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December 15, 2016

Ms. Judith Whitney, Clerk
Vermont Public Service Board
112 State St. Drawer 20
Montpelier, VT 05620-2701

Re: EEU-2016-03
Vermont Energy Investment Corporation
Reply to Comments submitted concerning the CLF Motion to Alter

Dear Ms. Whitney:

This letter will serve as the reply of the Vermont Energy Investment Corporation (“VEIC”) to the comments filed by parties concerning the *Motion to Alter and for Relief From Order* brought by the Conservation Law Foundation (“CLF”) on November 8, 2016 (the “CLF Motion”). This letter supplements VEIC’s prior submission concerning the issues associated with the CLF Motion.

VEIC offers these comments because a number of the filings made by docket parties go far afield from the core question raised by the CLF Motion. As described in its Motion, CLF asked the Public Service Board (the “Board”) to remove dictum included in the Order of October 27, 2016 concerning the use of EEC funds for investments in the electrification of transportation end uses or, in the alternative, to provide relief from operation of the Order. VEIC believes that the issue is whether to remove the language referenced by CLF, which does not form a part of the Board’s ruling on the issues concerning the scenarios to be considered in the demand resource planning (“DRP”) investigation, or whether to convene separate proceedings to consider the issues attendant to energy efficiency programs including end uses that produce or enable motion such as a transportation energy efficiency program.

VEIC does not believe that there has been sufficient review of the issues associated with electrification or transportation energy efficiency measures for the Board to make a determination on whether or how such services should be offered by an EEU. Removing from

the EEU's mandate to provide cost-effective energy efficiency services a specific end use (in this case measures that produce or enable motion) is far beyond the scope of the questions addressed in the consideration of the DRP scenarios.

As such, to the extent the Board is not inclined to remove the referenced language as requested by CLF, VEIC believes that the Board should convene further proceedings to investigate the use of electrification and transportation energy efficiency measures as a part of the services provided by an EEU. Studying the potential use and benefits to ratepayers and the electric system of transportation energy efficiency measures is necessary to inform any ruling on the questions concerning the propriety of excluding such services from the scope of EEU services to be considered in a DRP.

Some of the parties' comments suggest that the issues associated with the CLF Motion call for an exploration of the authority of the Board to approve electrification measures.¹ This is true only if the Board were to consider approving such measures as a part of the DRP, however the scenarios to be reviewed in this investigation do not include such measures. Accordingly, as the Department of Public Service (the "Department") notes, the language at issue under the CLF Motion is dictum that is not relied upon in the resolution of the issues currently before the Board in this proceeding.² In this way, the challenged language can be removed from the Order without impact to the Board's rulings on the scenarios being considered or the modeling outputs.

As the Department recognized in its comments, there does not appear to be a dispute as to whether measures that save electricity relative to an established baseline, such as incrementally more efficient electric vehicle charging stations, would be an allowable use of EEC funds.³ Such measures treat technologies that produce or enable motion on par with the treatment of other electric end-uses. In this way, transportation energy efficiency services can be seen to fall within the scope of the services offered by an EEU subject to the requirements of its Order of Appointment. Such services help to avoid lost opportunities while encouraging the use of the most efficient technologies even if the customer's decision is being made at the same time it chooses to electrify its end use. The dictum at issue under the CLF Motion is clearly contrary to the accepted delivery of transportation energy efficiency services – services that VEIC believes may be included in a DRP investigation even if none are currently proposed under the approved scenarios.

Some commenters suggest that the resolution of the CLF Motion involves a review of the respective roles of parties in the delivery of so-called Tier 3 programs or services under the

¹ See, for example EEU-2016-03, *Response of the Department of Public Service*, December 7, at 1-2.

² See EEU-2016-03, *Response of the Department of Public Service*, December 7, 2016, at 1.

³ *Id.* at 2.

newly enacted Renewable Energy Standard (“RES”).⁴ However, VEIC understands that the RES was designed to seek savings incremental to those achieved by Vermont’s EEUs and the DRP proceeding was not convened to develop Tier 3 programs or service.⁵ Along these lines one commenter suggests that the issues raised under the CLF Motion involve consideration of the reallocation of TEPF funding from the EEU to the distribution utilities.⁶ While VEIC questions the legality of such a proposal, where an entity other than the distribution utility (“DU”) is presently the entity appointed to serve as the TEPF EEU⁷, it believes that such an issue is not raised by the request to remove the disputed dictum from the Order made under the CLF Motion. Accordingly, VEIC maintains that much of the discussion advanced in the comments is not relevant to the question raised by the CLF Motion, that the issues raised concerning the roles of stakeholders in the delivery of Tier 3 services are outside the scope of this investigation, and that the Board need not pursue further proceedings in this matter to address such issues.

VEIC understands that the consideration of energy efficiency measures requires deliberations on a host of related issues that affect the interests of many stakeholders. This would include consideration of the roles and responsibilities of parties in the delivery of transportation energy efficiency services including strategies to promote the use of highly efficient electric vehicles. These issues do not need to be addressed in the context of this DRP proceeding. Rather, the Board should grant CLF’s Motion and defer resolution of the issues concerning the scope of the EEU’s authority to offer fuel-switching energy efficiency services or the relationship of such services to a DU’s Tier 3 RES compliance activities. In the alternative, a thorough look at these issues is necessary, but that type of review need not take place within this DRP where the matter is not currently the subject of the scenarios being considered by the Board and parties.

⁴ See EEU-2016-03, *Response of the Burlington Electric Department*, December 2, 2016 at 1.

⁵ See EEU-2016-03, Order of June 17, 2016, stating:

In this Order, the Vermont Public Service Board (“Board”) opens a proceeding pursuant to 30 V.S.A. §§ 209(d) and (e) to develop Demand Resources Plans (“DRPs”) for Vermont’s appointed energy efficiency utilities (“EEUs”). A DRP is a set of year-by-year values for demand-side electricity or natural gas resource-acquisition savings goals, as well as resource-acquisition and development and support services (“DSS”) budgets by calendar year for a twenty-year period, as well as a set of year-by-year savings goals for thermal-energy and process fuels (“TEPF”) by calendar year for a ten-year period.¹ The DRP process will result in a set of long-term assumptions pursuant to which each EEU shall operate.

Id. at 1. No mention is made of 30 V.S.A. §§ 8004 or 8005, or the rules and orders promulgated by the Board establishing the RES thereunder.

⁶ See EEU-2016-03, *Response of Vermont Public Power Supply Authority*, December 7, 2016 at 3.

⁷ See Docket No. 8445, Order of February 12, 2016.

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VEIC appreciates the opportunity to provide these reply comments. Should you have questions concerning this submission, please do not hesitate to contact me.

Respectfully yours,

/s/

Morris L. Silver

Counsel for
Vermont Energy Investment Corporation

MLS/m