow the use of industry-specific measurements of energy productivity. Under this approach, a SMEEP or ESA pilot program customer will be afforded flexibility in determining a metric to apply to its energy productivity measures, including allowing customers to report productivity changes by MMBtu/unit of output (e.g. tons of product). Further, the approach does not prescribe the specific details for determining cost-effectiveness and will develop methodologies on a case-by-case basis, at either the facility or machine/production-line level. The approach recognizes that the current versions of the cost-effectiveness screening tools are not designed to determine the value of energy productivity measures and the difficulty of developing one methodology that can apply across multiple industries.

Second, I recommend that the Commission not require customers to evaluate or measure energy productivity measures in terms of weather normalized MMBtu/$ output or $ output/MMBtu. Instead, customers should be encouraged to provide the MMBtu/$ output or $ output/MMBtu metric when possible, because this would allow consistent reporting across all customers. This comparison will be useful when the Commission must perform its evaluation on completion of the ESA pilot program as required by Section 2(j) of Act 150.

Third, I recommend that the Commission require baselines for energy productivity

measures to be established using two years of data, except in instances where a customer's process or equipment may not allow for two years of data. In the instances where there is less than two years of data, I recommend the Commission require a minimum of two weeks of data to establish a baseline. This approach is consistent with the plain reading of Section 2(a)(9) of Act 150, which requires a baseline to be "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." For new processes or equipment or for processes or equipment less than two years in age, a baseline would have less than two years of data, but still be the average amount of energy in the two years preceding implementation of the program or measure. For processes or equipment greater than two years in age, two years of data would be required. The recommended baseline approach is also consistent with the implementation of the existing energy efficiency program, where baselines to determine savings may use less than two years of data.

Globalfoundries requested that less than two weeks of data should be allowed for the establishment of a baseline but did not provide a specific example as to why this would be necessary. I recommend the Commission deny this request. Instead, if Globalfoundries identifies a future need for this exception, it should be allowed to petition the Commission at that time for a waiver of this requirement.

C. Demand Management

The Department defined demand management as the practice of shifting demand to different times of the day to promote load occurring at times that have less impact on the utility system, or when generation supply can most cost-effectively serve the load. The Department noted that the ESA pilot program allows for demand management measures that are not currently within the scope of the existing energy efficiency utility program, and thus there is not a current practice for evaluating, measuring, and verifying these measures.

The Department recommended that the evaluation of demand management measures should be done from two perspectives – the customer and the societal perspective. From the customer perspective, the evaluation would consider the extent to which its own billed demand charges have been avoided. From the societal perspective, the evaluation would consider the costs avoided by all ratepayers. The Department noted that the specific timing of the demand management program is critical to determine its benefit and that the avoided costs in the current version of the cost-effectiveness screening tools may not be sufficiently granular to make a clear

determination as to the full value of demand management. The Department contended that the Commission need not prescribe the specific details for determining cost-effectiveness and recommended that methodologies be developed on a case-by-case basis, at either the facility or machine/production-line level.

Discussion

Under Section 2(b)(3) of Act 150, ESA pilot program customers may use energy efficiency charge funds to implement demand management measures. Section 2(c) of Act 150 requires that the Commission establish a methodology for evaluation, measurement, and verification of projects implement under the ESA pilot program.

I recommend that the Commission adopt the Department's recommendations with respect to the evaluation, measurement, and verification of demand management measures. Under the recommended approach, the evaluation of demand management measures will be done from two perspectives – the customer and the societal perspective – and include an estimate of avoided costs. This approach is consistent with the cost-effectiveness screening used for other ESA pilot program projects under which the costs of a project are compared to the benefit of the avoided costs. This approach recognizes that the current versions of the cost-effectiveness screening tools may not be sufficiently granular to make a clear determination as to the full value of demand management and will develop methodologies on a case-by-case basis.

D. Energy Storage

The Department noted that the ESA pilot program allows for energy storage measures that are not currently within the scope of the existing energy efficiency utility program, and thus there is not a current practice for evaluating, measuring, and verifying these measures.

