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STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. EEU-2016-03

2016-2017 Demand Resources Plan Proceeding)

**CONSERVATION LAW FOUNDATION'S MOTION TO ALTER AND
MOTION FROM RELIEF FROM ORDER**

Conservation Law Foundation (CLF), pursuant to Vt. PSB Rules 2.206 and 2.221, and V.R.C.P. 59(e) and V.R.C.P. 60(b)(1) or 60(b)(6) requests the Vermont Public Service Board (Board) to alter or amend its Order of October 27, 2016 or in the alternative to provide relief from operation of the Order regarding stated limits that “the use of EEC funds for investments in such end uses [electrification of transportation and thermal loads] is subject to statutory restrictions....” Order of 10/27/16 at 13.

There is no statute that specifically limits the use of EEC funds for either electrification of transportation or thermal loads. The order cites no statute that creates this limit. Absent a specific statutory restriction, the EEC funds should be available for all end uses that meet the statutory objectives. The Order should be amended to remove this language and this proceeding should include consideration of increased electrification of transportation and thermal loads and the Greenhouse Gas (GHG) emissions impacts associated with those end uses.

Memorandum

I. No Express Statutory Limitation

The Vermont statutes that set forth the requirements for energy efficiency do not preclude either investments or evaluation of transportation or thermal electricity loads. Specifically, 30 V.S.A. sec. 218c sets forth the broader energy efficiency planning requirements. It states:

§ 218c. Least cost integrated planning

(a)(1) A "least cost integrated plan" for a regulated electric or gas utility is a plan for meeting the public's need for energy services, after safety concerns are addressed, at the lowest present value life cycle cost, including environmental and economic costs, through a strategy combining investments and expenditures on energy supply, transmission, and distribution capacity, transmission and distribution efficiency, and comprehensive energy efficiency programs. Economic costs shall be assessed with due regard to:

(A) the greenhouse gas inventory developed under the provisions of 10 V.S.A. § 582;

(B) the State's progress in meeting its greenhouse gas reduction goals;

(C) the value of the financial risks associated with greenhouse gas emissions from various power sources; and

(D) consistency with section 8001 (renewable energy goals) of this title.

(2) "Comprehensive energy efficiency programs" shall mean a coordinated set of investments or program expenditures made by a regulated electric or gas utility or other entity as approved by the Board pursuant to subsection 209(d) of this title to meet the public's need for energy services through efficiency, conservation or load management in all customer classes and areas of opportunity which is designed to acquire the full amount of cost effective savings from such investments or programs.

30 V.S.A. sec. 218c(a). The statute requires a utility least cost plan that includes “comprehensive energy efficiency programs.” 30 V.S.A. sec. 218c(a)(1). The statute then explains that “comprehensive energy efficiency programs” are the coordinated investments made by the electric, gas and energy efficiency utilities to meet the need for energy through efficiency, conservation or load management. 30 V.S.A. sec. 218c(a)(2). There is no language in this section of Title 30 that limits or precludes either thermal or transportation end uses from being part of a comprehensive energy efficiency program.

Title 30 V.S.A. sec. 209(d) further identifies the general scope and jurisdiction regarding energy efficiency. As to “programs and measures,” it provides for the Public Service Department, utilities, including energy efficiency utilities, to develop efficiency and conservation programs “that result in the conservation and efficient use of energy and meet the applicable air quality standards...” 30 V.S.A. sec. 209(d)(1). It further states that the Board shall provide for coordinated development and implementation of efficiency and conservation programs for thermal energy and process fuels. 30 V.S.A. sec. 209(d)(2)(B). The statute then provides for determining the energy efficiency charge to “realize all reasonably available, cost-effective energy efficiency savings.” 30 V.S.A. sec. 209(d)(3)(B). The statute specifically allows the Board to authorize the use of energy efficiency funds for reducing fossil fuel use for space heating by supporting electric technologies. 30 V.S.A. sec. 209(d)(3)(C). Regarding thermal energy and process fuels, the statute provides for specific sources of funding of these efforts. 30 V.S.A. sec. 209(e)(1). The statute then sets forth broad “goals and criteria” for “all energy efficiency programs” that ensure equitable access to programs, coordinated delivery and verified savings. 30 V.S.A. sec. 209(f).

These provisions of Title 30 specifically include thermal end uses as part of the energy efficiency investments 30 V.S.A. sec. 209(d)(2)(B), provide for reducing fossil fuel use through strategic electrification of thermal uses 30 V.S.A. sec. 209(d)(3)(C), and include process fuel energy efficiency. 30 V.S.A. sec. 209(e)(1). While there is no specific inclusion of transportation end uses, use of fossil fuels for transportation is use of a process fuel, the “process” being transportation. Alternatively, use of electricity for transportation is an electricity end use that would be included in the broader electric energy efficiency scope. 30 V.S.A. sec. 209(d)(1). Either way, transportation end uses are included in the overall scope of energy efficiency end uses.

Nowhere in the provisions of Title 30 regarding energy efficiency is there a prohibition on including either thermal or transportation end uses. Absent a specific exclusion, they would be included as they are part of the overall public need for energy services that can be met through efficiency, conservation or load management. 30 V.S.A. sec. 218c(a)(2) and sec. 209(d).

Since transportation and thermal fall broadly within the scope of end uses and measures that are covered by Vermont’s energy efficiency programs and goals, there is no reason to exclude them from the broader evaluation of the modeled scenarios. The Board’s Order of October 27, 2016 rejected using ratepayer resources on modeling CLF’s proposed scenario of greenhouse gas emissions based on transportation and thermal loads being “subject to statutory restrictions.” This rejection is unsupported. All use of ratepayer funds are subject to “statutory restrictions.” 30 V.S.A. sec. 209. As noted above, thermal and transportation end uses are either specifically included or part of the broader energy uses for which increased energy efficiency can provide cost effective savings and

pollution reductions. The suggested limit in the Board's order does not exist and it does not justify excluding a scenario that evaluates greenhouse gas emissions.

II. Policy Supports Broad Application

The broad scope of energy efficiency provides for cost and pollution savings. The statutes specifically address the goals that energy efficiency investments are to achieve. Reducing greenhouse gas emissions is specifically included in these policy goals. 30 V.S.A. secs. 209(d)(3)(B); 209(d)(3)(C)(iii); 209(g)(1). To achieve this goal and meet Vermont's broader energy and climate change goals requires the Board to fairly evaluate how transportation and thermal end uses can use electricity to reduce greenhouse gas emissions, save money, and be part of the integrated provision of energy supply and services. Transportation and thermal end uses are part of the overall energy use in Vermont. They should not be excluded from the Board's evaluation of uses or scenarios that help define the energy efficiency budgets.

III. Conclusion

For the foregoing reasons, Conservation Law Foundation respectfully requests the Vermont Public Service Board to alter or amend its Order of October 27, 2016 excluding reference to statutory restriction on the use of EEC funds for transportation or thermal end uses, or, in the alternative to provide relief from operation of the Order regarding stated limits that "the use of EEC funds for investments in such end uses [electrification of transportation and thermal loads] is subject to statutory restrictions...." Order of 10/27/16 at 13.

Dated at Montpelier Vermont this 8th day of November 2016.

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