

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 22-1647-PET

Petition of the Department of Public Service to review Energy Efficiency Utilities' Orders of Appointment and the Process and Administration Document	
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Order entered:

**PROPOSAL FOR DECISION ADDRESSING AMENDMENTS TO THE  
PROCESS AND ADMINISTRATION DOCUMENT**

**I. INTRODUCTION**

The Vermont Public Utility Commission (“Commission”) has appointed three entities to serve as Energy Efficiency Utilities (“EEUs”): Vermont Energy Investment Corporation (“VEIC”) operating as Efficiency Vermont, the City of Burlington Electric Department (“BED”), and Vermont Gas Systems, Inc. (“VGS”).

In this proposal for decision, I recommend that the Commission approve, with some modifications, the amendments to the Process and Administration of an Energy Efficiency Utility Order of Appointment document (“Process and Administration document”) proposed by the Vermont Department of Public Service (“Department”) and the EEUs.

**II. BACKGROUND AND PROCEDURAL HISTORY**

Pursuant to 30 V.S.A. § 209(d), in Case No. 21-1500-PET, the Commission concluded that all three EEUs shall be issued Orders of Appointment dated through December 31, 2033.

On May 6, 2022, as required by the Orders in Case No. 21-1500-PET, the Department filed a petition with the Commission requesting the review of the Order of Appointments and the Process and Administration document.

On June 7, 2022, I issued a scheduling order in this proceeding that bifurcated the case into two phases. The first phase is to address issues relating to the Demand Resources Plan Proceeding, and the second phase is to address all remaining issues.

On August 26, 2022, the Department filed comments addressing the proposed amendments to the Process and Administration document. The Department represented that the

EEUs supported the proposed changes. The Department's filing included a redlined version of the Process and Administration document.

The first phase of this proceeding also includes potential amendments to the EEU Orders of Appointment. I will address potential amendments to the Orders of Appointment in a separate proposal for decision.

No party requested an evidentiary hearing or any additional process regarding the Process and Administration document. Accordingly, I recommend that the Department's comments and the redline version of the Process and Administration document be admitted into the record.

### **III. DISCUSSION**

The Process and Administration document describes the overall EEU program structure under the Order of Appointment model. It establishes the procedural and administrative framework for all EEU orders of appointment and is intended to be a living document that is revised to reflect changes made to the EEU program.

Phase one of this proceeding addressed amendments to the Process and Administration document related to the Demand Resources Plan Proceeding. The Department filed proposed amendments that were supported by the EEUs. The proposed changes to the Process and Administration document and my recommendations are presented below.

#### Limited Updates to Demand Resources Plans

Section II of the Process and Administration document establishes a three-year EEU performance period and six-year Demand Resources Plans, with limited updates every three years.<sup>1</sup> The expectation of expanding the duration of a Demand Resources Plan from three years to six years was "to maximize the benefits of the investment in a Demand Resources Plan Proceeding, while the opportunity for limited updates every three years will ensure that Demand Resources Plans keep pace with energy industry changes."<sup>2</sup>

The Department and the EEUs propose amendments to the Process and Administration document to provide more clarity to the process for the limited updates of the Demand Resources Plans. The proposed changes in Section II.3.C(e) provide guidance for EEUs to make proposals

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<sup>1</sup> See Case No. 18-2867-INV, Order of 8/8/19 and Order of 11/26/19.

<sup>2</sup> See Case No. 18-2867-INV, Order of 8/8/19 at 16-17.

to update specific elements of their Commission approved six-year Demand Resources Plans at the three-year mid-point in lieu of a full Demand Resources Plan Proceeding addressing all elements at the three-year mid-point. The proposed changes in Section II.3.D allow the Department the option to update the potential study at a three-year mid-point, instead of initiating a full, new potential study assessment. The Department and the EEUs propose to add a new Section II.3.I that provides guidance and process for limited updates to six-year Demand Resources Plans. The new language establishes the most recent six-year Demand Resources Plans approved by the Commission as the basis for parties, EEUs, and the Commission for proposing updates to individual elements. In addition, the new language establishes a timeframe for an EEU to file its intention and justification for pursuing a three-year update and an opportunity for party comments on whether a full Demand Resources Plan Proceeding, versus a mid-point update, is warranted.

I recommend that the Commission adopt the proposed amendments to the Process and Administration document for Sections II.3.C(e) and II.3.D, and for Section II.3.I, with modifications. The proposed changes are consistent with the Commission decision to expand the duration of a Demand Resources Plan from three years to six years while providing the opportunity for limited updates every three years. The proposed changes provide clarity and guidance to the process for the limited updates of the Demand Resources Plans.

With respect to the proposed Section II.3.I(d), I recommend that the section be modified to allow an EEU to file a notice of intent to propose a three-year mid-point Demand Resources Plan update. The notice requirement would include the EEU describing the Demand Resources Plan elements that the EEU intends to update. I also recommend that Section II.3.I(d) allow parties to file comments on the update proposal, including objections to a three-year mid-point update.

Under my recommended language for Section II.3.I(d), when filing notice of its intent, an EEU would not need to justify why a three-year mid-point update is appropriate, instead of a full Demand Resources Plan Proceeding. Requiring a justification as part of the notice requirements would conflict with the language under Section II and the Order approving that language, which

expressly allows the opportunity for three-year mid-point updates.<sup>3</sup> The Process and Administration document establishes the requirements for an EEU to develop its updated Demand Resources Plan. Section II.3.C establishes the process, including the opportunity for a litigated proceeding, under which the adequacy of a fully developed updated proposal can be tested.

#### Mechanism for Billing Back Costs

The Department and the EEU's propose amendments to the Process and Administration document that address the ability of the Department to bill back contractor costs related to the potential study. Under its current practices, the Department bills back the cost of the potential study to the distribution utilities. The Department proposes changing this practice to collect the funds through the energy efficiency charge and bill back contractor costs directly to the EEU's. This proposal is intended to simplify the process by limiting the number of entities that are being billed for these costs and thereby decreasing administrative time and costs. The Department contends that ratepayers will ultimately pay the same amount (minus the administrative costs) regardless of whether the costs are billed through the EEU or the distribution utilities. The Department and EEU's propose a new Section II.1.A(a) of the Process and Administration document to allow the potential study to be billed back to the EEU's through the energy efficiency charge.

The Department and the EEU's also recommend that contractor costs associated with the Department's regional avoided energy supply cost study be billed back to the EEU's. Proposed amendments to Section V.14.C would allow the contract costs of the regional avoided energy supply cost study to be billed back to the EEU's. Directly related to these amendments, the Department and the EEU's propose amendments to Section II.3.A(f) that would require the Department to estimate the study costs in advance of a Demand Resources Plan proceeding and require that the costs be included in EEU budget proposals.

I recommend that the Commission adopt the proposed amendments to Sections II and V of the Process and Administration document addressing the bill back of contractor costs directly

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<sup>3</sup> See Case No. 18-2867-iNV, Order of 8/8/19.

to the EEUs. The proposed changes simplify the administrative process and likely decrease the cost ultimately paid by ratepayers.

#### Frequency of Updates to Avoided Costs and Other Screening Values

Avoided costs and other values are used in the screening of efficiency investments and are typically updated biennially as an outcome of Vermont's participation in a regional avoided supply cost study. However, Vermont does not determine the frequency of the regional avoided supply cost study; rather it is the larger New England states that determine the timing and frequency. The Department expects that the regional avoided supply cost study, and Vermont's participation, will likely continue at a frequency of approximately every two to three years. The current language in the Process and Administration document has the Department proposing updates biennially (starting in 2015), and the language has potential to not always be synchronized with the initiation and conclusion of the regional studies. To allow additional flexibility regarding the year and frequency of the Department's proposed updates to screening values, the Department and EEUs recommend amendments to Section V.14.C that allows the Department to propose updates to avoided costs and other screening values to be made as needed and after the completion of a regional avoided energy supply cost study.

I recommend that the Commission adopt the proposed amendments to Section V.14.C of the Process and Administration document addressing the frequency of updates to avoided costs and other screening values. It is appropriate that the updates to EEU screening values be on the same schedule as the regional avoided energy supply cost study that serves as the foundation for many of the screening values.

#### Updates to Service Quality and Reliability Plans

The Department and the EEUs propose that updates to EEU-related Service Quality and Reliability Plans be made within a Demand Resources Plan Proceeding for both EEUs that are and are not distribution utilities. The proposed amendments to Sections II.3.E, II.4.A, and V.11 of the Process and Administration document allow for EEU-related Service Quality and Reliability Plan updates and allow plan metrics to serve as a component of the EEU's performance goals for an EEU that is not a distribution utility.

I recommend that the Commission adopt the proposed amendments to Sections II.3.E, II.4.A, and V.11 of the Process and Administration document addressing updates to Service Quality and Reliability Plans.

**IV. CONCLUSION**

I recommend that the Commission approve, with some modifications, the amendments to the Process and Administration document proposed by the Department and the EEU's. The Process and Administration document is an attachment to this proposal for decision.

This Proposal for Decision is being served on all parties to this proceeding in accordance with 3 V.S.A. § 811.

Dated at Montpelier, Vermont, this 15th day of November, 2022.

*Mary Jo Krolewski*

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Mary Jo Krolewski  
Hearing Officer

**V. ORDER**

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Vermont Public Utility Commission (“Commission”) that:

1. The recommendations and conclusions of the Hearing Officer are adopted.
2. The amendments to the Process and Administration of an Energy Efficiency Utility Order of Appointment document are approved.

Dated at Montpelier, Vermont this \_\_\_\_\_.

_____ )	
Anthony Z. Roisman )	PUBLIC UTILITY
)	
)	
_____ )	COMMISSION
Margaret Cheney )	
)	
)	OF VERMONT
_____ )	
J. Riley Allen )	

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.*

**Process and Administration of an Energy Efficiency Utility  
Order of Appointment**

**Approved by the Vermont Public Utility Commission**

**November XX, 2022**  
in Case No. 22-1647-PET

## TABLE OF CONTENTS

<b>INTRODUCTION</b> .....	<b>1</b>
<b>SECTION I: LEGAL MECHANISM, ENERGY EFFICIENCY CHARGE AND OTHER FUNDING, AND FISCAL AGENT</b> .....	<b>1</b>
1. ORDER OF APPOINTMENT OF LEGAL MECHANISM .....	1
2. ENERGY EFFICIENCY CHARGE AND OTHER FUNDING SOURCES .....	3
3. EEU FISCAL AGENT.....	6
<b>SECTION II: DEMAND RESOURCES PLAN, GENERAL EVALUATION</b> .....	<b>6</b>
1. ENERGY EFFICIENCY POTENTIAL STUDY .....	6
2. EEU STAKEHOLDER ENGAGEMENT TOWARD DEVELOPMENT OF DRP PROPOSAL.....	7
3. DEMAND RESOURCES PLAN PROCEEDING (“DRP PROCEEDING”).....	7
4. DEMAND RESOURCES PLAN .....	11
5. ONGOING MONITORING, SAVINGS VERIFICATION, AND EVALUATION	12
6. INDEPENDENT THIRD PARTY AUDIT.....	15
<b>SECTION III: PERFORMANCE ASSESSMENT, TERMINATION, SOLICITATION PROCESS</b> .....	<b>15</b>
1. OVERALL PERFORMANCE ASSESSMENT.....	15
2. RE-ISSUANCE OF APPOINTMENT .....	16
3. SOLICITATION PROCESS .....	17
4. ONGOING OPPORTUNITY TO CONSIDER APPOINTMENT .....	17
5. REVOCATION OR TERMINATION OF APPOINTMENT.....	17
<b>SECTION IV: COMPENSATION AND PAYMENT</b> .....	<b>20</b>
1. GENERAL .....	20
2. PAYMENT UNDER PERFORMANCE INCENTIVE STRUCTURE .....	20
3. ELIGIBLE COSTS AND EXPENSES.....	21
4. RESOURCE-ACQUISITION COMPENSATION .....	22
5. DEVELOPMENT-AND-SUPPORT-SERVICES COMPENSATION.....	22
6. INVOICE REQUIREMENTS, REVIEW AND AUTHORIZATION OF PAYMEN, AND PAYMENT.....	22
<b>SECTION V: ADMINISTRATION</b> .....	<b>23</b>
<b>SECTION VI: DEFINITIONS</b> .....	<b>30</b>
<b>APPENDIX A: ENERGY EFFICIENCY EVALUATION DEFINITIONS</b> .....	<b>35</b>
<b>APPENDIX B: REPORTING REQUIREMENTS OF AN EEU</b> .....	<b>36</b>
<b>APPENDIX C: DUTIES OF THE RGGI TRUSTEE AND FISCAL AGENT</b> .....	<b>39</b>

## **INTRODUCTION**

The Vermont Public Utility Commission (“Commission”) Order dated November 24, 2009, in Docket 7466 altered the structural model of the [Energy Efficiency Utility](#)<sup>1</sup> (“EEU”) from a contract to an Order of Appointment as authorized by 30 [V.S.A.](#) § 209(d)(4). This document sets forth the procedural and administrative framework for all EEU Orders of Appointment. It is intended to reflect all Commission decisions regarding the EEU program and to be a “living document” that would be revised in the future if the Commission made further changes to the program. This document may be amended by the Commission as appropriate after due notice.

This document is not intended to serve as a scope of work or detailed list of responsibilities for any individual EEU. The scope of work of any individual appointment will be detailed in the Order of Appointment issued by the Commission to that entity.

Any EEU issued an Order of Appointment by the Commission under this broad structure shall follow the guidelines and criteria established herein, unless otherwise approved by the Commission. These guidelines and criteria also outline responsibilities of the Department of Public Service (“Department”) and [Vermont Utilities](#) as they pertain to the Order of Appointment. This comprehensive structure is intended to be applied to every Order of Appointment issued by the Commission; thus the provisions herein need not be set out in each specific Order of Appointment.

## **SECTION I: LEGAL MECHANISM, ENERGY EFFICIENCY CHARGE AND OTHER FUNDING, AND FISCAL AGENT**

### **1. ORDER OF APPOINTMENT OF LEGAL MECHANISM**

- A. An EEU shall be the subject of an Order of Appointment issued by the Commission under the authority conferred by, and consistent with, the provisions of 30 V.S.A. §§ 209(d), (e), (f), and (g).
- B. Upon appointment, an EEU shall not abandon or curtail any responsibilities associated with the appointment without first obtaining the Commission’s approval.
- C. Nothing in this document is intended to limit the right of entities to petition the Commission to become an EEU.
- D. The Commission shall appoint one or more EEUs to undertake demand-side efficiency resource acquisition initiatives in place of utility-specific programs developed pursuant to 30 V.S.A. § 218c. The [Appointment](#)(s) shall be deemed by the Commission to satisfy the corresponding obligations of [Distribution Utilities](#) (“DUs”), in whole and part, under sections 218c(a) and (b) and under any prior Orders of the Commission, except that electric and natural gas utilities, as applicable, shall retain responsibility for:

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<sup>1</sup> Underlined terms in this document have the meanings defined in Section VI, below.