The Department recommended that energy storage be evaluated in a similar manner as other efficiency measures, comparing the costs of implementation to the benefits using the societal cost test. The Department noted that like demand management measures, the specific timing of the energy storage measure is critical to determine its benefit and that the avoided costs in the current version of the cost-effectiveness screening tools may not be sufficiently granular to make a clear determination as to the full value of energy storage. The Department recommended that proposed energy storage projects include an estimate of avoided costs (using the parameters of the societal cost test), but not necessarily need to use the avoided costs in the existing

screening tools. The Department noted that unlike demand management measures, the evaluation of energy storage needs to consider any increases in energy consumption that occur with the use of a battery and also needs to consider that the characteristics of the benefits are influenced greatly by the manner in which the unit is charged (e.g., whether it is charged by solar power, or whether it is charged immediately after discharge or at the most opportune time for the host utility). The Department contended that the Commission need not prescribe the specific details for determining cost-effectiveness and recommended that methodologies be developed on a case-by-case basis with input from the ESA pilot program customer.

Discussion

Under Section 2(b)(3) of Act 150, ESA pilot program customers may use energy efficiency charge funds to implement energy storage measures. Section 2(c) of Act 150 requires that the Commission establish a methodology for evaluation, measurement, and verification of projects implement under the ESA pilot program.

I recommend that the Commission adopt the Department's recommendations with respect to the evaluation, measurement, and verification of energy storage measures. Under the recommended approach, the evaluation of energy storage measures will be performed by comparing the costs of implementation to the benefits using the societal cost test. The evaluation will include an estimate of avoided costs and include an assessment of the benefits and costs of any increase in energy consumption. This approach is consistent with the cost-effectiveness screening used for other ESA pilot program projects under which the costs of a project are compared to the benefit of the avoided costs. This approach recognizes that the current versions of the cost-effectiveness screening tools may not be sufficiently granular to make a clear determination as to the full value of energy storage and will develop methodologies on a case-by-case basis.

E. Information Required for Evaluation, Measurement, and Verification

The Department recommended that the information and data collected for the evaluation and verification of savings under the ESA pilot program, where applicable, should follow the standards used for Efficiency Vermont's electric and thermal-energy-and-process-fuels efficiency programs. The Department recommended that, to the extent possible, the needed data and information should be outlined in a customer's Energy Management Plan. The Department

maintained that project information and data should include any modeling data, pre- and post-metering data, a detailed synopsis of the intent of the project, and a synopsis of the project's implementation. The Department also recommended that invoices related to the purchasing and installation of the equipment be retained. The Department further stated that its evaluation of projects may require follow-up interviews with the customers to fully understand a project's savings.

For SMEEP, the Department recommended the continued use of the existing reporting and verification template. This template includes the SMEEP customer maintaining a high-level breakdown of projects, costs, and savings. The Department follows with an on-site visit where Department staff can review with the customer the existing conditions prior to the project, what was done as part of the project, and how the resulting claimed savings were calculated. As needed, the SMEEP customer will provide supplementary information to allow the Department to assess the overall reasonableness of the savings reported.

For both SMEEP and ESA pilot program projects, the Department recommended that the collected data should include information to establish baseline conditions before implementation of the project (e.g., pictures and types of equipment, nameplates, description of operation procedures, and data associated with unit-specific consumption). For new equipment installations, the Department recommended using what the baseline equipment would have been but for the program's intervention.

The Department provided the below table of the data that would likely be needed to evaluate and verify ESA pilot program and SMEEP projects. The Department maintained that the data collected will be project-specific or customer-specific. For example, reduced demand savings has different meanings depending on the application – it could mean reduced demand charges (based on their highest usage in a month or year) for the customer, or it could mean reduced demand at the time of peak that avoids costs for the utility.

Criterion	Evaluation to Include	Data Examples
Job Creation/Retention	- Interviews to help determine jobs created and retained, and determine what might have happened otherwise - Estimate of indirect job creation (service or supply resulting from company growth)	- Capital investment - Capital avoidance - Resource (energy, water) savings - O&M net benefits - Output information (e.g. production figures) - Customer labor and employment data (e.g., number of full-time

