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August 4, 2023

Holy Anderson, PUC Clerk
Vermont Public Utility Commission
112 State Street
Montpelier, VT 05620-2701

Re: Case No. 23-2220-RULE and Case No. 23-2221-INV, Efficiency Vermont Response to Commission Information Requests

23-2220-RULE Proceeding to design the potential clean Heat Standard

- 1. Commission solicits feedback on the efficiency and transparency of using this proceeding to centralize information related to the potential Clean Heat Standard.*

Efficiency Vermont sees benefit in using Case No. 23-2220-RULE to centralize information related to the potential Clean Heat Standard. Such an approach enables expedient notification of filings to subscribers and will facilitate public discourse amongst participants as there is an established process to respond to and reference documents within the filing structure of ePUC. If certain documents are identified to be admitted as evidence into separate contested-case proceedings, ePUC's structure also facilitates that process.

In complement to Case No. 23-2220-RULE, the Commission could consider creating and maintaining a website to serve as a more user-friendly interface to communicate studies and reports, key dates for upcoming ePUC filings, final orders, and outreach materials and participation logistics. Efficiency Vermont recommends such a website could be established later in this proceeding once the Commission contracts with a consultant with expertise in public engagement¹ that can inform the structure and functionality of such a website.

- 2. Commission seeks feedback on what other elements of this process (aside from topics covered in 23-2221-INV and the appointment of a Default Delivery Agent, which we anticipate will be carried out in another distinct proceeding) may need to be considered in a separate proceeding.*

Efficiency Vermont supports the Commission's intention to open a separate proceeding on the selection and appointment of one or more default delivery agents ("DDA(s)"). A DDA appointment proceeding will require identification of the responsibilities and compensation structure of the DDA(s), which then informs the three-year plan and associated budget of DDA(s) to be addressed in Case No 23-2221-INV. To facilitate an efficient process, Efficiency Vermont recommends the DDA appointment take place in a separate proceeding

¹ Sec. 6(b) of Act No. 18 directs the Commission to contract with a consultant with expertise in public engagement.

contemporaneous to the Department's potential study and prior to the budget process, which will be completed in Case No. 23-2221-INV.

As a general matter, Efficiency Vermont recommends that the numerous rule-making elements and necessary Commission Orders required by Act 18 be identified first in this proceeding. Documenting these requirements as a matter of clarification and transparency would greatly aid participants in understanding the full scope of this proceeding and the endeavor of launching a Clean Heat Standard. Once these elements are identified, they can be organized into a structure and framework that can fit for this and all future proceedings.

At this time Efficiency Vermont does not put forward more specific recommendations that other elements of this process be considered in separate proceedings, other than the appointment of DDA(s). Instead, Efficiency Vermont's primary comment at this time is that the many elements² within Act 18 requiring Commission review or approval be first organized into parallel and sequential tracks. Ultimately, a known and publishable list of tracks may help identify future proceedings, documents, and timeframes that participants can anticipate and plan for.

3. *Commission seeks input on which individuals and organizations should be contacted as part of the Commission's effort to recruit members for the Equity Advisory Group and the Technical Advisory group.*

Over the past three years, Efficiency Vermont has invested in building and deepening relationships with partners who support marginalized, impacted, and frontline communities. Such partnerships have proved critical as we work to better understand how EEU programs and services can advance equity. Efficiency Vermont is interested in supporting the Commission's outreach to individuals and organizations regarding participation in the Equity Advisory Group ("EAG") but recommends the Commission first provide further clarification regarding EAG participation to ensure such outreach is conducted in a transparent manner. Details that should be clarified include the compensation³, time commitment, and scope of work individuals or organizations should expect for participation in the EAG. Additionally, Efficiency Vermont recommends the Commission provide an initial outline or description of the procedural structures and processes it has, or plans to put in place, to incorporate EAG feedback into Clean Heat Standard rules and other elements of the proceedings.⁴ It has been Efficiency Vermont's experience that equity-focused organizations field many requests for participation; such

² Efficiency Vermont has counted no less than 70 separate and required elements of Act 18 to be addressed by rule, order, or technical consultation.

³ Act 18 directs Equity Advisory Group members who are not otherwise compensated by their employer to be entitled to per diem compensation and reimbursement for expenses under 32 V.S.A. §1010. The Commission should review 32 V.S.A. §1010 to determine if such statute provides reasonable and fair compensation, and is sufficient to enable participation from all economic backgrounds. Depending on the review's findings, the Commission should explore providing additional compensation.