- (a) Testing the reasonableness of EEU estimates of efficiency resources available, projections of costs, and other recommendations of an EEU, and selecting the mix of resources to be deployed to serve load and resolve [Supply Problems](#) and [Reliability Deficiencies](#);
- (b) Participating in any process, such as those that may occur in the [Demand Resources Plan \(“DRP”\) Proceeding](#) or within the auspices of the [Vermont System Planning Committee \(“VSPC”\)](#), to identify potential areas to be geographically targeted, also known as [Geographic Targeting](#);
- (c) Coordinating with an EEU regarding the anticipated energy efficiency savings in those areas;
- (d) Defining the nature of the infrastructure solution for an area with a Supply Problem and Reliability Deficiency as distribution or non-distribution for purposes of cost allocation;
- (e) Participating in any Commission process regarding geotargeting funding mechanisms for relevant Supply Problems and Reliability Deficiencies; and
- (f) Planning for and delivering energy efficiency services as part of distributed utility planning, if an EEU is not directed by the Commission to geographically target a Supply Problem and Reliability Deficiency in whole or in part, or if the Commission were to determine that an EEU should no longer provide geographically targeted services.

Except in connection with the delivery of geographically targeted services, or otherwise ordered by the Commission, the Commission’s appointment of EEUs to acquire demand-side resources shall comprise the [Comprehensive Energy Efficiency Programs](#) required as part of the provision of regulated utility service under 30 V.S.A. § 218c. To the extent that the Commission authorizes an EEU to plan for and implement geographically targeted programs in a DRP to address a particular supply problem or reliability deficiency, such activities shall satisfy the obligations of an electric or natural gas utility to plan for and deliver such programs to meet the same supply problem or reliability deficiency under 30 V.S.A. § 218c.

- E. An EEU may be an organization affiliated with a natural gas or electric utility over which 30 V.S.A. § 203 confers jurisdiction upon the Commission. If an EEU is not such an organization, or is not a “company” as defined under 30 V.S.A. § 201, an EEU shall be subject to the jurisdiction of the Commission to the same extent as a “company” so defined under § 201 and as authorized by § 209(d)(5), except as otherwise provided by 30 V.S.A. § 209(d)(5).
- F. An EEU may be subject to modified or new initiatives or guidance or changes in funding as provided by the General Assembly or the Commission within a three- year performance period. If such parameters of an EEU Structure are modified, the Commission shall take appropriate action to reflect such changes in an Order of Appointment.

- (a) If the General Assembly or the Commission modifies the guidance or directs a new initiative or service to be offered by an EEU, the Commission shall determine whether the new initiative is substantially similar to that already performed by an EEU.
  - i. If the Commission determines that the new initiative is not substantially similar to services already performed by an EEU, the Commission shall hold a proceeding to determine whether the current EEUs should perform such service, or whether to solicit proposals for such services under a separate Order of Appointment.
  - ii. If the Commission determines that the new initiatives are substantially similar to those already performed by an EEU, an EEU shall be required to perform such additional services and/or follow such guidance. If additional funding is provided, then an EEU's [Quantifiable Performance Indicators](#) ("QPIs") shall be modified according to the provisions of Section I.2.C, unless otherwise directed by the General Assembly or the Commission. If no additional funding is provided, then the Commission shall make a determination regarding the effect, if any, on an EEU's Quantifiable Performance Indicators according to the provisions of Section I.2.C.
- (b) If the General Assembly or Commission modifies funding within a three-year budgeted period, then an EEU's Quantifiable Performance Indicators shall be modified according to the provisions of Section I.2.C.
- G. The Department or the Commission may initiate a management audit<sup>2</sup> of activities related to an EEU's performance under an appointment at any time. The results of an audit will be provided to the audited EEU.
- H. Vermont Utilities shall support and cooperate in good faith with EEUs to achieve the effective delivery of, and savings from, the programs and services implemented by EEUs. Individual electric or natural gas DUs voluntarily may design and implement their own Demand-Side Management ("[DSM](#)") programs and services. Any such additional DSM programs shall be designed jointly with servicing EEUs and not conflict with the Comprehensive Energy Efficiency Programs delivered by the EEUs. The costs of any such additional programs delivered by an electric Distribution Utility will be borne by the Distribution Utility, and are eligible for recovery pursuant and subject to applicable [DSM Cost Recovery Mechanisms](#).

## 2. ENERGY EFFICIENCY CHARGE AND OTHER FUNDING SOURCES

- A. A separately stated, non-by-passable, volumetric system benefits charge on the bill from all electric and natural gas DUs to their customers known as the Energy Efficiency Charge ("EEC") shall be used to fund such parts of an EEU's revenue requirements as approved by the Commission. The Commission shall establish the EEC in accordance with the requirements of

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<sup>2</sup> A management audit may provide an assessment of methods and policies of an organization's administration and the use of resources, tactical and strategic planning, and employee and organizational improvement.

30 V.S.A. § 209(d)(3) and Commission Rule 5.300.

- B. The Commission may consider, and approve as warranted, alternative funding mechanisms to the EEC, after such process as the Commission may require.
- C. An EEU shall notify the Commission and the Department of any [Unanticipated Additional Funding](#) that it secures. The Commission shall notify an EEU and the Department of changes to EEU funding, initiatives, or guidance made pursuant to Section I.1.F. Nothing in this provision shall prevent a party from requesting that the Commission examine the effect of changes in funding, initiatives, or guidance on the EEC, or on QPIs, fees, and/or services.
  - (a) If any individual source of Unanticipated Additional Funding acquired by an EEU is to be used to perform activities within the scope of its Order of Appointment and is less than \$100,000, then there shall be no change to QPIs or fees.
  - (b) If any individual source of Unanticipated Additional Funding acquired by an EEU is to be used to perform activities within the scope of its Order of Appointment and is equal to or greater than \$100,000, then an EEU shall propose to the Commission a method, if any, by which the Unanticipated Additional Funding should affect QPIs, fees, and/or services to be provided by an EEU. The Commission shall determine the effect of Unanticipated Additional Funding after such process as the Commission may require.
  - (c) If the [EEU Budget](#) developed in a DRP is reduced by less than \$100,000, or if an EEU is requested to perform duties in addition to those described in its Order of Appointment that are expected to cost less than \$100,000, then there shall be no change to an EEU's QPIs or fees.
  - (d) If the EEU Budget developed in a DRP is reduced by an amount greater than or equal to \$100,000, or if an EEU is requested to perform duties in addition to those described in its Order of Appointment that are expected to cost greater than or equal to \$100,000, then an EEU shall propose to the Commission a method, if any, by which the reduction in budget or additional duties should affect QPIs, fees, and/or services to be provided by an EEU. The Commission shall determine the effect of unanticipated reductions in funding or the addition of duties on QPIs, fees, and/or services after such process as the Commission may require.
  - (e) If any individual source provides funds for activities already supported by an EEC, an EEU shall identify whether these funds are greater than \$100,000.
    - i. If the additional funds are greater than \$100,000, the Commission shall determine whether EEC collections should be adjusted.
    - ii. If the additional funds are less than \$100,000, the Commission may, but is not required to, determine whether EEC collections should be adjusted.

- (f) If an EEU obtains Unanticipated Additional Funding for activities that are not within an EEU's scope of work under an Order of Appointment at the time of acquisition, then compensation for those activities shall be established by the EEU and the funding source.
- D. Net revenues associated with the [Forward Capacity Market \("FCM"\)](#) and the [Regional Greenhouse Gas Initiative \("RGGI"\)](#) shall be allocated to the provision of energy efficiency services and initiatives for [Thermal Energy and Process Fuels \("TEPF"\)](#) in accordance with 30 V.S.A. § 209(e)(1) and (2). Adjustments in quantifiable performance indicators due to differences in net revenues from those budgeted at the time of the DRP shall be treated pursuant to Section I.2.C. If no DRP is in effect, any adjustments shall be consistent with an EEU's Order of Appointment.
- E. Any portion of an EEU Budget allocated for geographically targeted planning and acquisition of demand-side resources shall be recovered via the EEC, or via DU service-area-specific EEC adders as determined by the Commission. Where the affected DUs find that it is appropriate to assign the costs for geographically targeted planning and resource-acquisition services to the customers of one or more DUs, said costs shall be allocated in accordance with the principles established in Docket 7081. Statewide and DU service-area-specific EEC collections for a performance period shall include amounts designed to recover reasonably anticipated geographically targeted planning and resource-acquisition service costs during that period.
- (a) If the budget established by the Commission will not be sufficient to acquire the necessary energy efficiency savings in the geographically targeted areas during a regular performance period, the costs for additional energy efficiency investments in geographically targeted areas necessary to plan for and/or acquire the desired energy efficiency savings shall be allocated to the affected DUs by the Commission in accordance with the principles established in Docket 7081 and may be recovered by DUs utilizing traditional DSM Cost Recovery Mechanisms, via DU service-area-specific EEC adders as determined by the Commission, or other method as may be determined by the Commission.
- i. For geographically targeted planning and resource-acquisition service costs that were not reasonably anticipated in development of the Commission-approved budget, an EEU may charge a DU only its actual costs plus the Commission-approved rate of compensation in effect at the time.
- (b) In accordance with Paragraphs 38, 40, and 41 of the Docket 7081 Memorandum of Understanding, if a DU requests services of an EEU for implementation of its obligations for energy efficiency services under Docket 7081, including particular strategic retrofit programs, an EEU shall be directly compensated for such services by the requesting utility or as otherwise directed by the Commission. Any such compensation shall be at an EEU Appointee's actual cost plus the Commission-approved rate of compensation in effect at the time.

### 3. EEU FISCAL AGENT

- A. Each entity that receives an Order of Appointment to administer an EEU may be appointed by the Commission to serve as that EEU's Fiscal Agent. An EEU Fiscal Agent shall fulfill the duties specified in Appendix C.<sup>3</sup>
- (a) An EEU [Fiscal Agent](#) shall receive EEC revenues paid to and/or collected by electric or natural gas DUs and such other revenues as designated by the Commission and/or statute, shall deposit such funds in the Energy Efficiency Fund (the "Fund" or "EEF") and shall disburse them pursuant to 30 V.S.A. § 209(d)(3) and other Commission direction, including guidance to the Fiscal Agent established in Commission Orders in EEU-2011-06. An EEU Fiscal Agent may also be appointed by the Commission to serve as the trustee for the administration of the funds received through Vermont's participation in Regional Greenhouse Gas Initiative ("RGGI") auctions pursuant to 30 V.S.A. § 255 (the "RGGI Trustee").<sup>4</sup>
- (b) Balances in the EEF shall be ratepayer funds, shall be used to support only authorized EEU Program activities, and shall be carried forward and remain in the EEF at the end of each fiscal year unless otherwise directed by the Commission. These monies shall not be available to meet the general obligations of the State. In addition, these monies shall not be considered funds of the EEU and shall not be available to meet the general obligations of the entity appointed to serve as the Fiscal Agent. Interest earned shall remain in the EEF.

## **SECTION II: DEMAND RESOURCES PLAN, GENERAL EVALUATION**

### 1. ENERGY EFFICIENCY POTENTIAL STUDY

- A. The Department shall complete an assessment of the potential for demand-side resources every three years and shall file its completed potential study 18 months before the start of an EEU performance period. The Department shall assess the technical, economic, and achievable electric and natural gas efficiency potential. The Department may complete the potential study on a statewide basis, with specific reference to the efficiency potential within each EEU's service territory, or the Department may complete EEU-specific efficiency potential studies. The Department shall file its complete efficiency potential study in ePUC, with copies to, at a minimum, the EEUs and Vermont utilities.
- (a) The contract cost of the potential study may be billed back to the EEUs. Each EEU shall include a proportionate share of Department estimated costs in its budget proposal per Section II.3.A.(f).
- B. The Department may complete the assessment with the technical assistance of

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<sup>3</sup> The Commission decided that the EEUs may serve as Fiscal Agents for their own operations in Case No. 18-2867-INV, Order dated August 8, 2019.

<sup>4</sup> The Commission appointed Vermont Energy Investment Corporation to serve as the RGGI Trustee in Case No. 18-2867-INV, Order dated August 8, 2019.

a third-party contractor. The Department shall provide the EEU, Vermont Utilities, and interested stakeholders an opportunity to provide comment and recommendations on appropriate technical and policy assumptions and data inputs for the efficiency potential assessment.

- C. Before the assessment is finalized, the EEU, Vermont Utilities, and other stakeholders shall be afforded an opportunity to submit comments, ask questions, and participate in a workshop focused on the assessment.

## **2. EEU STAKEHOLDER ENGAGEMENT TOWARD DEVELOPMENT OF DRP PROPOSAL**

- A. An EEU shall engage with stakeholders to solicit input that will inform its development of a DRP proposal. For example, an EEU may seek to assess the demand for efficiency services and technologies, economic and market conditions, and progress toward the State’s environmental and energy policies and goals. An EEU may also seek to collaborate with other energy service providers to avoid service redundancy or competition for savings.
- B. Once it has developed a draft DRP proposal, an EEU shall solicit input from stakeholders on its draft prior to filing its DRP proposal with the Commission.
- C. An EEU shall seek input from the Department, Vermont Utilities, weatherization agencies, and regional planning commissions. An EEU may seek input from other stakeholders as appropriate.

