

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 23-1870-PET

Petition of City of Burlington Electric Department to transfer Thermal Energy & Process Fuel funds for use in its District Energy System support program	
--	--

Order entered: 11/03/2023

**ORDER APPROVING PART OF THE CITY OF BURLINGTON ELECTRIC DEPARTMENT'S  
REQUEST TO TRANSFER FUNDS**

**I. INTRODUCTION**

This case involves a petition filed by the City of Burlington Electric Department (“BED”) with the Vermont Public Utility Commission (“Commission”) pursuant to Section III.3 of BED’s Order of Appointment requesting approval of an intra-program transfer of \$500,000 from funds budgeted for BED’s traditional thermal-energy-and-process-fuels (“TEPF”) programs to its District Energy System (“DES”) support program. Both budget categories were approved in BED’s 2021-2023 Demand Resources Plan.<sup>1</sup> BED states that additional design and engineering work is needed before finalizing the design and routing of the DES project, and that BED has spent all funds previously approved for the DES project.

**II. BACKGROUND AND PROCEDURAL HISTORY**

Under Section III.3 of BED’s Order of Appointment, after receiving Commission approval, BED may transfer funds among eligible Resource Acquisition and Development and Support Service budget categories.<sup>2</sup> Section III.3 provides the criteria and conditions for filing a request to transfer funds. A request such as this must be made in writing at least 60 days in advance of the transfer and must include an explanation of why the proposed transfer is required. The proposed transfer request must include the following:

- i. Identification of the Development and Support Services (“DSS”) budget categories being adjusted;

---

<sup>1</sup> Case No. 19-3272-PET, *Order Regarding Burlington Electric Department's Demand Resources Plan*, Order of 8/26/21.

<sup>2</sup> See Case No. 8606, Order of 2/21/18 at Attachment.

- ii. Identification of the Resource Acquisition (“RA”) major market budgets being adjusted;
- iii. The amount of the transfers and the percent of the performance period budget by DSS and RA budget category, DSS initiative, and in total;
- iv. A description of the underlying events contributing to the need for the transfer; and
- v. An estimate of the impacts associated with reducing the RA and DSS budget categories.<sup>3</sup>

On June 2, 2023, BED filed its petition with the Commission requesting approval of an intra-program transfer of \$500,000 from funds budgeted for BED’s traditional thermal-energy-and-process-fuels programs to its DES support program.

On June 9, 2023, the Hearing Officer issued a procedural order requesting comments on the petition.

On June 19, 2023, a motion to intervene was filed by Pike Porter (“Porter”).

On June 21, 2023, the Hearing Officer issued a procedural order requesting comments on Porter’s motion to intervene.

On July 3, 2023, the Vermont Department of Public Service (“Department”) filed comments responding to the petition and requesting additional information on five topics from BED. The Department also responded to Porter’s motion.

On July 5, 2023, Porter responded to the Department’s comments.

Between June 21, 2023, and July 18, 2023, 30 public comments were filed, including three letters by Porter, dated June 21, 2023, July 3, 2023, and July 17, 2023. One public comment filed on June 27, 2023, by Brian Forrest was supportive of Porter’s motion. The other public commenters highlighted similar concerns about the DES project as Mr. Porter, including air pollution, efficiency, overall cost, and weatherization being a better option for Burlington residents.

---

<sup>3</sup> See Case No. 8606, Order of 2/21/18 at Attachment § III.3(E).

On August 1, 2023, the Hearing Officer issued an order denying the motion to intervene in this case.

On August 11, 2023, BED filed responses to the Department's information requests.

On August 17, 2023, Porter filed a motion to reconsider the order denying intervention.

On August 18, 2023, BED filed responses to the public comments.

On August 28, 2023, the Department submitted comments generally supportive of the DES project, but the Department noted various concerns with BED's proposal.

On September 1, 2023, the Department filed a response to Porter's motion stating that the Department supported the Commission's August 1, 2023, Order and that Porter has not provided a basis for reversal of the Commission's decision.

No other comments were filed.