⁴ Efficiency Vermont recognizes the ambitious timeline Act 18 directs the Commission follow for this proceeding. Efficiency Vermont also recognizes that further procedural structures and processes will likely be put in place at a later time (after feedback from EAG and public engagement facilitator). Notwithstanding the foregoing, Efficiency Vermont still recommends some initial clarification of structures and processes be provided to assure potential EAG participants their feedback will be incorporated into recommendations and decision-making.

clarifications from the Commission will help these organizations determine whether they have the capacity and interest in participating in the EAG.

On the topic of the Technical Advisory Group (“TAG”), Efficiency Vermont and VEIC have many years of experience participating and leading various forms of the EEU TAG and Tier III TAG. Efficiency Vermont and VEIC are both available to participate or help coordinate the CHS TAG when it becomes helpful to do so.

23-2221-INV Investigation into the Clean Heat Standard Default Delivery Agent Costs and Quantities

Commission requests comments on the scope and process to be followed in this proceeding, including: whether there are other matters from Act 18 that are appropriately addressed within the scope of this proceeding rather than in Case No. 23-2220-RULE or another proceeding⁵; and if the Commission should follow any contested-case-like procedures for this proceeding.

Separate Proceeding for the Appointment of DDAs

As stated in response to #2 above, Efficiency Vermont suggests creation of a separate proceeding to address the appointment of DDA(s), and a process to organize the elements of Act 18 into appropriate tracks and schedules.

Contested Case Procedures

Efficiency Vermont believes that the Department’s potential study will be a critical component to the future of clean heat program delivery in Vermont. As such, it stands to reason that the potential study should have as much opportunity for public comment and review as possible without the procedural complexity that comes with the processes of a contested case.

However, once the DDA(s) has been appointed under a separate proceeding,⁶ and Case No. 23-2221-INV moves on from the potential study to setting the budget for one or more DDAs, Efficiency Vermont believes a contested case process with multiple opportunities for non-parties to provide input, would be an effective balance between transparency and stakeholder participation with building an evidentiary record to support DDA(s) budgets and collection schedules.

Once the potential study is developed, contested case procedures will enable the development of a formal record upon which the Commission can make final determinations based on findings in the record, for all the major decisions in this case, including but not limited to:

- The establishment of default delivery agent credit cost or costs;
- The quantity of credits to be generated for the subsequent three years;
- A three-year plan and associated budget for the default delivery agent; and

⁵ PUC intends to open a separate proceeding on the selection of one or more default delivery agents, and that proceeding will necessarily be a contested case with “notice and opportunity for hearing.” 30 V.S.A. §8125(b)

⁶ Efficiency Vermont also supports appointment of DDAs in a separate case (as discussed above) under contested case processes.

- All other directly related matters.

In Case No. 18-2647-PET, the Commission established contested case procedures for the Energy Efficiency Utilities' Demand Resources Plan Proceeding, where it was determined that a transparent record will be achieved if comprehensive, formal proposals are filed by parties accompanied by testimony, and parties are provided an opportunity for, at a minimum, discovery, rebuttal testimony, cross examination, and briefing. Additional provisions can be included to either encourage or promote participation in the DDA cost proceedings by stakeholders, including automatically granting party status to designated entities (e.g., distribution utilities, EEU's, fuel dealers), or incorporating multiple opportunities in a case proceeding where non-parties could participate (e.g., workshops, public comment periods).

Ultimately, Efficiency Vermont has observed that cases involving matters of budget and program modeling are best served by complete and thorough evidentiary records that are built up and made to support a PUC Order consistent with statutory directives for establishing a budget and performance requirements. These cases tend to be long and complicated, and without the benefit of formal procedures and testimony from experts in discrete batches, the complicated and contested matters quickly overshadow comment periods without narrowing issues or driving resolution. This too can discourage public participation, even in an open or uncontested proceeding.

For these reasons, Efficiency Vermont supports a hybrid approach to this proceeding as indicated in this response. Whereby the potential study portion of the proceeding should be open for participation under uncontested procedures, and once the proceeding turns to DDA Cost and responsibilities, the procedures should ere toward contested case practices with certain administrative streamlining and opportunity for public comment.

Thank you for the opportunity to provide these comments. Please do not hesitate to contact me if you have any questions.

Sincerely,



David C. Westman

Director, Regulatory and State Agency Affairs