## **3. DEMAND RESOURCES PLAN PROCEEDING (“DRP PROCEEDING”)**

- A. A DRP shall require approval by the Commission following a process that is guided by the objectives and criteria of 30 V.S.A. §§ 202(a), 209(d), (e), (f), (g), § 218c, and other applicable sections of Vermont statutes, as well as prior Commission Orders. Such proceedings shall:
  - (a) Result in a set of long-term EEU-specific assumptions pursuant to which each EEU shall operate;
  - (b) Delineate the budgets, modeled savings, and QPIs for each EEU, including both resource acquisition and development and support services (“DSS”) budgets;
  - (c) To the extent possible include consideration of the effects on overall DRP budgets and QPIs of geographically targeted energy efficiency budgets and services that may address Distribution Utility [Supply Problems](#) and/or transmission [Reliability Deficiencies](#);
  - (d) Delineate the compensation structure, if any, of EEUs, including:
    - i. Total compensation; and
    - ii. The description of fees and/or performance indicators with regard to applicable resource-acquisition, DSS, and other authorized activities performed by an EEU, including delineation of the amount of compensation held back to serve as a Performance Award to EEUs, if applicable;

- (e) Delineate budgets for Department evaluation of EEUs, as described in Section II.5.B, for three-, six-, and twenty-year periods; and
  - (f) Delineate budgets for the EEU Fund Audit, Independent Audit of EEU savings claims and program cost effectiveness, Statewide Information Clearinghouse, court reporter fees, contract costs related to the potential study and regional avoided supply cost study, and other items funded by the EEC and TEPF funding sources, as applicable.
- B. The DRP Proceedings may include consideration of the potential for cost-effective technologies that increase the use of electricity or natural gas while decreasing overall energy consumption.
- C. DRPs will be developed through a Commission process that:
- (a) With the exception of TEPF plans submitted pursuant to 30 V.S.A. § 209(d)(2)(B)(ii), may use contested-case procedures as defined under the Vermont Administrative Procedures Act;
  - (b) Grants party status to each EEU, the Department, Vermont Distribution Utilities, the Vermont Public Power Supply Authority, and the Vermont Electric Power Company (“VELCO”);
  - (c) Provides the EEUs, the Department, Vermont Utilities, other stakeholders, and members of the public an opportunity to participate, including submit comments, file motions to intervene, ask questions, and receive answers from parties regarding DRP proposals;
  - (d) Shall be scheduled to last no longer than nine months and to conclude at least three months before the effective date of a DRP; Establishes two performance periods of three consecutive years;
  - (e) Shall be scheduled to occur in full every six years, with opportunities to re-assess and update DRP elements at the three-year midpoint through a proceeding limited to those elements proposed for updating (See Section II.3.I) in lieu of a full DRP Proceeding at the three-year mid-point, unless otherwise required by the Commission; and
  - (f) May include such other relevant matters as the Commission may determine.
- D. A Demand Resources Plan Proceeding or DRP update may be initiated upon petition from the Department. Every three years such petition from the Department shall be accompanied by the Department’s most recently completed or updated energy efficiency potential study.
- E. A Demand Resources Plan Proceeding shall include each EEU’s submission of a comprehensive DRP proposal accompanied by materials offered in support of its recommendations. An EEU’s comprehensive DRP proposal shall include, at a minimum:
- (a) A recommended demand-side resource-acquisition scenario model based on proposed year-by-year resource-acquisition budgets for EEU-specific electricity or natural gas activities, as applicable, for three-, six-, and

twenty- year periods. Modeled results shall include year-by-year energy savings, incentives to customers, and greenhouse-gas emissions reductions;

- (b) A recommended demand-side resource-acquisition scenario model for EEU- specific TEPF activities, as applicable, based on estimated budgets for three-, six-, and ten-year periods. Modeled results shall include year-by-year energy savings, incentives to customers, and greenhouse-gas emissions reductions;
  - (c) Proposed electric or natural gas DSS budgets for three-, six-, and twenty-year periods and TEPF DSS budgets for three-, six-, and ten-year periods;
  - (d) An estimate of the cost of energy saved compared to other jurisdictions;
  - (e) Proposed performance indicators by which the performance of the EEU can be measured over specified time periods;
  - (f) Descriptions of the services to be provided by the EEU over the forecast periods;
  - (g) Year-by-year budgets for any Customer Credit Program participants;
  - (h) An estimate of rate and bill impacts and total benefits to Vermonters as a result of the proposal;
  - (i) The opportunity to propose updates to an EEU’s Service Quality and Reliability Plan (“SQRP”). For an EEU that is not a DU, SQRP metrics shall serve as a component of the EEU’s QPIs for each performance period; and
  - (j) Other items as may be determined by the Commission.
- F. A Demand Resources Plan Proceeding shall include the Department’s proposed budget for its EEU-related functions, and a description by the Department of the evaluation activities that it plans to perform during each performance period. The Department may reflect in its proposed budget other administrative costs associated with the EEU Program, such as auditing and other costs.
- (a) The Department may propose a reasonable allocation methodology for disbursement of RGGI revenues to Efficiency Vermont and the City of Burlington Electric Department.
- G. The Department and other stakeholders may also present modeled budgets and savings. Any presentation of modeled budgets and savings by any party shall consider, at a minimum:
- (a) Relevant evaluations, market studies, and potential studies conducted by the Department and EEUs, and any other information presented by stakeholders;
  - (b) Previous resource acquisition and DSS budgets and goals, including those outlined in prior EEU DRPs;

- (c) Changes in technology, markets, and baseline considerations as may be impacted by new codes and standards that affect the need for market intervention through an EEU, such as:
    - i. The extent to which baseline efficiency levels have changed;
    - ii. The extent to which markets have been transformed;
    - iii. The extent to which market-based energy-service and product providers are able to capture cost-effective efficiency opportunities;
    - iv. The extent to which new technologies and/or strategies can be expected to create new opportunities for cost-effective resource acquisition; and
    - v. Changes in avoided costs, rates, and the development of other markets that may impact assessments of cost-effective resource potential;
  - (d) Utility Integrated Resource Plans and other relevant utility and/or [State](#) initiatives;
  - (e) Rate impacts; and
  - (f) Bill impacts.
- H. The DRP proceeding shall include the development of QPIs by which the performance of an EEU can be measured over specified time periods. The purpose of the QPIs and any associated performance award shall be to establish a reasonably balanced system of risks and rewards that encourages an EEU to operate as efficiently as possible using sound management practices while achieving the objectives set forth in 30 V.S.A. § 209(d) through (g) and maximizing the benefits to Vermont's ratepayers.
- (a) The DRP proceeding shall include a determination of what indicators shall be measured, the identification of minimum or target values for each indicator, the assignment of weight to each indicator, and a payment scale for target values, if applicable.
  - (b) QPIs may include as appropriate: Scaled performance indicators (e.g., MWh, MW, BTU, [Total Resource Benefits \(“TRB”\)](#), market penetration, greenhouse gas emissions reductions); minimum performance requirements (e.g., portfolio cost-effectiveness, yield, equity indicators) upon which eligibility of an EEU to earn any applicable performance award may be contingent; and other indicators (e.g., operational, administrative, or service quality indicators) that would afford an EEU the opportunity to earn incentive revenues, if applicable, when performance exceeds predetermined performance metrics. QPIs shall include an administrative efficiency indicator.
    - i. The EEUs shall propose target values and indicator weights and scales.
    - ii. Any interested party may present alternative proposals, recommendations, or responses to proposals, including revisions to

the list of values and QPIs.

- iii. Indicators may be set to be achieved over a three- or six-year performance period or to other timeframes as may be appropriate.
  - iv. QPIs shall be set or reviewed by the Commission at least every three years, except any QPIs that have been set to be achieved over other timeframes, in which case the Commission shall reset those QPIs on a schedule that is consistent with those other timeframes.
- (c) In the event of a substantial change affecting an EEU's DRP that also has the potential to affect the EEU's QPIs, the Commission may amend an EEU's QPIs at any time during the term of an Order of Appointment after such process as the Commission may require, provided, however, that the Commission must provide the affected EEU with notice and an opportunity to comment on any proposed amendment.
- I. Parties shall have the opportunity to reassess the previously approved DRP as identified in paragraphs A-H of this subsection at the three-year mid-point of a six-year DRP in lieu of a new full DRP Proceeding.
- (a) Parties shall use the most recent six-year DRP reviewed and approved by the Commission as the basis for the review and approval of the three-year mid-point DRP update.
  - (b) A three-year mid-point DRP Proceeding does not require parties or the Commission to address all individual elements of the most recently approved six-year DRP, but nothing shall limit the ability for a party to the case to propose or contest changes and updates to any individual element.
  - (c) The schedule established for a three-year mid-point DRP Proceeding should endeavor to limit the length of the proceeding to six months and conclude at least six months before the start of the second performance period.
  - (d) An EEU must file notice of its intent to propose a three-year mid-point DRP update as provided for in this subsection by August 31st of the second year of its performance period. The EEU shall provide notice in the form of a filing to the Commission in the most recent DRP Proceeding. The notice shall describe the DRP elements that the EEU intends to update. Any comments or objections from a party in the most recent DRP Proceeding should be filed by September 15<sup>th</sup>. Any objections should identify why a party opposes a three-year mid-point DRP update.

#### **4. DEMAND RESOURCES PLAN**

- A. The deliverable of a DRP Proceeding will be a DRP that shall include the following Commission-approved elements:
- (a) Year-by-year EEU budgets for each entity appointed as an EEU;
  - (b) EEU [expected savings](#);

- (c) QPIs for electricity, natural gas, and TEPF resource-acquisition services, as applicable, to be provided by an EEU;
  - (d) Year-by-year budgets for DSS activities to be provided by an EEU;
  - (e) Budgets necessary for the Department’s evaluation of EEU services;
  - (f) Descriptions of services to be provided by an EEU over the forecast periods;
  - (g) Triennial Plans for the three-year performance period as described in Section V.9;
  - (h) Description of services for six- and ten-year periods for TEPF services, as applicable;
  - (i) Descriptions of services for six- and twenty-year periods for electric and natural gas services, as applicable;
  - (j) Year-by-year budgets for Customer Credit Program participants;
  - (k) Updated EEU SQRPs if DRP proposal includes changes to an EEU SQRP; and
  - (l) Other items as may be determined by the Commission.
- B. The DRP will represent a set of long-term assumptions pursuant to which each EEU shall operate.
  - C. The DRP may also be used by an electric EEU as the basis for bids in the FCM and potential financing agreements.
  - D. The DRP may also be used for long-term resource planning by the Department, electric or natural gas DUs, and [VELCO](#).
  - E. On November 1 of the year in which a DRP is completed, an EEU-specific DRP final deliverable will be filed by each EEU with the Commission including all of the Commission-approved elements identified above in Section II.4.A.

**5. ONGOING MONITORING, SAVINGS VERIFICATION, AND EVALUATION**

- A. An EEU shall submit to the Commission by November 1, as part of its Triennial or Annual Plan update, a statement of objectives, need, and a cost estimate for any evaluation activities it seeks to conduct in the following year. Interested parties shall be given an opportunity to comment, through such process as may be required by the Commission, upon any such proposals. EEU evaluation outcomes shall be reported in Annual Reports.
  - (a) EEUs should seek to coordinate evaluation activities with other EEUs and the Department [in the Technical Advisory Group \(“TAG”\)](#), as described in section II.5.C.(a) and Section II.5.C.(b).
- B. Budgets for Department evaluations shall be funded by an EEC and other funds under the Commission’s jurisdiction. This evaluation budget shall be determined during DRP Proceedings. The Department will submit an Evaluation Plan for Commission review and approval on a three-year basis.

An EEU shall cooperate in the identification and prioritization of information needs and the exchange of information with the Department to coordinate and facilitate strategic and multi- year program planning and budgeting. The Department shall file EEU evaluation outcome reports in ePUC.

- C. EEU shall establish and maintain current documentation on all measure and program assumptions and algorithms used to calculate savings for prescriptive energy-saving measures in a [Technical Reference Manual \(“TRM”\)](#). EEUs shall coordinate to develop one TRM, and shall notify the Commission, the Department, and the Vermont Utilities of any exceptions to the assumptions contained in the TRM. Changes to existing measure characterizations and program assumptions, and all assumptions for new measures and programs, shall be developed in consultation with the Department and documented in the TRM. The TRM shall also be informed by the TAG. EEUs shall provide annually an updated TRM to the Commission, the Department, and the Vermont Utilities. An EEU may designate another EEU or third party to maintain a TRM and provide this information on its behalf. An EEU or designated third party shall provide on an ongoing basis any substantive changes in the TRM to the Commission, the Department, and the Vermont Utilities.
  - (a) The TAG shall be a standing joint committee of the Department and EEUs.
    - i. The TAG shall provide the opportunity for participation by the VSPC and any of its members, or other stakeholders as appropriate.
  - (b) The TAG shall serve as a forum for review of technical matters related to EEU savings and other relevant tasks and/or duties, as needed. TAG activities may include developing common understanding for measure savings characterization, assumptions and methods for EEU savings claims, program implementation procedures, discussion of results and recommendations from evaluation activities, and other relevant topics, as deemed useful.
    - i. For custom measures or projects, where prescriptive-measure savings assumptions have not been established or do not apply, an EEU shall maintain in its files documentation of all assumptions and calculations used to establish its claim relative to all QPIs. All information on savings assumptions and calculations used shall be available for review by the Department, the Commission, and the Vermont Utilities.
  - (c) Coordination, discussion, and plans for ongoing evaluation activities described in Section II.5.G. may occur in the TAG.
- D. The Department will annually certify as part of the annual savings verification process or other appropriate time to the Commission:
  - (a) Whether an EEU has succeeded or made appropriate interim progress toward achieving QPIs;

- (b) Whether an EEU is satisfactorily executing those of its responsibilities that are not directly measured by QPIs; and
    - (c) Whether an EEU's performance relative to its QPIs is consistent with the portion of the three-year budget that has been expended.
  - E. Performance of an EEU relative to its QPIs shall be assessed no less frequently than every three years, or other timeline as may be appropriate, in a process conducted by the Commission. To the extent possible, the process should be timed to inform any Overall Performance Assessment of an EEU.
    - (a) An EEU shall submit documentation to support claims of performance relative to its QPIs.
    - (b) The Department will review claims of performance relative to current-period QPIs and make a recommendation to the Commission. An EEU and other interested parties may offer comments on the Department's recommendation to the Commission.
    - (c) The Commission shall make a final determination of the extent to which QPIs have been met and the amount of any held-back compensation that should be provided to an EEU.
  - F. An EEU shall participate in ongoing evaluation activities. Evaluation activities include the following, which are further described in Appendix A to this document:
    - (a) Market characterization and baseline studies conducted by the Department. The Department shall consult and coordinate with EEUs and electric and natural gas DUs in planning and conducting this work as appropriate. An EEU may carry out additional market characterization work as necessary to plan its services and initiatives, and to support its long-range resource planning responsibilities, as part of its routine course of operations. In conducting any such market studies, the EEU shall seek synergies with the Department and utility efforts, provide any information collected under this paragraph to the Department, and allow input into studies as appropriate;
    - (b) An EEU and/or the Department will conduct direct measurement of efficiency savings, where appropriate, including metering.
      - i. Metering and other savings verification functions performed for purposes of meeting requirements related to verifying FCM savings claims shall be conducted under the provisions described in an EEU's FCM Measurement and Verification Plans, as applicable, developed in coordination with and agreed to by the Department, and filed with and approved by ISO-NE;
    - (c) Savings Verification, as conducted by the Department to assess an EEU's annual savings claims (e.g., MWh, MW, BTU, and TRB), shall include analysis of measure and project data from EEU tracking systems, review of project files, and any field verification visits that are deemed to be appropriate. The Department will work with an EEU to attempt resolution

of any issues that may lead to adjustments to an EEU's annual savings claim. This process will result in a Department recommendation to the Commission for any adjustments to be made to an EEU's annual savings claims. An EEU and other interested parties may offer comments on the Department recommendations to the Commission. To the extent possible, and as applicable, Savings Verification should be coordinated with the evaluation necessary to submit claims into the FCM;

- (d) Impact Evaluation, as conducted by the Department;
- (e) Process Evaluation, as conducted by the Department. An EEU may also conduct process evaluations as it deems appropriate and useful as part of its routine operations. The Department and an EEU will coordinate their process evaluation activities; and
- (f) Regional or national evaluation efforts, which may include any aspects of the above-listed evaluation activities, to the extent appropriate.