		equivalents) - Average compensation for created jobs
Energy Savings, Total Energy Cost Reductions	- Engineering analysis of the completed projects - Analysis should use approved avoided costs - Reduced on- or off-peak demands and associated charges	- Baselines (e.g., existing conditions, nameplate information, operating hours) - Invoices for purchase and installation of equipment - Detailed project summaries including equipment cut sheets - Historical peak demand times, demands, and charges
Energy Productivity	- Measurement by MMBtu/$ output or unit of output (machine or facility specific) - Examples of these metrics include: MMBtu/dry ton (per day/week/month); MMBtu/ton of paper (per day/week/month) - MMBtu/per silicon wafer (or multiples thereof) - Metrics should be normalized for weather and then converted into a percentage of energy saved to allow some comparison across industry types	- Baseline: Average amount of energy required to make one unit of the same product (or total output) in the two years preceding implementation of the measure, or average amount of energy required to make one unit of the same product (or total output) for an appropriate reference period given the nature of the product - Average amount of energy required to make a similar product, extrapolated from the reference product that was being made - Equipment availability data pre- and post-project implementation, and energy use pre- and post-project implementation (accounting for energy use differences in the production and idle modes, if applicable) - Throughput data for equipment for a specific product from the reference period, or for current product output extrapolated from earlier production
Capital Applied and Leveraged	- Invoice/capital expenditure review - Capital avoided	- Invoices and costs related to participation in self-managed programs - Program expenditures versus capital expenditures
Greenhouse Gas Reductions	- Analysis of net energy savings by fuel to be multiplied by greenhouse gas coefficients	- Net energy savings

Omya supported the Department's proposal to retain the current reporting and verification template used in SMEEP. Omya requested clarification on the costs reimbursable under SMEEP, including whether costs are reimbursable when used for pre-project audits and

evaluations to help determine where efficiency investments should be made.

Discussion

I recommend that the Commission adopt the Department's recommendations with respect to the information and data collected for the evaluation and verification of savings under the ESA pilot program. The information and data collected for the evaluation and verification of savings under the ESA pilot program, where applicable, should follow the standards used for Efficiency Vermont's electric and thermal-energy-and-process-fuels programs. In addition, the needed data and information would be identified in a customer's Energy Management Plan. The data collected will be project-specific or customer-specific and allow for the evaluation, measurement, and verification of projects implemented under the ESA pilot program, as required by Section 2(c) of Act 150.

I recommend that the Commission adopt the Department's recommendations with respect to SMEEP that would continue the use of the existing reporting and verification template. The information and data collected for projects would be similar across the SMEEP and ESA pilot program.

Omya requested clarification on the costs reimbursable under SMEEP, including the costs of pre-project audits and evaluations. I recommend that the Commission make no changes to the existing SMEEP, which allows these costs to count to the annual amount the customer is committed to spend under SMEEP.

F. Tracking and Verifying Savings Claims

For the purposes of tracking projects and savings related to the ESA pilot program, the Department recommended a unique identifier be created within Efficiency Vermont's database to allow separate tracking of savings under the program. The Department stated that its verification efforts are dependent on the scope and breadth of projects undertaken by ESA pilot program customers. The Department identified two potential paths for its verification efforts: (1) incorporate the ESA pilot program projects into the annual savings verification effort undertaken by the Department for Efficiency Vermont's savings claims; or (2) perform a unique standalone evaluation of ESA pilot program projects that develops a specific realization rate

applicable only to those projects.[10] The Department stated that it would determine a verification path once all Energy Management plans are completed by customers and the number of projects under the program has been determined. The Department stated that the costs of its evaluation and verification efforts cannot be determined until all Energy Management Plans are completed.

The Department recommended that Efficiency Vermont collect and maintain the appropriate documentation to facilitate verification of the claimed savings. The Department contended that Efficiency Vermont should work closely with customers, just as it does with traditional efficiency projects, to ensure these projects can be verified to the same standards as its current portfolio. To facilitate this effort, the Department recommended that Efficiency Vermont supply all customers with necessary forms and a complete list of project-related data needed for both annual verification and Forward Capacity Market evaluation activities. The Department maintained that customers who are planning on doing their own modeling would need to document all assumptions included in the modeling so that these assumptions can be reviewed during the Department's verification process.

For customers eligible for thermal-energy-and-process-fuel efficiency services for regulated fuels, the Department recommended that Efficiency Vermont and VGS develop an agreement detailing how the savings would be tracked and shared proportionally.

Discussion

I recommend that the Commission adopt the Department's recommendations with respect to tracking of projects and savings related to the ESA pilot program. The recommendations include creating a unique identifier within Efficiency Vermont's database to allow separate tracking of savings under the ESA pilot program. Efficiency Vermont should collect and maintain the appropriate documentation to facilitate verification of the claimed savings and should work with customers to ensure that these projects can be verified to the same standards as their current energy efficiency portfolio.

