

Burlington Electric Department

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BY ELECTRONIC MAIL

December 2, 2016

Judith Whitney,
Vermont Public Service Board
112 State Street, 4th floor
Montpelier, VT 05620-2701

Re: Docket No. EEU-2016-03

2016-2017 Demand Resources Plan Proceeding)

Dear Ms. Whitney:

In its Motion to Alter and Motion from Relief From Order dated November 8, 2016 (the "Motion"), CLF requests that the PSB alter or amend its Order of October 27, 2016 to remove the restrictions on the use of EEC funds for transportation or thermal end uses. While not explicitly stated, the intent seems to be to allow the use of EEC funds (including but not limited to TEPF funds) for measures which would otherwise be characterized as "Tier III" measures under Vermont's Renewable Energy Standard such as electric vehicles including buses, cold climate heat pumps, etc. by arguing that there is no "express statutory limitation" to doing so.

Whether or not there is an express statutory limitation, the use of EEC or TEPF funds for "Tier III" or "Energy Transformation Measures" is clearly contrary to the intent of the RES. As cited below, the RES clearly places the "Tier III" obligation on the Vermont Distribution Utilities (as "retail electricity suppliers"), differentiates between "retail electricity providers" and "energy efficiency entities", and penalizes the Vermont DU's and their customers monetarily for failing to meet such targets through an alternative compliance payment mechanism.

30 V.S.A. § 8005 which established the Renewable Energy Standard ("RES"), created three RES categories. The third category established was the "energy transformation"

of “Tier III” category. 30 V.S.A. § 8005 (a)(3) lays out the purpose of establishing this category; specifically (*with emphasis added*):

(A) Purpose; establishment. This subdivision establishes an energy transformation category for the RES. This category encourages Vermont retail electricity providers to support additional distributed renewable generation or to support other projects to reduce fossil fuel consumed by their customers and the emission of greenhouse gases attributable to that consumption. A retail electricity provider may satisfy the energy transformation requirement through distributed renewable generation in addition to the generation used to satisfy subdivision (a)(2) of this section or energy transformation projects or a combination of such generation and projects.

Moreover, 30 V.S.A. § 8005 (a)(3) also provides that:

(B) Required amounts. For the energy transformation category, the required amounts shall be two percent of each retail electricity provider's annual retail electric sales during the year beginning January 1, 2017, increasing by an additional two-thirds of a percent each subsequent January 1 until reaching 12 percent on and after January 1, 2032.

(E) (iii) To meet the requirements of this subdivision (3), one or more retail electricity providers may jointly propose with an energy efficiency entity appointed under subdivision 209(d)(2) of this title an energy transformation project or group of such projects.

Allowing general EEC and/or TEPF funds to be used for Tier III measures clearly does not comport with the separations identified above between “retail electricity providers” and “energy efficiency entities”. If the Board were to adopt CLF’s recommendation, it would result in unnecessary duplication of efforts. It would also increase the distribution utilities’ risk of failing to meet the aggressive targets set in the RES, and thus being required to make Alternative Compliance Payments under 30 V.S.A. § 8005(a)(4)(ii) (which energy efficiency entities are not subject to).

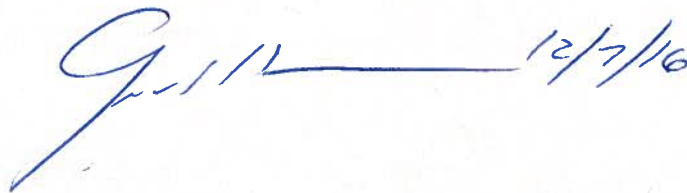
30 V.S.A. § 8005 (a)(3)(E)(ii) recognizes that Tier III projects should not encroach on the claims made under the more traditional EEC program investments, which would seem to presume that the opposite should be true as well. It also seems to have been intended to increase the level of cooperation between DU’s and the EEU’s where possible, not result in competition for tier III measures For example:

- (E) (ii) An energy transformation project may provide incremental support to a program authorized under Vermont statute that meets the eligibility criteria of this subdivision (3) but may take credit only for the additional amount of service supported and **shall not take credit for that program's regularly budgeted or approved investments.**
- (E) (vii) To ensure the coordinated delivery of energy transformation projects with the delivery of similar services, including low-income weatherization programs, entities that fund and support affordable housing, energy efficiency programs delivered under section 209 of this title, and other energy efficiency programs delivered locally or regionally within the State.

Lastly, it appears that despite CLF's contention that statute does not limit the use of EEC funds, 30 V.S.A. § 209 (e) (Thermal energy and process fuel efficiency funding) specifically indicates the sources of funding for this work. CLF's assertion at page 4 of the Motion that the "...use of fossil fuels for transportation is use of a process fuel, the 'process' being transportation", and that transportation end uses are included in the overall scope of energy efficiency end uses is an attempt to redefine what was meant by process fuels as well. Under Section 209, process fuels, while never specifically defined, have always been construed to mean fuels used for manufacturing processes, not for use of transporting people or goods. Indeed, section 209 makes no specific reference to process fuels as a transportation fuel or vice versa and separates heating and thermal energy from process fuels in numerous locations (30 V.S.A. § 209 and speaks about "efficiency services" related to thermal energy and process fuels, not fuel switching).

Accordingly BED supports the PSB Order of October 27, 2016 as it relates to the "use of EEC funds for investment in such end uses" and asks that the CLF motion be denied.

Thank you for this opportunity to comment.



James L. Gibbons
Director, Policy and Planning
Burlington Electric Department