#### **6. INDEPENDENT THIRD PARTY AUDIT**

In accordance with 30 V.S.A. § 209(f)(12), the Commission shall require verification by an independent auditor of the reported energy and capacity savings and cost-effectiveness of programs delivered by EEU implementers. The budgets developed during a DRP Proceeding shall include funds reserved for the independent third-party audit.

### **SECTION III: PERFORMANCE ASSESSMENT, TERMINATION, SOLICITATION PROCESS**

#### **1. OVERALL PERFORMANCE ASSESSMENT**

- A. An Overall Performance Assessment ("OPA") will be conducted by the Commission to determine whether probable net benefits would result from additional proceedings considering alternate implementation entities other than the incumbent EEU(s).
- B. An OPA shall occur no less frequently than every six years.
- C. The OPA shall be a public performance review process that includes:
  - (a) Consideration of the performance record of the appointed entity or entities for the past two performance cycles through, at a minimum, the following general evaluation criteria:
    - i. Performance with respect to acquisition of energy and demand savings, and achieved TRB;
    - ii. Performance with respect to broad policy goals;
    - iii. Qualitative performance regarding specific policy initiatives;
    - iv. Performance regarding administrative functions necessary to carry out duties;
    - v. Administrative efficiency;
    - vi. Customer service with respect to energy efficiency services provided

- to prospective and participant customers;
- vii. Organizational qualifications of incumbents; and
  - viii. Financial stewardship of ratepayer dollars.
- (b) The Department shall assess EEU performance benchmarked in relation to other energy efficiency providers conducting similar efficiency resource acquisition efforts in other jurisdictions. Such comparisons shall normalize for program maturity, funding, demographics, and other important variables. The Department shall file the results of its Benchmarking Review in ePUC as a “report” case no later than two months prior to the start of the year of an EEU’s OPA.
  - (c) Notice to the public that the Commission is conducting an OPA of an EEU and a solicitation of comments from the public on an EEU’s performance; and
  - (d) Consideration of any other market information that may be useful in comparing the performance of the appointed EEU(s) to what might be available from an alternate entity – for example, bids made for comparable resources in the FCM.
- D. The Commission shall provide an EEU, the Department, Vermont Utilities, other stakeholders, and any other person or entity an opportunity to submit comments and participate in a technical workshop on the OPA.
- E. At the conclusion of an OPA, the Commission shall issue a finding on whether there exists cause to conduct further proceedings to consider alternate implementation entities other than the incumbent EEU(s).
- (a) The Commission may use Requests for Qualification, Requests for Proposals, or similar mechanisms to more definitively ascertain whether an alternate entity could better meet EEU objectives.
  - (b) If the Commission determines that a proposal solicitation process is needed, it shall commence a process that would result in a new Appointment, as described in Section III.3 below. If the Commission determines that a proposal solicitation process is not needed, it shall issue an Appointment under the guidelines of Section III.2 of this document.
  - (c) Failure to meet any minimum performance requirement, as may be determined following a savings verification or other Commission process, shall serve as a presumptive basis for initiating an OPA earlier than the next scheduled occurrence.

## **2. RE-ISSUANCE OF APPOINTMENT**

If the Commission determines from the OPA that there is not sufficient cause to solicit proposals from an alternate entity to perform services as an EEU, then it will issue a new Order of Appointment for eleven years that will take effect at the beginning of the calendar year following the Commission’s Order setting forth the results of the OPA. The new Order of Appointment will supersede all years remaining on the previous Order of Appointment.

### **3. SOLICITATION PROCESS**

- A. If the Commission determines, following an OPA, or by any other Order, that a proposal solicitation process is needed to select an EEU implementer, it shall commence a process that will result in a new Appointment. This process may shorten the length of a current Appointment to the end of the current three-year performance period, or to another date set by the Commission.
- B. The solicitation process is expected to take as much as one year and should be, to the extent possible, commenced no later than two years before the end of a three- year performance period.
- C. The solicitation process may be a simple competitive solicitation or a staged process that begins with a request for expressions of interest or qualifications.
- D. The Commission may discontinue a competitive solicitation if it finds grounds to do so, including if it determines that no alternative entities appear to be capable of providing performance likely to result in a greater net benefit to ratepayers than that provided by the current implementers. Such determinations should be made after the Commission reviews any responses to a request for qualifications or proposals and any pertinent comments. The Commission may also take into account the cost of conducting a competitive bid process.
- E. The Commission shall provide an EEU, the Department, Vermont Utilities, other stakeholders, and any other person or entity an opportunity to submit comments and participate in one or more technical workshops as part of the competitive solicitation process.

### **4. ONGOING OPPORTUNITY TO CONSIDER APPOINTMENT**

At any point in time, the Department or any other entity may request that the Commission initiate a review of an EEU Appointment for cause that shall be stated in the request. The Commission may also, on its own motion, initiate such a review for cause. Such a review would be equivalent to an OPA, but would occur sooner than the default cycles. The Commission shall evaluate all such requests and determine whether to initiate a review.

### **5. REVOCATION OR TERMINATION OF APPOINTMENT**

- A. Revocation for Cause
  - (a) In the event that an EEU materially breaches the terms of the Appointment, the Commission may without prejudice to any of its other legal remedies revoke the Appointment upon written notice to an EEU and be relieved of the payment of any amount due to an EEU for costs after the date of such revocation, except as provided in Section III.5.C. Alternatively, the Commission may, in its sole discretion, provide an EEU with time to cure any breach.
  - (b) In the event an Appointment is revoked for cause, the Commission may proceed in any manner it deems proper. An EEU shall be compensated for satisfactory services rendered and eligible costs and expenses as provided

in Section III.5.C; however, in its discretion, the Commission may deduct from any sum due to an EEU under the Appointment all expenses, damage, or other harm incurred by the Commission or its agents as a result of an EEU's failure to perform its obligations under the Appointment.

- B. As a result of the processes described herein, the Commission may terminate the Appointment of an EEU in order to appoint a different entity to act as an EEU. The Commission may also terminate an Appointment if it chooses to no longer use an EEU to perform the functions identified in 30 V.S.A. § 209(d). Any such termination shall be effective no sooner than 12 months after notice of the Commission to the affected EEU of its determination to terminate the Appointment and shall be subject to the conditions of termination in Section III.5.C.
- C. Responsibility of Parties Upon Expiration or Revocation of Appointment
  - (a) Upon expiration or revocation of its Appointment, an EEU shall provide reasonable transition assistance, as requested by the Commission, to ensure that the EEU functions continue without interruption. In such an event, an EEU shall agree to use all reasonable efforts to mitigate its expenses and obligations hereunder.
  - (b) In the case of Revocation of Appointment by the Commission under III.5.A and III.5.B above, an EEU shall be compensated for all satisfactory services rendered and eligible costs and expenses incurred prior to the notice of termination. An EEU shall also be paid for all transition assistance services rendered and for any services rendered and costs and expenses incurred subsequent to revocation, so long as those post-revocation services and expenditures could not have been avoided.
  - (c) If an Appointment is terminated pursuant to III.5.B above, an EEU shall receive all performance incentives that are earned and verified as of the date of such termination. In addition, an EEU shall be entitled to make a claim to the Commission for payment of an appropriate performance incentive to be based on actual results toward quantifiable performance indicators for the current performance period, to the extent applicable. If any annual performance incentives have been paid to the EEU, a true-up of any variances shall be reported to the Commission. The Commission shall provide an opportunity for comments from interested parties before making a determination regarding any repayment terms, if necessary.
  - (d) If an Appointment is terminated pursuant to III.5.B above, an EEU shall be entitled to make a claim to the Commission for reimbursement of costs incurred as a result of termination.
  - (e) All costs to be reimbursed to an EEU for termination without good cause or termination under Section III.5.A or B shall not exceed any of the limits detailed in an EEU's Appointment and shall be limited to the actual, reasonable out-of-pocket costs incurred by an EEU as determined in accordance with GAAP.

- (f) All electronic data and the most recent five years' worth of paper records related to work performed under this Appointment in the possession of an EEU or its subcontractor(s) shall be made available and turned over to the Commission or its designated representative upon the revocation or termination of an Appointment, at the Commission's request. These transfers shall be accomplished within a reasonable amount of time after the date of such a request. After an EEU has relinquished control of its records and data, access must be provided to any such records and data as necessary for the provision of transition assistance by an EEU.
- (g) Upon termination of Appointment, an EEU is likely to have outstanding contracts for customer incentive payments. An EEU shall be relieved of those obligations from the date of termination forward and of any obligations that arise in the event of termination, but shall remain responsible for (a) all payments due up to the time of termination and (b) all liabilities arising from any disputes arising from such contracts up to the time of termination. The responsibility for those obligations, including customer incentive payments from the date of termination forward, will be assigned by the Commission after such process as the Commission may require.
- (h) Upon termination of Appointment, an EEU is likely to have outstanding commitments including, but not limited to, loans, loan guarantees, partnership agreements, committed capacity in the FCM, and other existing contracts. An EEU shall be relieved of those obligations from the date of termination forward, but shall remain responsible for (a) all payments due up to the time of termination and (b) all liabilities arising from any disputes arising from such contracts up to the time of termination. The responsibility for these obligations in the event of termination or from the date of termination forward will be assigned by the Commission after such process as the Commission may require.
- (i) Upon termination of Appointment, any EEU that has registered the name "Efficiency Vermont" or any other EEU trade name shall, within 10 business days of termination, file with the Secretary of State an application to transfer the name to an entity designated by the Commission.
- (j) Upon termination of Appointment, the Commission may authorize a different entity selected to be an EEU to use any intellectual property that is owned by the State. Customer-specific or proprietary information contained in any such property to be owned by the State shall be considered exempt from public disclosure pursuant to 1 V.S.A. § 317(b)(9) and/or (10). [Customized Software](#) shall remain available for use by the State for the entire term of this Appointment and may, at the State's discretion, upon expiration or termination of this Appointment be retained in perpetuity via a licensing agreement provided by an EEU and/or its subcontractor(s) without charge for use in performance of the functions of an EEU within the State.

## **SECTION IV: COMPENSATION AND PAYMENT**

### **1. GENERAL**

- A. An EEU shall be afforded the opportunity to recover just and reasonable costs and expenses accrued in the provision of services and initiatives under an Appointment, and to earn a fair return. The return may be based on a percentage return on an EEU's revenues or expenses in lieu of or in conjunction with earning a return on rate base. The Commission may establish procedures to afford an EEU the opportunity to earn incentive revenues beyond the authorized revenue requirement when performance exceeds predetermined performance metrics. An EEU's compensation structure shall be outlined in its Order of Appointment and developed in detail in the DRP Process. The maximum amount payable to an EEU by an EEU Fiscal Agent shall be the [Allowable EEU Funds](#) established by the Commission for a specific EEU. This maximum amount is inclusive of all eligible costs, expenses, returns, and any earned performance incentives.
- B. An EEU may carry over unspent EEC or other funds from one year to the next within a three-year performance period. The amount of any carryover funds shall be reflected in appropriate EEU reports, plans, and budgets. The Commission, the Department, Vermont Utilities, and other stakeholders shall be notified of the amount of funds to be carried over into the next year.
- (a) If the amount of unspent EEC Funds to be carried over from one year to the next within a three-year performance period exceeds 5% of the annual EEC-funded budget, then an EEU must request carryover authorization from the Commission, with opportunity for parties to provide, at a minimum, written comment. Such a request must be made by no later than February 15th, or next business day, of the year after which the carryover funds were accrued by an EEU. If the carryover of funds is not approved by the Commission, QPIs shall be adjusted pursuant to Section I.2.C.
- (b) As provided in Commission Rule 5.300, at the end of a three-year performance period, if uncommitted EEC Funds exceed 5% of the prior year's annual total EEC-funded budget, then those funds shall be used as a budget credit to ratepayers for efficiency services in the following year. As provided in Commission Rule 5.300, at the end of a three-year performance period, if uncommitted funds are less than 5% of the prior year's annual total EEC funded budget, then the Commission shall determine the allocation of any uncommitted EEC funds after, at a minimum, opportunity for written comment.
- (c) All payments made under an Appointment will be made in reliance upon the accuracy of all prior representations by an EEU, including but not limited to bills, invoices, progress reports, and other proofs of work.

### **2. PAYMENT UNDER PERFORMANCE INCENTIVE STRUCTURE**

- A. A performance-based compensation structure is required for a non-utility entity that is appointed as an EEU, unless otherwise approved by the

Commission.

- B. If an EEU's compensation structure includes performance-based incentives, a percentage of EEC funds and of other sources of funds as specified by the Commission shall be held back and set aside for performance-based payments that may be earned only by an EEU's attainment of QPIs, as developed pursuant to Section II.3.A.(d).
- C. If an EEU's compensation structure includes performance-based incentives, the award and amount of those incentives shall be determined in accordance with Section II.3.A.(d). In determining whether an EEU should receive its performance incentive, the Commission shall review relevant criteria including whether and to what degree an EEU has met its QPIs as described in Section II.5.E.