For customers eligible for thermal-energy-and-process-fuel efficiency services for regulated fuels, I recommend that the Commission require Efficiency Vermont and VGS to develop an agreement detailing how the savings will be tracked and shared proportionally.

With respect to the Department's verification efforts, I recommend that the Commission

[10] The realization rate is a measure of how well the Department's verified savings matches the savings claim made by Efficiency Vermont.

allow the Department to determine its verification approach after the submittal of customer Energy Management Plans. Depending on the number and depth of projects under the ESA pilot program, the Department would incorporate of the ESA pilot program projects into the annual savings verification effort undertaken for Efficiency Vermont or perform a unique standalone evaluation of ESA pilot program projects. At that time, the Department would also determine the cost of its verification efforts that would be paid by ESA pilot program customers.[11]

G. Responsibility for Cost-Effectiveness Screening

The Department recommended that Efficiency Vermont be responsible for the cost-effectiveness screening of ESA pilot program projects as they would be claiming both the electric and thermal-energy-and-process-fuel savings generated. The Department recommended that the cost-effectiveness screening be completed during the development of the Energy Management Plans and that only projects that screen would be included in the plans. The Department maintained that ESA pilot program customers will need to collect, collate, and retain project information to the same standards as Efficiency Vermont has established for the purposes of verification. If there is a dispute between Efficiency Vermont and the customer regarding cost-effectiveness screening, the Department recommended that the customer request resolution from the Commission.

The Department maintained that the cost of cost-effectiveness screenings be considered a program cost and paid by the customer using energy efficiency charge funds. The Department suggested that Efficiency Vermont consider creating a flat-rate screening cost to allow customers to factor it into their project costs.

Discussion

I recommend that the Commission adopt the Department's recommendations that Efficiency Vermont be responsible for the cost-effectiveness screening of ESA pilot program projects. This recommendation is consistent with the Commission's previous determination that Efficiency Vermont and the Department be responsible for evaluation, measurement, and verification under the ESA pilot program.[12] The recommendation is also consistent with the requirement in Section 2(c)(2) of Act 150 that Efficiency Vermont and the Department evaluate

[11] *See* Order of 5/16/19, at 9.
[12] Order of 5/16/19, at 17 and 32.

and verify the electricity savings of each ESA pilot program project "with no less rigor than is required by ISO-New England for its Forward Capacity Market (FCM) program."

I recommend that the Commission require that cost-effectiveness screening be completed during the development of the Energy Management Plans and that only projects that screen be included in the plans. I also recommend that the Commission require ESA pilot program customers to collect and retain project information to the same standards as Efficiency Vermont has established for the purposes of verification of its savings. If there is a dispute between Efficiency Vermont and the customer regarding cost-effectiveness screening, I recommend that the customer request resolution from the Commission.

I recommend that the Commission conclude that the costs of cost-effectiveness screenings are considered a program cost and be paid by the ESA pilot program customer using energy efficiency charge funds. I also recommend that Efficiency Vermont establish, if feasible, a flat-rate screening cost to be charged to ESA pilot program customers.

H. Forward Capacity Market Participation For SMEEP

As noted in the Department's recommendations, 30 V.S.A. § 209(j)(4)(L) requires, when determined by the Department to be cost-effective (meaning that estimated revenues exceed the incremental cost of verifying savings), SMEEP projects shall be bid into the ISO New England ("ISO-NE") Forward Capacity Market ("FCM") by Efficiency Vermont.

The Department stated that projects bid into the FCM are required by ISO-NE to undergo a detailed and intensive measurement and verification process.[13] Those procedures can include pre- and post-metering, whole facility regression modeling (a statistical analysis used to predict future energy consumption), or other analytical data-driven reviews to achieve precision and accuracy standards required by ISO-NE. The Department asserted that the average cost of verifying an FCM project under ISO-NE procedures is about $5,000. (Straightforward projects such as lighting cost less, while complex multi-measure projects cost more.)

The Department recommended that SMEEP projects be kept separate from the existing Efficiency Vermont portfolio bid into the FCM (i.e., the projects would be evaluated and bid into the FCM separately). The Department contended that including SMEEP projects may create

[13] The ISO-NE procedures are available at: *ISO New England Manual for Measurement and Verification of On-Peak Demand Resources and Seasonal Peak Demand Resources*, Manual M-MVDR, Revision: 7, Effective Date: October 4, 2018.

revenue risks for the existing Efficiency Vermont FCM portfolio that are not under Efficiency Vermont's control. For example, if a SMEEP FCM project is selected for review and cannot be evaluated to the required standards, or the evaluated savings are found to be significantly less than reported, the project could negatively affect the entire Efficiency Vermont portfolio bid into the FCM.