### **3. ELIGIBLE COSTS AND EXPENSES**

- A. Eligible indirect and fringe costs shall be those defined in the guidelines established by the federal government for federal cost-reimbursable grants. These guidelines shall serve as the basis for determining whether or not a particular direct, indirect, or fringe cost item incurred under this Appointment is reasonable and appropriate. Such federal guidelines are contained in the federal Office of Management and Budget Uniform Guidance dated December 26, 2014, as may be superseded, except as otherwise determined by the Commission.
- B. Compensation for services and expenses shall be based on the Department review of an EEU's actual costs incurred. An EEU shall record and report actual costs incurred in compliance with the guidelines of the Federal Energy Regulatory Commission ("FERC") and/or GAAP, or by any other alternate or additional methods as determined by the Commission.
- C. An EEU shall verify its compliance with applicable accounting standards through an annual audit of financial records and controls.
- D. An EEU's actual costs shall be subject to review by the Department and/or the Commission.
  - (a) The Department shall review and verify an EEU's recorded and reported costs by applying GAAP and Generally Accepted Auditing Standards ("GAAS"), or by any other alternate or additional methods as may be determined by the Commission.
- E. The Appointment for an EEU may establish:
  - (a) The types of costs that constitute an EEU's fringe-benefit and payroll-related costs and an EEU's organization-wide indirect costs, unless otherwise modified by the Commission;
  - (b) The method for allocating an equitable share of an EEU's fringe-benefit and payroll-related costs and an EEU's organization-wide indirect costs, unless otherwise modified by the Commission; and

- (c) Any appropriate EEU revenue and cost separations, assignments, and allocation policies and procedures to govern an EEU's eligible share of any organization-wide revenues or costs.
- F. The failure of the Fiscal Agent to pay an EEU invoice on a timely basis due to the lack of available funds may (if of such magnitude and duration as to impede or prevent expected operations) constitute grounds for modification or reduction of an EEU's obligations under the Appointment (but only to the extent directly required by such delay or failure of payment). However, such a failure shall not constitute grounds for an EEU to terminate an Appointment.
- G. All incremental costs of an EEU's participation in the FCM, as applicable, as well as support costs incurred by the Department or other Commission-approved support, shall be funded by the appropriate DSS budget categories, including planning, administration, incremental measurement, and verification required by ISO-NE, and any other extraordinary costs related to the FCM billed to the EEU.

#### **4. RESOURCE-ACQUISITION COMPENSATION**

- A. Resource-acquisition compensation shall be provided to an EEU for services and initiatives that acquire demand-side resources as specified in a DRP.

#### **5. DEVELOPMENT-AND-SUPPORT-SERVICES COMPENSATION**

- A. A portion of Allowable EEU Funds may be designated for DSS compensation. DSS compensation may be provided for eligible services and initiatives specifically designated in the DRP or an EEU's Order of Appointment.
- B. Once established, each DSS budget category shall be treated as a budget for a single performance period.
- C. In the event that additional DSS services are required or other circumstances require reconsideration of the three-year budget for DSS compensation, the Commission may, after such process as may be required by the Commission, modify the DSS budget.

#### **6. INVOICE REQUIREMENTS, REVIEW AND AUTHORIZATION OF PAYMENT, AND PAYMENT**

- A. On at least a monthly basis an EEU shall submit to the EEU Fiscal Agent invoices of eligible costs and expenses for payment from the EEU. Invoices shall clearly identify the funding sources for each type of cost. Invoice format shall be mutually agreed to by the Department and an EEU. Modifications to the invoice format must be pre-approved by the Department.
- B. An EEU's invoices shall be subject to review by the Department or its authorized agent.
  - (a) If the Department finds discrepancies with an invoice and the EEU agrees it requires correction, then the correction shall be documented and reflected in the next invoice following resolution;

- (b) If the Department and an EEU do not agree on the need to adjust a specific invoice item, then the Department or the EEU may request resolution by the Commission at that time. To promote administrative efficiency the Department or the EEU may combine multiple invoice disputes into one request for resolution by the Commission.
- C. In the event of termination or expiration of an Appointment, if any invoices and/or other incentives earned remain unpaid, such invoices shall be paid before payments are made to a new entity.

## **SECTION V: ADMINISTRATION**

### **1. MANAGEMENT SYSTEMS**

An EEU shall maintain and enhance, as it deems appropriate, a management system that enables it to ensure proper control over its operational activities and strategic direction and facilitates the preparation of required reports and evaluation of its performance as an EEU.

### **2. BUDGETING**

An EEU shall develop, monitor, and manage the overall administrative budget for its operation. Budget and forecast categories and the detail of breakdown shall be as specified by the Commission.

### **3. FINANCIAL MANAGEMENT**

- A. An EEU shall maintain financial accounting systems in accordance with GAAP consistently applied as defined by both the Governmental Accounting Standards Board and the Financial Accounting Standards Board.
- B. An EEU shall maintain financial, administrative, and accounting records. This includes systems to track general project management, invoicing, payroll, and contractor payments, and to produce the necessary reports for monitoring these duties. The Department, the Commission, and any other entity that the Commission so designates, shall be provided timely access to this data upon request.

### **4. EEU DISPUTE RESOLUTION PROCESS**

- A. In consultation with the Consumer Affairs and Public Information (“CAPI”) Division at the Department, an EEU shall maintain protocols for addressing and resolving complaints concerning performance of its responsibilities from commercial and residential customers and stakeholders such as electric utilities and subcontractors. These protocols shall align with Commission-approved Service Quality and Reliability Plans (“SQRP”) and shall establish a process for quickly bringing such disputes to a resolution.
- B. To facilitate the resolution of disputes between an EEU and any other regulated entity, the Commission shall retain continuing jurisdiction to act in all matters respecting the activities and services of an EEU. The Department will attempt to mediate any dispute prior to Commission involvement.
- C. Customer complaints involving an EEU shall be subject to resolution in

accordance with the procedures established under 30 V.S.A. § 208.

## **5. INFORMATION TECHNOLOGY AND DATA COLLECTION**

- A. An EEU shall maintain information technology and data collection and reporting systems that shall include, but need not be limited to, tracking data on customers, energy product and service providers, service activity, projects, measures, costs, and savings. The systems shall be able to facilitate an EEU's planning requirements and to support an EEU's participation with Vermont Utilities in all activities as required under the Appointment. The systems shall be able to produce a wide variety of reports and information as may be requested by the Commission, the Department, or Vermont Utilities.

An EEU shall maintain documentation and specifications of any [Customized Software](#) that is used for data tracking and reporting. An EEU shall provide notice to the Department of any substantive changes to this data system documentation.

- B. An EEU shall collect and electronically compile data that is: (1) directly related to its energy service planning and implementation activities; (2) easily obtainable by an EEU as part of its routine implementation and planning activities; and (3) necessary to (a) monitor, assess, verify, and evaluate its performance; (b) report on its activities; and (c) improve the planning, design, and delivery of services.
- C. Data from Vermont Utilities, subcontractors, and employees shall be collected and stored electronically by an EEU in a securely managed consistent format in at least the following categories:
- (a) Customer/client/circuit data (to the extent provided by Vermont Utilities);
  - (b) Planning and forecasting data;
  - (c) Customer usage data (including circuit data, to the extent provided by Vermont Utilities);
  - (d) Measures and services data;
  - (e) Data on other relevant persons, businesses, and organizations;
  - (f) Distribution Utility account data; and
  - (g) Other data for market assessment and evaluation purposes.
- D. Upon request, an EEU shall make this information available in a timely manner to the Commission, the Department, the Vermont Utilities, members of the Vermont General Assembly or legislative staff, and any independent evaluation firms under contract to the Commission or the Department, subject to relevant Commission orders on the subject and the establishment of reasonable confidentiality procedures, and consistent with policies in Section V.6.

## **6. MANAGEMENT OF CONFIDENTIAL INFORMATION**

- A. An EEU shall ensure that confidential information in its possession, including but not necessarily limited to customer-specific information supplied by a

Vermont Utility, is not disclosed to unauthorized entities or personnel.

- B. An EEU shall maintain a Confidential Information Management System to provide appropriate protections in the collection, processing, storage, and retrieval of information that is customer-specific and shall inform the Department of any changes to that system.
- C. The EEU and all EEU contractors shall be required to maintain the confidentiality of such customer-specific information, and the latter must agree in their contract(s) with an EEU (1) to abide by the guidelines detailed in the Confidential Information Management System referenced above and (2) not to provide any confidential information to affiliates not directly involved with EEU activities.
- D. An EEU is solely responsible for the intentional or accidental release of any confidential information in its possession.

#### **7. VERMONT UTILITIES PLANNING AND RATEMAKING SUPPORT DATA**

- A. An EEU shall gather particular data elements for use by the Vermont Utilities in planning and ratemaking.
- B. Upon reasonable request, an EEU shall provide the Vermont Utilities with reasonable estimates of electricity or natural gas savings and electricity or natural gas impacts from installed efficiency measures resulting from EEU operations, including the information and assumptions that an EEU collects or develops as a matter of course in its normal business activities. An EEU shall work with the Department and the Vermont Utilities to establish reasonable information and data protocols for the efficient exchange of information.
- C. An EEU shall, if requested by a DU and subject to appropriate confidentiality protections against disclosure to unauthorized entities or individuals, make customer-specific data, including information regarding customer implementations, available to the DU serving the relevant customer(s). Such information is provided to a DU for use in: (1) load forecasting and planning and implementation; (2) determining and addressing whether an EEU's activities have been or will be consistent with the distributional equity principle set by the Commission; and/or (3) traditional or alternative ratemaking as approved by the Commission. This information is not intended for use in marketing or promotion except directly as part of utility service, including utility rate design, efficiency- and load-management-related research, load forecasting, and DSM planning, implementation, and evaluation. In connection with the provision of information under this paragraph, each Vermont Utility and EEU shall provide reasonable notice and shall act in good faith to accommodate the reasonable considerations of said EEU and the Vermont Utility.

#### **8. REQUIRED REPORTS**

An EEU shall prepare and submit Quarterly and Annual Reports as specified in Appendix B to this Process and Administration document. The Department and/or the Commission may request additional or alternative reports throughout

the course of the Appointment.

## **9. DRP TRIENNIAL AND ANNUAL PLANS**

- A. The Commission shall provide, through such process that it deems appropriate, the public with an opportunity to comment upon the DRP Triennial Plan and Annual Plan updates. An EEU shall not be required to prepare a DRP Triennial Plan and/or Annual Plan updates for any period beyond the term of its Appointment. An EEU shall consult with the Department on the content of the Triennial Plan and Annual Plan updates during their development.
- (a) Prior to the start of year one of a new performance period, an EEU shall prepare and submit to the Commission a DRP Triennial Plan by November 1. As modeled in the DRP for twenty- and ten-year periods, EEU DRP Triennial Plans shall include a broad overview of an EEU's long-term electric, natural gas, and/or TEPF strategy, as applicable, for providing energy efficiency services and, at minimum, a summary of the following for the three-year period, including:
- i. Overall EEU objectives including an integrated market strategy for at least each of the two primary market sectors, Business and Residential;
  - ii. Resource-acquisition and DSS activities and budgets;
  - iii. QPIs;
  - iv. EEU planned and self-directed evaluation activities and recently concluded evaluation results; and
  - v. EEU planned and self-directed DSS applied research and development ("R&D") and recently concluded DSS R&D results.
- (b) Prior to the start of years two and three of a performance period, an EEU shall prepare and submit to the Commission an Annual Plan update by November 1. At minimum, EEU Annual Plan updates shall include any changes, modifications, and updates or variations to the content summarized in the Triennial Plan outlined in Section V.9.A (i through iv).

## **10. COORDINATION OF SERVICE DELIVERY**

- A. An EEU shall make every reasonable effort to coordinate with the service delivery efforts of any other Appointed EEUs, Vermont Utilities, and other energy efficiency service providers in Vermont to ensure administrative efficiency, consistent planning, implementation, and reporting. An EEU shall maintain, to the extent possible and appropriate, ongoing coordination and/or cost sharing agreements with any other EEUs, Vermont Utilities, and other energy efficiency service providers.
- (a) The EEUs shall maintain a reasonable allocation methodology for paying shared EEU costs. The allocation shall be applicable to shared EEU costs identified in Section II.3.A.f. and shared EEU costs that do not otherwise have identified budgets.

- B. An EEU shall coordinate its activities with those of state, regional, and national energy efficiency efforts where applicable, including but not limited to:
- (a) The U.S. Department of Energy/Environmental Protection Agency Energy Star Program;
  - (b) The U.S. Department of Agriculture Rural Utilities Service;
  - (c) Northeast Energy Efficiency Partnerships;
  - (d) The Vermont Weatherization Assistance Program;
  - (e) The School Energy Management Program of the Vermont Superintendents' Association;
  - (f) The Act 250 process (10 V.S.A. §§ 6081-6092);
  - (g) Renewable Energy Standard compliance activities pursuant to 30 V.S.A. §§ 8004 and 8005; and
  - (h) New state, regional, or national initiatives or organizations as they emerge; an EEU shall be expected to evaluate the potential benefits of those efforts and coordinate with and participate in them in a manner that is consistent with an EEU's mission and the State's policy objectives for energy efficiency.
- C. An EEU shall attempt to negotiate cost-sharing agreements with other EEUs or Vermont Utilities when it becomes apparent that parallel, overlapping, or complementary efforts may be more efficiently and economically performed by one of them on behalf of two or more entities. Any cost-sharing agreement shall provide a mechanism for fair exchange of compensation for EEU services among the entities.
- D. EEUs shall coordinate with any demand-side resource-acquisition planning or implementation carried out by Vermont Utilities on their own behalf (e.g., voluntary programs provided by a DU in its own service territory or to its own eligible customers or other load management and related services or services provided as part of a DU's compliance efforts with the Renewable Energy Standard established under 30 V.S.A. §§ 8004 and 8005), where appropriate. As applicable, an EEU shall also coordinate with Vermont DUs to determine whether power quality and power factor may be affected in situations in which the application of demand-side resource technologies might have a significant material impact on the integrity of a utility's transmission and/or distribution system or a customer's facility. If problems are identified, an EEU shall cooperate with the affected Vermont Utility and/or customer to resolve the problem.

## **11. SERVICE QUALITY MANAGEMENT**

An EEU shall implement quality-management processes and maintain quality-assurance standards and procedures, to be set forth by an EEU in a written SQRP, which requires approval by the Commission. An EEU that is not also a DU shall submit an SQRP for Commission approval within six months of initial

Appointment. If an EEU is also a DU, then the EEU's portion of the SQRP shall, at a minimum, be updated consistent with the schedule for revision as described in the DU's current SQRP. An EEU that is also a DU may propose updates to the EEU related portion of its SQRP during a DRP proceeding, or as otherwise directed by the Commission. Any changes to the SQRP shall be provided to the Commission and the Department, and require approval by the Commission.

## **12. WORKING WITH AND THROUGH VERMONT PRODUCT AND SERVICE PROVIDERS**

- A. An EEU may deliver services directly and/or through contractors, and shall be responsible for the effective delivery of all such services.
- B. An EEU shall, to the extent possible and appropriate, work with and through Vermont providers of energy-related products and services, including design professionals (architects, engineers, and designers), energy service providers, contractors, retailers, distributors, suppliers, and manufacturers to promote, utilize, and support the development of a broad network of Vermont businesses to provide for the installation of demand-side resource measures. An EEU shall rely on this network of building, electrical, plumbing, mechanical, heat, ventilation, air conditioning, and other contractors to provide and install measures.