The Department recommended that SMEEP customers work with the Department and Efficiency Vermont to identify forecasted revenues and estimated FCM evaluation costs to determine the cost-effectiveness of bidding into the FCM. The Department contended that the Commission need not mandate the specific details for determining cost-effectiveness, but suggested that it most likely will employ the following two-step approach:

1. Establish the potential range of revenue a project is expected to receive through the FCM by estimating the kW savings and FCM revenue generated by the project and comparing it to the average FCM measurement and verification cost. If the base range of anticipated revenue exceeds the estimated evaluation cost, plus an agreed-upon percentage to account for uncertainty (perhaps 15%), then move on to step two. If not, then the project is determined to not be suitable to bid into the FCM.
2. Develop pre-engineering calculations and potentially a metering or other evaluation plan (if necessary) to provide a better-informed evaluation cost on which to estimate cost-effectiveness. This secondary screening would only deem a project as cost effective if the low end of the potential revenue range estimated in step 1 exceeds these refined evaluation, measurement, and verification cost estimates.

The Department stated that it will encourage SMEEP customers to plan ahead and make an early determination as to a project's ability to be bid into the FCM. The Department recommended that the determination not be made in advance of planning or implementing a SMEEP electric efficiency project. Instead, the Department recommended that, before or during, the verification process a determination is made as to the eligibility of project to be bid into the FCM.

The Department maintained that its costs associated with evaluating, measuring, and verifying SMEEP projects bid into the FCM should not be borne by the Department's current evaluation budget and should instead be paid for by the SMEEP customer. The Department further clarified that it is recommending that administrative efforts to determine cost-

effectiveness of potential FCM bids be funded with the SMEEP administrative fee, but additional costs associated with additional metering or evaluation of FCM eligible projects should be funded separately, by the SMEEP customer. The Department also recommended that FCM evaluation costs paid by SMEEP customers count toward their overall spending obligations under SMEEP.

Omya and Globalfoundries supported the Department's recommendation with respect to FCM participation. Globalfoundries requested some additional clarification to the Department's recommendations with respect to roles. Globalfoundries maintained that the Department and Globalfoundries should identify projects that might qualify for FCM and refer those projects to Efficiency Vermont so that Efficiency Vermont could estimate the revenue the project would generate if bid into the FCM. Globalfoundries further maintained that once the value of the potential revenue was ascertained, Globalfoundries and the Department, not Efficiency Vermont, would evaluate the costs to undertake and evaluate the project to determine the cost effectiveness of bidding into the FCM.

Discussion

Pursuant to 30 V.S.A. § 209(j)(4)(L), a SMEEP customer shall work with the Department "to determine whether it is cost-effective to submit projects to ISO-New England for payments under the FCM program." Under Section 209(j)(4)(L)(i), cost-effective "requires that the estimated payments from the FCM program exceed the incremental cost of savings verification necessary for submission to that program." Section 209(j)(4)(L)(ii) requires that if the Department determines the submission to be cost-effective, Efficiency Vermont shall bid the project into the FCM and any resulting revenues shall be remitted to the EEU Fund for thermal-energy-and-process-fuel activities in accordance with 30 V.S.A. § 209(e)(1)(A).

I recommend that the Commission adopt the Department's recommendations with respect to the participation of SMEEP projects in the FCM. The recommended approach is consistent with the requirements of Section 209(j)(4)(L) and recognizes the complexities associated with bidding SMEEP projects into the FCM. The approach provides SMEEP customers with a flexible planning process, while helping to ensure that SMEEP projects are cost-effectively bid into the FCM.

Under the approach I recommend the Commission adopt, SMEEP projects would be kept separate from the existing electric energy efficiency portfolio of Efficiency Vermont. The

SMEEP projects would be evaluated and verified separately, and if determined that it is cost-effective, bid separately into the FCM by Efficiency Vermont. The separate accounting will avoid revenue risks for the existing Efficiency Vermont FCM portfolio (i.e., FCM non-performance penalties) if a SMEEP project does not perform to its expected savings after being bid into the FCM. The separate accounting will also allow SMEEP projects more opportunities to participate in the FCM because they will be eligible to participate in either the annual forward capacity auction or reconfiguration auctions.[14]

Under 30 V.S.A. § 209(j)(4)(L), SMEEP customers and the Department are required to work together to determine which projects are cost-effective to bid into the FCM. Under the approach I recommend the Commission adopt, consistent with this statutory requirement, SMEEP customers will work with the Department and Efficiency Vermont to identify forecasted revenues and estimated FCM evaluation costs to determine the cost-effectiveness of bidding into the FCM. Given that the responsibility for determining cost-effectiveness rest with the Department and SMEEP customers, the Commission need not mandate the specific details for determining cost-effectiveness. The Department has identified an approach that likely will result in cost-effective projects being bid into the FCM. The approach provides SMEEP customers a flexible approach to plan and implement projects and recognizes that SMEEP projects are eligible to participate in either the annual forward capacity auction or reconfiguration auctions.

With respect to Globalfoundries's concerns regarding the role of Efficiency Vermont, as recommended by the Department, I recommend that Efficiency Vermont be consulted in all stages of the cost-effectiveness determination, including identifying projects that might qualify for FCM, estimating the revenue the project would generate if bid into the FCM, and evaluating the project to determine the cost effectiveness of bidding into the FCM. As an active FCM participant, Efficiency Vermont will provide valuable expertise through all stages of the process. However, as required by statute, the Department and the SMEEP customer will have ultimate responsibility for determining cost-effectiveness.

I recommend that the Commission adopt the Department's recommendations with respect to the costs associated with evaluating, measuring, and verifying SMEEP projects bid into the

[14] An annual forward capacity auction takes place each year, three years in advance of the needed period for the capacity. Annual and monthly reconfiguration auctions take place during the three years leading to the capacity period and during the capacity period. The reconfiguration auctions allow participants to buy and sell capacity obligations and adjust their obligations to address changes in supply and demand that may occur.

FCM. Under the recommended approach, these costs would not be paid by the Department's existing evaluation budget and instead would be paid for by the SMEEP customer. The Department would determine the costs and bill the SMEEP customer. As noted by the Department, these costs will not include the administrative efforts to determine cost-effectiveness of potential FCM bids, but additional costs associated with additional metering and/or evaluation of FCM-eligible projects. I also recommend that any FCM evaluation costs paid by a SMEEP customer be counted toward its overall spending obligations under SMEEP.

I. Forward Capacity Market Participation for ESA Pilot Program

Under the Department's recommendations for the ESA pilot program, ESA pilot projects would have a unique identifier within Efficiency Vermont's savings verification files and would be evaluated separately. If ESA pilot program savings claims are evaluated separately from Efficiency Vermont savings claims, the Department maintained that there would also be an incremental cost to bid these savings into the FCM. The Department contended that the ESA pilot program was not structured to have a detrimental impact to non-participants, and, thus, the Department recommended that any incremental costs to bid these savings into the FCM be borne by ESA pilot program customers. The Department noted that these costs are currently uncertain, but that once projects are developed and presented in customers' Energy Management Plans, additional costs could be estimated and allocated on a percentage basis.

Discussion

Section 2(b)(1) of Act 150 allows for energy efficiency charge funds to be used the evaluation, measurement, and verification activity conducted by the Department or Efficiency Vermont. Further, under Section 2(c)(2) of Act 150, Efficiency Vermont and the Department shall 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."

I recommend that the Commission require that any incremental costs to bid ESA pilot program savings into the FCM be paid by ESA pilot program customers. This is consistent with Sections 2(b)(1) and 2(c)(2) of Act 150 and the Commission's previous determination that the costs for evaluation, measurement, and verification activities by the Department and Efficiency

Vermont be from the energy efficiency charge funds of the ESA pilot program customer.[15] In addition, consistent with the Commission's previous decision, I recommend that these cost be determined during the development of the Energy Management Plans.[16]

J. Guidelines and Requirements for Reports

The Department proposed Efficiency Vermont work with ESA pilot program customers to develop guidelines for annual reports that provide necessary information but minimize any overlap in current reporting. The Department also recommended that Efficiency Vermont work with each customer on the development of its Energy Management Plan.