## **13. DEVELOP INDEPENDENT FUNDING SOURCES**

An EEU shall support the development of independent funding mechanisms that leverage non-EEC funds (such as loans, grants, and federal funds) to increase the acquisition of cost-effective demand-side resources. Secured additional funding shall be subject to Section I.2.C of this document. Consistent with its Order of Appointment, an EEU shall develop and implement mechanisms to help overcome lack of customer access to financing for demand-side resource investments so that customer contributions to measure costs can be maximized consistent with the Commission's principles of sound program design.

## **14. COST-EFFECTIVENESS SCREENING**

- A. When assessing the cost-effectiveness of efficiency measures, an EEU shall use the most recent screening methodologies, variables, and cost-effectiveness tests approved by the Commission.
- B. An EEU shall use statewide cost-effectiveness screening tools provided by the Department in its planning and implementation activities. An EEU shall assist with the incorporation of externality values provided by the Commission into the screening tools, as well as any new avoided costs and externality adjustments approved by the Commission, but shall not be responsible for development, maintenance, distribution, or support of statewide cost-effectiveness screening tools other than for an EEU's own use and convenience in carrying out the responsibilities of the Appointment.
- C. The Department will propose updates for avoided costs and externality adjustments as needed and after the completion of a regional avoided energy supply cost study. The Commission will then provide an opportunity for other parties to file comments and proposals and request a technical workshop

before ruling on the proposed changes.

- (a) The contract cost of the regional avoided energy supply cost study shall be billed back to the EEUs. Each EEU shall include a proportionate share of Department estimated costs in their budget proposal per Section II.3.A.(f).
- D. The Commission may approve updated Avoided Cost Projections for use within a three-year performance period. An EEU shall implement the use of these new avoided costs within a reasonable amount of time. An EEU shall propose a methodology and timeframe for application of new avoided costs. The application of new avoided costs may require modification of any Total Resource Benefit or other QPIs on a prospective basis, and require approval by the Commission.

#### **15. LIMITATIONS ON PERFORMANCE CONTRACTING TO OBTAIN ENERGY SAVINGS**

If an EEU or any of its contractors advises a customer to use performance contracting to obtain energy savings, and the entity appointed as an EEU desires to bid to provide the service directly, an EEU must notify the Commission and the Department in advance of the entity submitting a bid. The Commission or the Department may contact the customer and/or use other mechanisms to ensure that said entity appointed as an EEU does not gain an unfair advantage in the bidding process.

#### **16. INTELLECTUAL PROPERTY**

The State shall have ownership of all intellectual property, including but not limited to logos, databases, trademarks, service marks, copyrightable material, the trade name “Efficiency Vermont,” computer software (except Customized Software as defined in Section VI), surveys, survey results, and program designs that is acquired or developed by an EEU for use in Vermont and that is necessary to the success of the [System-Wide Programs](#) approved by the Commission for EEU implementation. Customized Software shall not be considered intellectual property of the State and shall remain sole property of an EEU and/or its subcontractor(s).

- A. An EEU is authorized to share such State-owned intellectual property (other than the trade name “Efficiency Vermont”), upon such terms as the EEU may reasonably determine serve the interests of Vermont ratepayers as well as the interests of facilitating knowledge and implementation of cost-effective efficiency and renewable energy services and knowledge both within and outside Vermont, with (i) not-for-profit entities that promote, coordinate, or facilitate efficiency and/or renewable energy programs or services, (ii) not-for-profit providers of efficiency and/or renewable energy programs or services, (iii) entities engaged in energy efficiency research, and (iv) other EEUs. Any compensation that an EEU receives in exchange for such information shall be reported to the Commission and the Department and shall be applied to the credit of the EEU’s Vermont EEU programs. An EEU shall track the details of any intellectual property shared under this provision and shall work with the Department to develop guidelines for reporting this information. Notwithstanding the foregoing, if an EEU that is not also a DU subject to the

Commission's jurisdiction wishes to develop jointly or share such intellectual property with its own non-Vermont-EEU programs or operations, it is authorized to do so but only in compliance with the affiliate transaction and/or intra-company cost-allocation procedures required under Section V.19.

#### **17. NO AGENCY RELATIONSHIP**

The issuance of an Order of Appointment shall not create any agency relationship between an EEU and the State or between an EEU and any Vermont Utility or between an EEU and another EEU.

#### **18. STANDARDS OF CONDUCT**

An EEU that is not also a fully integrated electric or natural gas DU subject to the Commission's jurisdiction shall develop and implement appropriate standards of conduct for the shared use of assets and personnel and inter-affiliate and intra- company information transfers so that the delivery of EEU services is functionally separated from the provision of services to other non-EEU customers of an EEU appointee and from the provision of services in competitive markets. These standards of conduct shall be filed with the Commission and the Department. Any changes to these standards shall be filed with the Commission and the Department on an annual basis in the fourth quarter of the year.

#### **19. AFFILIATE TRANSACTION AND/OR INTRA-COMPANY COST-ALLOCATION PROCEDURES**

An EEU that is not also a fully integrated electric or natural gas DU subject to the Commission's jurisdiction shall develop and implement appropriate affiliate transaction and/or intra-company cost-allocation procedures so that the delivery of EEU services is functionally separated from the provision of services to other non- EEU customers of an EEU appointee and from the provision of services in competitive markets. These procedures shall be filed with the Commission and the Department. Any changes to these procedures shall be filed with the Commission and the Department on an annual basis in the fourth quarter of the year.

### **SECTION VI: DEFINITIONS**

**1. Allowable EEU Funds** means the total amount of EEU EEC Funds and any other funds under the jurisdiction of the Commission that have been allocated ("EEU Allocated Funds") for the purposes outlined in an EEU's Appointment. Allowable EEU Funds for a specific EEU are comprised of: (1) any approved carryover of an EEU's unspent EEC Funds from prior calendar years; (2) funds approved as part of a three-year performance period spending threshold; and (3) the total EEC Funds approved for collection by the Fiscal Agent and any other funds available under the Commission's jurisdiction for EEU implementation such as funds for the acquisition of Thermal-Energy-and-Process-Fuel resources, less the following deductions:

- (a) EEU monitoring and evaluation costs;

- (b) EEU Fiscal Agent costs;
  - (c) Independent third-party audit fees;
  - (d) Independent Triennial Audit of an EEU;
  - (e) EEC Rate Charge Advertising;
  - (f) EEU Allocated Funds for the purpose of EEU Order of Appointments other than the said EEU;
  - (g) Any true-up from over/under collections of the EEC from prior years and any payments to DUs for EEC uncollectibles; and
  - (h) Any other costs the Commission determines are necessary or required in order to effectively administer, monitor, or evaluate an EEU.
2. **Appointment** means the appointment of an entity by the Commission, as further described in 30 VSA § 209(d)(2), to act as an energy efficiency utility, carrying out the responsibilities established in an Order of Appointment under the terms and conditions set forth in the Order of Appointment and any subsequent Orders of the Commission related to the Appointment.
  3. **Comprehensive Energy Efficiency Program** means a coordinated set of activities carried out by a regulated electric or natural gas utility or other entity as appointed by the Commission pursuant to 30 V.S.A. § 209(d)(2) to meet the public's need for energy services through efficiency, conservation, or load management in all customer classes and areas of opportunity that is designed to acquire the full amount of cost-effective savings from such investments or programs as contemplated under 30 V.S.A. § 218c(a)(2).
  4. **Customized Software** means any computer software that is not readily available for purchase and that is modified, developed, and/or written by an EEU or its subcontractor(s) specifically for the purpose of performing the responsibilities of an EEU's Appointment.
  5. **Demand Resources Plan or DRP** is a set of year-by-year values for EEU demand-side electricity or natural gas resource-acquisition and DSS budgets by calendar year for a twenty-year period, and a set of year-by-year values for the EEU demand-side electricity or natural gas savings goals, as well as a set of year-by-year savings goals and budgets for Thermal Energy and Process Fuels by calendar year for a ten-year period, as applicable. The plan is created through a Commission proceeding every three years and may be modified as needed by the Commission. A description of the components of the plan is in Section II.4.
  6. **Demand Resources Plan Proceeding** means the process conducted by the Commission that will, at a minimum, result in the Demand Resources Plan for each entity appointed as an EEU, including each EEU's Quantifiable Performance Indicators, identification of geographic areas to be targeted by energy efficiency (if any), identification of budgets and activities for resource acquisition and DSS activities, and determination of overall efficiency evaluation budgets as well as budgets for the EEU Fiscal Agent, EEU Fund Audit, independent audit of EEU savings claims and program cost effectiveness,

and other items funded by the EEC. A description of the proceeding is in Section II.3.

7. **Distribution Utilities or DUs** means utilities providing retail electric or natural gas service to Vermont customers in Vermont under the supervision of the Commission.
8. **DSM** means demand-side management.
9. **DSM Cost Recovery Mechanisms** means the distinctive ratemaking for the recovery of costs incurred by DUs in their provision of DSM programs and services. This ratemaking is designed to provide DUs a reasonable opportunity to recover their costs associated with providing DSM.
10. **Energy Efficiency Charge or EEC** means a separately stated volumetric charge to retail customers of electric or natural gas Distribution Utility customers for the support of energy efficiency programs pursuant, as applicable, to 30 V.S.A § 209(d)(3) and Commission Rule 5.300.
11. **Energy Efficiency Fund, Electric Efficiency Fund, or EEF** is the fund established pursuant to 30 V.S.A. § 209(d)(3).
12. **EEC Funds** means all funds collected by electric or natural gas Distribution Utilities from electricity or natural gas consumers in Vermont for the provision of demand-side resource acquisition and associated activities included in the EEU Budget via the EEC.
13. **EEU** means an entity appointed by the Commission to act as an Energy Efficiency Utility under 30 V.S.A. § 209(d)(2).
14. **EEU Budget** means the total budget approved by the Commission for EEU implementation as well as necessary administrative and associated services. An EEU Budget includes EEC Funds and any other funds available under the Commission's jurisdiction for an EEU's implementation of services.
15. **EEU Expected Savings** means the estimated energy savings for an EEU that are approved by the Commission and are the anticipated result of energy efficiency measures administered and implemented by an EEU through its energy efficiency programs.
16. **EEU Funds** are *Allowable EEU Funds*, as described in Section VI.1.
17. **Electric EEU Funds** are *Allowable EEU Funds*, as described in Section VI.1, allocated specifically for electric resource acquisition and development and support services.
18. **EEU Fiscal Agent or FA** means a person or entity appointed by the Commission to receive the EEC Funds from electric and natural gas Distribution Utilities and other funds as authorized by the Commission and to disburse those funds pursuant to 30 V.S.A. § 209(d)(3).
19. **Forward Capacity Market or FCM** is a capacity market administered by the ISO New England, Inc. ("ISO-NE") (or the successor independent system operator of New England) in which demand resources, such as electric energy

efficiency, may be bid on a comparable basis with supply resources such as generation.

20. **Geographic Targeting** means to implement energy efficiency efforts within specific geographic regions of the state to help relieve the electric load or natural gas on constrained transmission and distribution systems and potentially defer the need for costly system upgrades.
21. **Guidance to the Fiscal Agent** means any relevant Commission action that relates to how the Fiscal Agent is required to manage Energy Efficiency Utility (EEU) funds.
22. **Natural Gas EEU Funds** are *Allowable EEU Funds*, as described in Section VI.1, allocated specifically for natural gas resource acquisition and development and support services.
23. **Order of Appointment** is a document that describes the general responsibilities and scope of activities to be performed by an Energy Efficiency Utility (“EEU”). An appointed EEU must also adhere to the procedural and administrative guidelines and requirements of an EEU, as described in this Process and Administration of an Energy Efficiency Utility Order of Appointment document. Requirements and criteria outlined in this Process and Administration of an Energy Efficiency Utility Order of Appointment document are not repeated in the Order of Appointment document. Certain provisions highlighted in the Order of Appointment document are discussed in greater detail in this Process and Administration of an Energy Efficiency Utility Order of Appointment document.
24. QPIs means Quantifiable Performance Indicators, as described in Section II.3.H.
25. The **Regional Greenhouse Gas Initiative or RGGI** is a market-based regulatory program in the United States to reduce greenhouse gas emissions. RGGI is a cooperative effort among the states of Connecticut, Delaware, Maine, Maryland, Massachusetts, New Hampshire, New York, Rhode Island, and Vermont to cap and reduce CO<sub>2</sub> emissions from the power sector.
26. **Reliability Deficiency** means an existing or forecasted violation, pre- or post-contingency, of applicable bulk transmission system or subsystem design or operating criteria, with consideration given to the reliability and availability of individual system elements. *See* Docket 7081, Order of 6/20/07 and the Memorandum of Understanding approved by that Order.
27. **State** means the State of Vermont.
28. **Supply Problem** refers to a distribution supply or reliability problem that is to be resolved through the application of the Distributed Utility Planning Guidelines developed in Docket 6290.
29. **System-Wide Programs** means the DSM programs being delivered under an EEU structure pursuant to the Commission’s regular budget-setting cycle under 30 V.S.A. §§ 209(d) and 218c, and does not include any additional DSM offered or required to be offered to address a Supply Problem or Reliability Deficiency.

30. **Technical Advisory Group or TAG** includes members of Vermont’s Energy Efficiency Utilities and the Vermont Department of Public Service and focuses on reviewing and approving the methodology and associated assumptions underlying measure-savings calculations that are included in the Technical Reference Manual (“TRM”).
31. **Technical Reference Manual or TRM** is a reference manual that provides methods, formulas, and default assumptions for estimating energy and peak impacts from measures and projects promoted by Vermont’s Energy Efficiency Utilities’ energy efficiency programs.
32. **Thermal Energy and Process Fuels or TEPF** includes “unregulated fuels” as defined in 30 V.S.A. § 209(e)(3)(C) and “regulated fuels” as defined in 30 V.S.A. § 209(e)(3)(B).
33. **Thermal Energy and Process Fuel Funds or TEPF Funds** are *Allowable EEU Funds*, as described in Section VI.1, allocated in accordance with statutory requirements.
34. **Total Resource Benefits or TRB** is the present value of lifetime benefits resulting from demand-side resource-saving measures, including avoided costs of electricity, fossil fuels, and water, and other elements or adjustments that may be specified by the Commission.
35. **Unanticipated Additional Funding** means any funding secured by an EEU in addition to Commission-ordered budgets to support EEU implementation.
36. **VELCO** means Vermont Electric Power Company, Inc. and Vermont Transco LLC.
37. **Vermont Utility or Vermont Utilities** includes VELCO and Vermont’s electric and natural gas Distribution Utilities.
38. **V.S.A.** means the Vermont Statutes Annotated.
39. **Vermont System Planning Committee or VSPC** is a group created by the Commission in order to facilitate full, fair, and timely consideration of cost-effective non-transmission alternatives to new transmission projects.