With respect to evaluating the effects of the ESA pilot program on other ratepayers, as required under Section 2(j)(1) of Act 150, the Department suggested that comparative yield rates or acquisition costs could be used as metrics to directly compare Efficiency Vermont's MWh and MMBtu savings per program dollar spent to the ESA pilot program savings per program dollar spent.

Discussion

Section 2(i) of Act 150 requires that on or before each November 1 from 2020 through 2022, Efficiency Vermont and ESA pilot program customers 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.

As proposed by the Department, I recommend that the Commission require Efficiency Vermont to work with ESA pilot program customers to develop guidelines for annual reports that provide the necessary information but minimize any overlap in current reporting. The annual reports should be mindful of the evaluation, measurement, and verification requirements of Act 150 and Commission Orders, as well as the requirement in Section 2(j) of Act 150 that upon completion of the ESA pilot program, the Commission is required to conduct or have a third party conduct an independent evaluation of the program.

Consistent with Section 2(e) of Act 150 and the Commission's previous decision, I recommend that Efficiency Vermont work with each ESA pilot program customer on the development of its Energy Management Plan.[17]

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[15] *Order Re Energy Savings Account Pilot Program*, Case No. 19-0302-INV, Order of 5/16/19, at 9.
[16] Order of 5/16/19, at 9.
[17] Order of 5/16/19, at 18.

Section 2(j)(1) of Act 150 requires that the evaluation of the ESA pilot program include the study of the effects of the ESA pilot program on other ratepayers. I recommend that the Commission adopt the Department's recommendation that comparative yield rates or acquisition costs be used as possible metrics to directly compare Efficiency Vermont's savings per program dollar spent to the ESA pilot program savings per program dollar spent.

K. SMEEP Administrative Costs

The Department recommended an increase in the fee charged for participation in the SMEEP program. Currently, SMEEP includes a $50,000 fee, charged over a three-year period, that represents both the administrative and project verification costs of the Department. The Department recommended that the three-year fee be scaled depending on the annual energy efficiency investment required of the participant ─ $50,000 for an annual energy efficiency investment between $500,000 and $1,000,000, and $75,000 for an annual energy efficiency investment of $1,000,000 or more. Under the recommendation, the fee for Omya (set in 2018) would remain unchanged at $50,000 and the fee for GlobalFoundries (set in 2009) would increase from $50,000 to $75,000. The Department stated that the fee set in 2009 needed adjustments for inflationary-based costs, the added costs for evaluating energy productivity measures, and the additional administrative efforts to determine cost-effectiveness of potential FCM bids. The Department recommended that the fee be reviewed every three years and adjusted for inflation and any other relevant factors as determined by the Commission.

Discussion

Pursuant to 30 V.S.A. § 209(j)(4)(B), a cost-based fee to be determined by the Commission shall be charged to the applicant to cover the administrative costs, including savings verification, incurred by the Commission and the Department. The 2008 Commission Order creating the SMEEP established a cost-based fee of $50,000, charged over a three-year period.[18] The SMEEP was updated in 2018 to include a second customer with a cost-based fee of $50,000.[19]

I recommend that the Commission not adopt the Department's recommendation to make changes to the cost-based fee. Instead, I recommend that the Commission conduct further review

[18] *Order establishing a self-managed energy efficiency program*, Order of 12/28/09.

[19] *Order Approving OMYA's Participation in the Self-Managed Energy Efficiency Program*, Case No. 18-3329-PET, Order of 10/24/18.

of the cost-based fee under track three of this proceeding. Based on my review of historical administrative expenses incurred by the Department, I conclude that the Department has not provided adequate documentation to support a cost-based fee of $50,000 or $75,000 for the SMEEP.[20] I recommend that track three include a review of historical administrative expenses under SMEEP and a process for participants to make additional recommendations on cost-based fees.

Specifically, under track three, I recommend that the Commission require the Department to file documentation of its administrative spending under the SMEEP program and a recommendation for cost-based fees that include a detailed justification for the fees. I recommend that the deadline for this filing be within 30 days of the issuance of this Commission Order on track two issues and the deadline for participants to file reply comments be 14 days from the Department's submittal.

L. Confidential Information

The Department noted that files provided to the Department become public records and noted that 30 V.S.A. § 209(j)(4)(J) and requirements under the existing SMEEP provide a process for confidential information. The Department suggested that alternatives to submittal of confidential information include: (1) using third-party vendors who can sign a non-disclosure agreement with customers to allow the transfer of required documentation directly to the third-party evaluator, with only the findings being shared with the Department; or (2) having the Department staff review information on-site. The Department noted that both alternative options have resource – time and cost – implications.

Omya supported continuing the current practice under SMEEP that allows SMEEP customers to request that information be held confidentially if it would qualify for exemption from disclosure under 1 V.S.A. § 317(c) of the Vermont Public Records Act. Omya noted that to date the Department has been able to conduct its annual evaluation of SMEEP customers without the need to retain confidential information because the annual evaluation is done on-site. Omya recommended that if the Department requires information that qualifies as confidential, that a SMEEP customer: (1) file an affidavit with the Department explaining why such information qualifies for being treated confidentially and is exempt from disclosure pursuant to 1 V.S.A.

[20] *See July Fiscal Agent Report*, Report No. 19a-4558, filed on 11/12/19, at 2, 5, 17, and 19.

§ 317; and (2) seek approval of a protective agreement from the Commission to allow the information to be disclosed to the Department. Omya maintained that it is unlikely that Efficiency Vermont would need access to confidential information to bid a SMEEP project into the FCM because of the nature of the data required by ISO-NE.

WestRock contended that it is likely that materials related to the ESA pilot program, including the Energy Management Plan, will contain information that, if released to the public, could damage the competitiveness of the participating customer. WestRock argued that all information provided during the ESA pilot program be considered subject to the "trade secrets" exemption contained in 1 V.S.A. § 317(c)(9), unless that exemption is specifically waived by a customer.

Discussion

Pursuant to 1 V.S.A. § 317, a public record or public document means "any written or recorded information, regardless of physical form or characteristics, which is produced or acquired in the course of public agency business," unless such record would qualify for exemption from disclosure under Section 317(c). Thus, documents and data submitted to the Department and the Commission under the SMEEP and ESA pilot program may be considered public records.

For SMEEP, 30 V.S.A. § 209 (j)(4)(J) and the Commission Order creating the SMEEP established a process for confidential information.[21] A SMEEP customer may request confidentiality of data it reports to the Commission if the data would qualify for exemption from disclosure under 1 V.S.A. § 317(c). If such confidentiality is requested, the Commission will disclose the data only in accordance with a protective agreement approved by the Commission and signed by the recipient of the data, unless a court orders otherwise.

Under Section 2(i) of Act 150, an ESA pilot program customer must file an annual report with the Commission and the Department. A customer's projects under the ESA pilot program and the associated data and results shall be made public through this report. However, a customer may request that the Commission order customer-specific data to be used in preparing the report 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 shall be

[21] *Order establishing a self-managed energy efficiency program*, Order of 12/28/09, at Attachment.

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."

I recommend that the Commission adopt procedures for information that qualifies as confidential under 1 V.S.A. § 317, that is consistent with the existing SMEEP, statutory, and Act 150 requirements. For confidential information that is filed with the Department, each SMEEP and ESA pilot program customer would separately file an affidavit with the Department explaining why such information qualifies for being treated confidentially and is exempt from disclosure pursuant to 1 V.S.A. § 317; and seek Commission approval of a protective agreement that governs the disclosure of the confidential information. For confidential information filed with the Commission, each SMEEP and ESA pilot program customer would separately file an affidavit with the Commission explaining why such information qualifies for being treated confidentially and is exempt from disclosure pursuant to 1 V.S.A. § 317, and seek a protective order from the Commission governing the disclosure of the confidential information.

In addition, I recommend that the Commission allow the use of one of the alternative options for confidential information recommended by the Department. For both SMEEP and ESA pilot program customers, the recommended approach would allow the use of third-party vendors who can sign a non-disclosure agreement with customers to allow the transfer of required documentation directly to the third-party evaluator, with only the findings being shared with the Department. I do not recommend allowing the Department's other alternative approach of allowing Department staff to review confidential information on-site. That approach would not necessarily protect the confidentiality of this information, since the Vermont Public Records Act may be interpreted as requiring the disclosure of documents viewed by Department staff even if Department staff does not keep a copy of those documents.

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 evaluation, measurement, and verification of the SMEEP and ESA pilot program.

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

Mary Jo Krolewski

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
_____ Margaret Cheney	COMMISSION
_____ Sarah Hofmann	OF VERMONT

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)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Commission within 30 days. Appeal will not stay the effect of this Order, absent further order by this Commission or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Commission within 28 days of the date of this decision and Order.

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

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