## **APPENDIX A: ENERGY EFFICIENCY EVALUATION DEFINITIONS**

1. Market Characterization and baseline studies, as referred to in Section II.5.H.(a), are generally to be completed by the Department to gather and analyze information about the characteristics of different markets. The goal of these studies is to support assessment of demand-side resource potential and development of market intervention strategies, and to assist in the establishment of baselines from which efficiency savings can be measured. Such studies may include building, appliance, and equipment saturation surveys, sales data, consumer attitude and behavior surveys, and market structure analysis.
2. Direct Measurement of efficiency savings, as referred to in Section II.5.H.(b), is the process that directly assesses the efficiency measures that contribute to efficiency savings. It includes direct metering of individual or multiple end-use loads, counts of measures, and testing of performance.
3. Impact Evaluation, as referred to in Section II.5.F.(d), is defined as the formal assessment of quantitative savings (e.g., MWh, MW, BTU, and TRB), typically at the initiative or portfolio level. The Department may, at its discretion, conduct Impact Evaluation assessments, which may include studies that analyze pre- and post-installation measured electricity, natural gas, or unregulated fossil fuel (i.e., TEPF) use and studies that seek to determine market effects of efficiency initiatives.
4. Process Evaluation, as referred to in Section II.5.F.(e), is the range of activities that can be carried out to evaluate the design and implementation of EEU operations with respect to objectives and potential for future improvement from both an administration and a process perspective. This type of evaluation uses surveys, interviews, and activity data to understand and assess the quality and effectiveness of EEU processes. The goal of a process evaluation is to develop recommendations for strategy and/or process improvement.

## APPENDIX B: REPORTING REQUIREMENTS OF AN EEU

An EEU shall prepare and submit Quarterly and Annual Reports. An EEU shall work with the Commission and the Department to identify and assess changes that might better satisfy the needs of the Commission, the Fiscal Agent, and the Department, simplify or clarify the presentation of information, and/or lower the costs of reporting. An EEU shall be allowed a reasonable amount of time to implement changes. Changes made to reporting requirements shall not require formal Commission process unless specifically requested.

1. **Monthly Reports.** An EEU shall maintain the capability to submit Monthly Reports to the Commission and the Department upon request. These reports shall include, at a minimum:
  - A. Actual expenditures for resource-acquisition and DSS costs compared to the annual and approved three-year budgets funded by [EEU Funds](#); and
  - B. MWh, kW summer, kW winter, and TRB estimated results funded by Electric EEU Funds;
  - C. BTU (or Mcf), Peak Day Savings, and TRB estimated results funded by Natural Gas EEU Funds; and
  - D. BTU estimated results funded by TEPF Funds.
2. **Quarterly Reports.** An EEU shall prepare and submit Quarterly Reports to the Commission and the Department for January 1 through March 31; April 1 through June 30; and July 1 through September 30. Quarterly Reports shall be submitted on the fifteenth day of the second month following the reporting period. (For example, the January 1 through March 31 Quarterly Report is due on the fifteenth day of May.) Because an Annual Report will be submitted after the end of each calendar year, no fourth-quarter report is required. Quarterly Reports shall include at a minimum, unless otherwise directed by the Commission, in addition to the information included in the monthly reports:
  - A. Actual expenditures for resource-acquisition and DSS costs compared to the annual and approved three-year budgets funded by EEU Funds;
  - B. Report of progress made towards achieving savings targets, and other agreed-upon indicators of performance funded by [Electric EEU Funds](#), TEPF Funds, or Natural Gas EEU Funds;
  - C. A summary of activity highlights for the quarter funded by EEU Funds;
  - D. A summary of any significant changes or anticipated changes in implementation strategies and services funded by EEU Funds;
  - E. Other Demand Resource capacity claimed to date and related revenue received from the FCM, if applicable;
  - F. To the extent applicable, capacity commitments, qualified capacity, or registered show-of-interest capacity for each FCM Delivery Period (relevant at the time of the report) and progress toward the attainment of that capacity goal;

- G. To the extent applicable, amounts of Financial Assurance currently required related to the FCM, and additions to the Financial Assurance required in the upcoming quarter;
  - H. To the extent applicable, expenditures by an EEU for participation and measurement and verification costs related to participation in the FCM compared to the annual component of the three-year budgets;
  - I. Information (when such information is made available to an EEU) on the degree of leveraging (including customer contributions and grant funds) achieved by an EEU; and
  - J. Service Quality and Reliability Plan Reports.
3. **Savings Claim Summary.** An EEU shall prepare and submit an annual savings claim summary as specified in the EEU's [Order of Appointment](#).
  4. **Annual Reports.** An EEU shall prepare and submit Annual Reports to the Commission, the Department, and all Vermont electric and natural gas DUs. Annual Reports shall be submitted as soon as reasonably possible after the Commission issues its determination regarding an EEU's achieved savings at the conclusion of the Department's savings verification process, unless an EEU's appointment is terminated by the Commission, in which case the deadline set forth in Paragraph C, below, shall apply.
    - A. Annual Reports shall include, in addition to the information included in Monthly and Quarterly Reports, at a minimum unless otherwise directed by the Commission:
      - (a) A summary of progress and highlights for the year, including any significant changes in strategies or services funded by EEU Funds;
      - (b) The annual verified savings data funded by EEU Funds. An EEU shall footnote in the Annual Report data that overlaps or includes data from other services provided by the EEU that are external to the Appointment;
      - (c) A summary of FCM-related activity highlights, if applicable;
      - (d) A summary of any significant or anticipated changes in participation strategies and/or FCM forecasts, if applicable; and
      - (e) Information (when such information is made available to the contractor by EEU customers) on the degree of leveraging (including customer contributions and grant funds) achieved by an EEU.
    - B. In addition, an EEU may publish and distribute materials that highlight annual results for public distribution. An EEU shall consult with the Department on the content of these materials.
    - C. If an EEU's appointment is terminated by the Commission, then the process for producing the Annual Report for the following year, and the associated annual savings verification process, shall be in accordance with the following schedule:
      - (a) An EEU's savings claim shall be submitted within 90 days of the

termination;

- (b) The savings verification process will be completed within 75 days of the savings claim; and
  - (c) The Annual Report that includes any changes made as a result of the savings verification process shall be submitted within 60 days of the completion of the savings verification.
5. **Uncommitted Funds.** The EEU's, with input from the Department, shall calculate Uncommitted Funds for their respective Commission-approved budget items, except performance awards. The EEU's should seek to coordinate with the Department when providing the report and any associated recommendations regarding the disposition of those funds. Recommendations for the disposition of any Uncommitted Funds shall be filed with the Commission by May 1 of the year following the end of the three-year performance period.
- (a) As provided in Section 5.305(E)(1) of Commission Rule 5.300, for any year following the end of an EEU's three-year budget, the Commission shall determine the disposition of Uncommitted Funds through a separate proceeding.
  - (b) The EEU's, with input from the Department, shall calculate Uncommitted Funds related to unearned performance awards, after the Department's recommendation regarding the EEU's results relative to QPIs in the most recent performance period. As provided in Section 5.305(E)(1) of Commission Rule 5.300, recommendations for the disposition of any unearned performance awards shall be filed with the Commission by August 1 of the year following the end of the three-year performance period.
6. **Reporting by Sector.** For the purposes of the required reporting as detailed in this Appendix, an EEU shall report its services and initiatives by sector.

## APPENDIX C: DUTIES OF THE RGGI TRUSTEE AND FISCAL AGENT

### **I. Duties of RGGI Trustee**

The Regional Greenhouse Gas Initiative (“RGGI”) Trustee collects, deposits, and disburses funds received directly from Vermont's participation in the RGGI auction pursuant to 30 V.S.A. § 255, as described in Case No. 18-4145-INV, Order of January 10, 2019. The RGGI Trustee manages these funds under the direction of the Commission. RGGI Trustee duties include the following:

- A. Receipt of RGGI Auction Proceeds.** Upon completion of each quarterly RGGI auction, the RGGI Trustee will be responsible for directly receiving and depositing the proceeds from Vermont’s participation in the auction in the fund established under 30 V.S.A. § 209(d) (the “Energy Efficiency Fund” or “Fund”).
  
- B. Disbursement of RGGI Auction Proceeds.** The RGGI Trustee shall disburse auction proceeds quarterly, as directed by the Commission, to entities including: RGGI, Inc., the Vermont Agency of Natural Resources, the Commission, the City of Burlington Electric Department, and the Fund to support the activities of the statewide EEU.
  
- C. Partial Payments.** No disbursements of RGGI auction proceeds shall be paid unless there is a positive net balance in the RGGI auction proceeds portion of the Energy Efficiency Fund. When the balance in the RGGI auction proceeds portion of the Fund are not sufficient to meet requests for disbursements of RGGI auction proceeds, the RGGI Trustee shall issue pro-rata or proportionate payments from available funds. The RGGI Trustee shall issue payments for unpaid disbursement requests on a pro-rata or proportionate basis from future RGGI auction proceeds until all disbursement requests are paid in full. The RGGI Trustee will pay the oldest balances before all other invoices in the next cycle. In such case, the RGGI Trustee shall contact the payee within ten working days of the Trustee’s receipt of the approved invoice and explain the payment arrangements. The RGGI Trustee will have no responsibility to locate a line of credit or otherwise obtain borrowed funds. The RGGI Trustee will have no responsibility to offer its own credit or property as collateral for any loan that would alleviate the Fund’s deficiency in RGGI auction proceeds portion of the Fund.
  
- D. Method of Disbursement.** All disbursements shall be made by writing a check drawn on the RGGI auction proceeds, payable to the individual party. However, if so requested by an authorized payee, disbursements may be made by electronic transfer.
  
- E. Compensation.** As compensation for the work performed, the RGGI Trustee may make regular periodic transfers to its proprietary accounts in amounts authorized for such purposes.

## II. Duties of Fiscal Agent

A Fiscal Agent administers and manages an Energy Efficiency Fund. As described in more detail below, the duties of a Fiscal Agent include: the receipt and deposit of monies collected by regulated electric and gas Distribution Utilities through a charge on customer bills (“Energy Efficiency Charge” or “EEC”); the receipt and deposit of net proceeds from the sale of carbon credits in RGGI auctions (“RGGI Proceeds”); the receipt and deposit of net proceeds from the sale of capacity savings in the New England Independent System Operator (“ISO-NE”) Forward Capacity Market (“FCM Proceeds”); the appropriate disbursement of monies received by a Fiscal Agent to the appropriate payees; the management of investments by the Fund; the tracking of receipts and disbursements in various accounts constituting the Fund; the provision of reports and financial statements; coordination and communication with the Commission, the Department, the EEU, distribution utilities, and others; the protection of confidential information; and other administrative duties. The responsibilities and duties of a Fiscal Agent may change over time at the direction of the Commission or through statutory change.

- A. Collection of EEC Receipts from Distribution Utilities.** A Fiscal Agent is responsible for collecting the EEC and other funds from the electric or gas Distribution Utility or Utilities where a Fiscal Agent provides service, including taking reasonable steps to ensure that the Distribution Utility or Utilities remit payments completely and on a timely basis. A Fiscal Agent coordinates with a Distribution Utility or Utilities regarding EEC remittances and delinquencies as follows:
- (1) A Fiscal Agent shall prepare Distribution Utility remittance forms for Distribution Utilities to remit their EEC collections monthly and to calculate remittance amounts. A Fiscal Agent shall revise the remittance forms after the Commission approves new EEC rates. It is expected that the Commission will approve new EEC rates once each calendar year. A Fiscal Agent shall also develop a monthly Distribution Utility account statement.
  - (2) Each year and at any other time the Commission changes the EEC rates, a Fiscal Agent shall develop a new information package for the Distribution Utility or Utilities it serves. The package shall include an Efficiency Fund remittance form, and detailed instructions for completing the form and remitting payment to a Fiscal Agent. A Fiscal Agent shall provide this package to all Vermont Distribution Utilities that it serves by January 15 of each year and as necessary if the Commission changes EEC rates effective at any time other than the beginning of a calendar year. The package shall also be posted on a Fiscal Agent’s website.
  - (3) A Fiscal Agent shall collect remittances from the Distribution Utilities that it serves on a monthly basis. Distribution Utilities must make payments by the deadline specified in PUC Rule 5.300. Distribution Utility remittances shall be collected through a virtual “lockbox” established by a Fiscal Agent or another secure means if a Fiscal Agent is also a Distribution Utility.
  - (4) A Fiscal Agent shall take reasonable steps to ensure that Distribution Utilities remit payments completely and on a timely basis.

- (5) A Fiscal Agent shall examine and analyze Distribution Utility remittances, including a review for mathematical or other errors or omissions and for compliance with remittance procedures.
- (6) A Fiscal Agent shall provide each Distribution Utility with an opportunity to perform an annual reconciliation at the end of each fiscal year. The annual reconciliation may result in changes to previously reported kWh, kW, or Mcf sales and EEC contributions to reflect changes to utility accounts. The results of the annual reconciliation shall be reported in the monthly reports described below.
- (7) A Fiscal Agent that is not a Distribution Utility shall determine delinquencies and shall send initial notices of delinquency to any Distribution Utility (at the address provided by the utility) when a payment from that Utility is 30 days past due. A Fiscal Agent shall follow the initial delinquency notice with at least one follow-up notice to the Utility to pursue collection of EEC payments due and shall report the delinquency to the Commission and the Department.
- (8) A Fiscal Agent shall maintain logs of all delinquency notices and shall provide a list of delinquent Distribution Utilities to the Commission.
- (9) If so requested by a Distribution Utility, or if an appeal is taken to the Commission, or if the Commission opens an investigation (on its own motion or in response to a petition), a Fiscal Agent shall prepare and transmit to the Commission and the Distribution Utility a written summary of the findings and conclusions that led to the delinquency notice.
- (10) In the event that a Fiscal Agent's reasonable efforts fail to secure collection of EEC charges, a Fiscal Agent shall inform the Commission and provide complete documentation of charges assessed, delinquency notices, and other collection activities to date.
- (11) If so directed by the Commission, a Fiscal Agent shall participate in further collection efforts.

**B. Receipt of RGGI Proceeds and FCM Revenue.** A Fiscal Agent appointed to serve the statewide EEU, on behalf of the Energy Efficiency Fund, shall also receive and deposit RGGI revenue from the RGGI Trustee and FCM revenue in connection with the ISO-NE Forward Capacity Market.<sup>5</sup>

- (1) The RGGI Trustee shall track and account for net revenues above costs from RGGI auctions under 30 V.S.A. § 209(e)(1)(B) after a process that identifies any Commission costs, Department non-evaluation costs, and Agency of Natural Resources costs. The Trustee will also need to account for such revenues for both the statewide EEU and the City of Burlington Electric Department.
- (2) The RGGI Trustee shall disburse net RGGI revenues to the appropriate account within five business days.

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<sup>5</sup> RGGI proceeds and FCM proceeds held by the Energy Efficiency Fund are used to deliver thermal-energy-and-process-fuels efficiency services for unregulated fuels to Vermont consumers of such fuels in accordance with 30 V.S.A. § 209(e).

### **C. Disbursements from Energy Efficiency Fund**

- (1) A Fiscal Agent shall be authorized to pay an EEU's costs and expenses, including any indirect cost allocations, operations fee, and performance awards, as applicable, from funds held in its EEF established for such purposes.
- (2) A Fiscal Agent shall disburse monies held in the Energy Efficiency Fund for appropriate EEU supporting activities and to additional payees as approved by the Commission or Department, including among others: the EEUs; the Department; consultants approved by the Department or Commission; the home weatherization assistance trust fund; the gross receipts tax fund; the independent auditor of the Energy Efficiency Fund; the triennial independent auditor of the EEU program's cost-effectiveness; participants in the Customer Credit Program and Energy Saving Accounts; and the Fiscal Agent itself. A Fiscal Agent shall communicate with the Department and Commission concerning anticipated disbursements and shall exercise reasonable care to ensure that, consistent with resources of the Energy Efficiency Fund, funded programs receive timely support.
  - a. Disbursement amounts related to the EEC due to the home weatherization assistance trust fund shall be determined in accordance with 33 V.S.A. § 2503.
  - b. Disbursement amounts related to the portion of the gross receipts tax fund that is applicable to the EEC shall be determined in accordance with 30 V.S.A. § 22.
  - c. Disbursements to other payees shall be on a reimbursement basis. Payees will submit invoices to the Department or Commission for approval. The Department or Commission will send approved invoices to the Fiscal Agent for payment.
  - d. All disbursements to the home weatherization assistance trust fund and the gross receipts tax fund shall be made by writing a check drawn on the EEU Fund, payable to the State Treasurer of Vermont. However, if so requested by any authorized payee, disbursements may be made by electronic transfer.
  - e. All disbursements to parties other than the home weatherization assistance trust fund and the gross receipts tax fund shall be made by writing a check drawn on the Fund, payable to the individual party. However, if so requested by any authorized payee, disbursements may be made by electronic transfer.
  - f. As compensation for services, a Fiscal Agent may make regular transfers to its proprietary accounts in amounts authorized by the Commission.
- (3) A Fiscal Agent may also make payments to its proprietary accounts in compensation for reimbursable expenses. Documents supporting these transfers shall be retained on file at the Fiscal Agent for audit purposes. Records of such disbursements shall be included in all financial reports submitted to the State.
- (4) Except for noted exceptions, disbursements shall be made at least once each month unless available funds are not sufficient to pay in full approved invoices received by a Fiscal Agent . Exceptions are expected to occur infrequently and may be due

to untimely submission of an approved invoice or in response to an approved credit request by an EEU.

- (5) A Fiscal Agent shall monitor the rate of contributions to the Fund and whether funds will be sufficient to cover disbursements in coming months. If it appears that the Fund will operate at a deficit at any point, a Fiscal Agent shall notify the Commission in the monthly report described below.
- (6) A Fiscal Agent may draw down on the EEF as cash-flow needs require, including in order to avoid using debt-financing to pay EEU expenses.
- (7) A Fiscal Agent shall post on its website the disbursement request form that indicates the documentation that must accompany invoices from the EEU's and other payees.
- (8) A Fiscal Agent shall implement the guidelines and/or thresholds set forth in Commission Orders or Rules to ensure that a minimum cash balance is maintained in the Fund.
- (9) A Fiscal Agent shall pay an EEU's invoices in full, as funds become available. If total funds available are insufficient in any account to pay invoices payable from that account in a given month, a Fiscal Agent shall inform the Commission and Department that temporary borrowing will be required between accounts to pay invoices and shall prioritize payment as follows:
  - a. EEU TEPF efficiency service invoices. If there are insufficient TEPF funds, a Fiscal Agent shall determine the amount of the shortfall and pay expenses with any available funds after completing step "i" below. If no funds are available, a Fiscal Agent shall prorate EEU TEPF invoices and pay the balance before all other invoices in the next cycle;
  - b. Customer Credit Program and Energy Savings Account Program payments as authorized under 30 V.S.A. § 209(d)(3)(B);
  - c. Department M&E invoices (electric, regional FCM, other);
  - d. Fiscal Agent and EEU fund-related expenses (including bank fees, fund audit);
  - e. All "other expenses" (e.g. Green Mountain Power's share of certain Forward Capacity Market, newspaper advertising, etc.);
  - f. Unpaid portion of EEU electric or natural gas expenses from the previous month;
  - g. Performance incentive payments;
  - h. Current EEU electric or natural gas expenses;
  - i. When cash in the Fund is not sufficient to meet all prioritized requests for disbursements, a Fiscal Agent will:
    - i. issue pro-rata payments or proportionate payments after appropriate prioritization of payments;
    - ii. contact the Commission and Department within 10 working days of the

Fiscal Agent's receipt of the invoice, and explain the payment arrangements;

- iii.* have no responsibility to locate a line of credit or otherwise obtain borrowed funds;
- iv.* have no responsibility to offer its own credit or property as collateral for any loan that would alleviate the Energy Efficiency Fund's deficiency.

#### **D. Other Responsibilities**

##### **(1) Responsibilities for Fund Management.**

- a.* A Fiscal Agent shall keep accurate accounts of all money it receives and disburses and provide a monthly report of the EEF activities to, at a minimum, the Commission, the Department, and other such persons or entities as the Commission shall direct as described below.
- b.* A Fiscal Agent shall invest Fund monies in:
  - i.* An account in an insured bank or credit union, provided that the balance in that account does not exceed the insurance limit, except that the balance may occasionally exceed this limit due to overnight deposits or as otherwise authorized by the Commission; or
  - ii.* A bank account in which excess balances are "swept" into government securities on a daily basis under a repurchase agreement, with the repurchase agreement collateralized by a pool of U.S. government agencies or U.S. Treasury notes held at a Federal Reserve Bank.
  - iii.* Interest earned on the funds held in the EEF shall be credited to the appropriate account by a Fiscal Agent.
- c.* Fund amounts related to RGGI proceeds and FCM proceeds shall be tracked and accounted for by a Fiscal Agent separately, with earnings on those amounts credited to the appropriate account.
- d.* A Fiscal Agent will track the reimbursements made to customers participating in the Customer Credit Program and Energy Savings Account Program authorized under 30 V.S.A. § 209(d)(3)(B).
- e.* A Fiscal Agent shall disburse and track monthly payments to the Department for invoiced measurement and evaluation ("M&E costs"). The Department shall maintain M&E funds in an insured bank or credit union and use these funds only to support the Department's Commission-approved EEU M&E plan.
- f.* A Fiscal Agent shall disburse and track reimbursements to the Commission for any EEU-related expenses.
- g.* A Fiscal Agent will accumulate and store financial and other data provided by distribution utilities, including revenue data and service information, in a database. A Fiscal Agent shall analyze the database to compare current reported data to previously reported data. A Fiscal Agent shall make appropriate inquiries of Distribution Utilities that file returns with

unexpected increases or decreases in contributions, as compared to their historic contributions.

- h.* A Fiscal Agent shall assist Fund participants with reconciliation of any data entry errors in financial reporting records.
- i.* An independent third-party audit of the funds under an EEU Fiscal Agent's administration shall be conducted annually at the direction of and under contract to the Commission. The independent third-party audit shall be made publicly available in ePUC.

**(2) Financial and Other Reports**

A Fiscal Agent will file the following reports with the Commission, Department, and any other parties designated by the Commission to receive such reports. Fiscal Agent reports shall be filed in ePUC and shall be publicly available. These reports will be used by the recipients to oversee the collection, management, disbursement, and administration of EEC proceeds, RGGI proceeds, and FCM proceeds and to provide information to executive and legislative branch agencies in the budgeting process and to participants in EEC rate-setting proceedings.

- a. Monthly EEF Financial Report.* A Fiscal Agent shall provide financial reports on a monthly basis to support all expenses being submitted for reimbursement from the EEF.
- b. Annual Receipts and Disbursements Reports.* A Fiscal Agent will provide the State with a financial status report showing receipts and disbursements through the last day of the preceding calendar year and the last day of the State fiscal year. In the case of a Fiscal Agent for the statewide EEU, receipts shall be shown for each Distribution Utility. Disbursement reports shall show the allocation among core efficiency programs, administration costs (separating out various cost categories), weatherization tax, and gross receipts tax, as well as the remaining budgeted amount in each category. Such reports shall also include:
  - i.* cumulative receipts, by Distribution Utility, for the calendar year and for the State fiscal year ended June 30;
  - ii.* cumulative receipts in the calendar year, compared to budget;
  - iii.* cumulative disbursements in the calendar year, compared to budget;
  - iv.* current Fund balance;
  - v.* budgeted receipts for the current calendar year;
  - vi.* budgeted disbursements for the current calendar year;
  - vii.* a schedule of net assets that shows the Fund's liabilities, including funding set-asides;
  - viii.* cumulative Customer Credit Net Pay Option receipts and disbursements;
  - ix.* cumulative Energy Saving Account receipts and disbursements;
  - x.* cumulative ISO-NE FCM receipts;

- xi. cumulative RGGI auction receipts and disbursements; and
  - xii. cumulative disbursements for TEPF energy efficiency services.
- c. *Financial Statements and Audits.*
- . A Fiscal Agent shall provide unaudited annual financial statements for the Fund on or before April 1 of each year for the preceding calendar year and on or before October 1 of each year for the preceding July 1 to June 30 fiscal year to the Commission. Annual statements shall be prepared using accrual basis accounting. Each annual statement shall include as an asset of the Fund estimated receivables based on electricity services provided to customers by distribution utilities during the fiscal year but for which the Fiscal Agent has not yet received payment.
  - i. A Fiscal Agent shall coordinate with the selected external auditor to ensure the delivery to the Commission, the Department and the Vermont State Auditor of Accounts and Department of Finance & Management of the audited financial statements for the Fund on or before June 30 for the prior calendar year and on or before October 1 for the prior fiscal year ended June 30.
- d. *Reports of Electric Utility Sales of kW and kWh and EEC Revenue.*
- i. On or before April 15 of each year, a Fiscal Agent shall provide the PUC and the DPS with a report summarizing the kW and kWh sales and EEC revenue reported by each Vermont electric Distribution Utility for the preceding calendar year. This report shall show each utility's kW and kWh sales and EEC revenue by EEC rate class category.
  - ii. On or before September 5 of each year, a Fiscal Agent shall provide the Commission and the Department with a report summarizing the kW and kWh sales and EEC revenue reported by each Vermont electric Distribution Utility for the months of January through June of that calendar year. This report shall show each utility's kW and kWh sales and EEC revenue by EEC rate class category.
- e. *Reports of VT Gas Sales and EEC Revenue.* Fiscal Agent reports shall provide information to the Commission and the Department consistent with requirements determined by the Commission.
- f. *Uncommitted Funds.* An EEU Fiscal Agent shall report balances in its EEF at the end of each three-year performance period and report it to the appropriate EEU by April 1 of the following year.
- g. *Standards and Requirements.* The following requirements and standards will apply to Fiscal Agent financial reports, reviews, audits:
- i. *Accounting Standards.* A Fiscal Agent shall use accounting (including internal control) and financial reporting systems that conform with Generally Accepted Accounting Principles, as defined by the Governmental Accounting Standards Board and the Financial Accounting Standards Board.

- ii. *Books and Records.* A Fiscal Agent's books and records relating to the operation of the Fund and with respect to the RGGI Proceeds and process shall be available on request for examination by the Commission, the Department, the Vermont State Auditor of Accounts, and their authorized agents. A Fiscal Agent shall also make its financial records excluding confidential information, available at reasonable times to Distribution Utilities.
- iii. *Periodic Internal Reviews.* A Fiscal Agent shall periodically subject its Fund and RGGI proceeds operations to internal reviews.
- iv. *Calendar and Fiscal Year Audits.* For each calendar year and each State fiscal year ended June 30, an external auditor selected by the Commission shall perform an audit of reports for the Fund.
- v. *Audit Scope.* The scope of the audits shall be defined by General Accepted Government Auditing Standards ("GAGAS") if so required by the State of Vermont. The auditor's reports will include an opinion on the audit of the Fiscal Agent's financial statements relevant to the Fund and RGGI proceeds, as well as a written report on internal controls and compliances.

(3) **Procedures.**

A Fiscal Agent is responsible for developing and utilizing internal procedures for collecting and processing Distribution Utility remittances, disbursing monies, and making monthly and annual account statements to distribution utilities.

(4) **Review.**

The Commission, the Department, their authorized agents, and any other person authorized by the Commission may review the deposits to, expenditures from, and balances in the EEF subject to each EEU Fiscal Agent's administration. An EEU Fiscal Agent shall make available upon request deposit and payment information, including backup accounting support. An EEU Fiscal Agent shall seek to resolve any discrepancies that may be identified in a review.

(5) **Coordination with DPS and PUC.**

A Fiscal Agent shall coordinate with the Department, the Department of Finance & Management, and the Commission as needed or requested. This will include responding to requests for information, cooperation in the development of new or revised forms, and coordinating activities with respect to possible EEC rate changes, Commission Orders, changes in state law, independent audits, and the existence and resolution of disputes.

(6) **Meeting in Montpelier, VT.**

A Fiscal Agent shall meet with representatives of the Commission and the Department in Montpelier, Vermont, at least once each year during the term of the appointment.

(7) **Confidential Information.**

A Fiscal Agent shall use data that includes customer-specific and competitively sensitive information and will have the responsibility for protecting the confidentiality of such information. A Fiscal Agent shall safeguard this information using physical

and data access controls, signed non- disclosure agreements, contractual agreements, and employee education and awareness training. If a Fiscal Agent receives a request to disclose confidential information to anyone other than the Commission or the Department, the Fiscal Agent shall deny such request and inform the requesting person to file such request with the Commission.

PUC Case No. 22-1647-PET - SERVICE LIST

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