### **III. PUBLIC COMMENTS**

Over the course of the proceeding, the Commission received 30 public comments writing either in opposition to the DES or providing alternatives, such as weatherization. The commenters raised other issues for the Commission to consider, including concerns about wildlife habitat, plant emissions, plant and DES efficiency, and prolonging the life of the McNeil plant.<sup>4</sup> The Commission requested that BED respond to the substantive comments, which BED filed on August 18, 2023. BED addressed concerns about efficiency, cost-effectiveness, emissions, cross-subsidies, prudence, prolonging the McNeil plant's life, and wildlife habitat. While the matter before the Commission in this case is limited to whether BED's petition to transfer funds complies with Section III.3. of BED's Order of Appointment, the Commission appreciates the public involvement and is mindful of the public's concerns.

### **IV. DISCUSSION AND CONCLUSION**

The Department identified several concerns about the DES project and BED meeting the TEPF minimum performance requirements ("MPRs") of its 2021-2023 Demand Resources Plan. The first concern is the heavy reliance on TEPF funds to support the DES, which diverts TEPF funds from their intended use. The Department's second concern is that BED continued to incur

---

<sup>4</sup> There were 30 entries in ePUC; however, only 28 amounted to unique comments as one comment was duplicated, and another submission supported a previously filed comment.

DES expenses absent Commission approval to use TEPF funds to cover these expenses.<sup>5</sup> Third, regarding the MPRs, as of March 2023, BED reported it has achieved only 15% (or \$45,750) of MPR #3, which addresses equity for residential ratepayers with a minimum TEPF spending requirement of \$327,750 on residential customers.<sup>6</sup>

In response to information requests from the Department on MPR #3, BED noted four impediments to attaining the MPR: (1) lack of pipeline projects due to BED's very small TEPF market (over 95% of BED's residential and commercial customers are served by Vermont Gas Systems); (2) lingering COVID impacts; (3) higher mortgage interest rates than in the recent past, which have dampened real estate activity and construction; and (4) many customers proceeding cautiously due to generally poor economic conditions.<sup>7</sup> BED noted that any TEPF savings, such as weatherization or Zero Energy Modular homes, that begin after August will not be completed until 2024, outside of the performance period of the MPR. BED contended that the transfer request should not be affected by its ability to achieve the TEPF MPR #3 goal because the issues identified by BED are not a result of budgetary constraints.

Ultimately, the Department recommends that the Commission partially approve BED's transfer request. Specifically, the Department recommends that BED retain adequate TEPF funds to meet the minimum residential spending required under MPR #3 (\$282,000) and be allowed to transfer the remainder of the \$500,000 originally requested by BED.<sup>8</sup> This recommendation would authorize the transfer of \$218,000. The Department also recommended that BED engage with the Department to increase its residential TEPF spending in the coming months and that BED solicit funding from its DES project partners to cover any remaining DES expenses. The Department also noted that federal funding may be available through the State Energy Program if other funds are not accessible to support the DES.

---

<sup>5</sup> Petition at 3. BED reported in its petition that it has spent all funds earmarked for the DES and overspent by about \$20,014.

<sup>6</sup> BED Response to DPS Questions at 1 (August 11, 2023). BED stated the MPR #3 goal was \$305,000; however, the Commission-approved goal for MPR #3 is \$327,750.

*See Finding 112 from Order Adopting the BED Demand Resource Plan at 40 filed August 26, 2021, in Case No. 19-3272-PET, Petition of Vermont Department of Public Service to initiate an EEU Demand Resource Plan proceeding for the 2021-2023 performance period.*

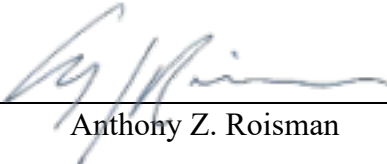
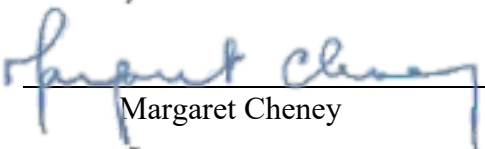
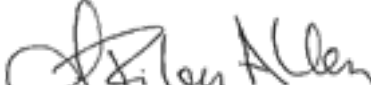
<sup>7</sup> BED Response to DPS Questions at 1 (August 11, 2023).

<sup>8</sup> The Department comments at 2-3 (August 28, 2023).

The Commission understands BED's challenges with TEPF spending and serving its residential customers. However, as the Department noted, these challenges were known at the time the MPRs were proposed and approved by the Commission. Like the Department, the Commission places a high priority on the attainment of Energy Efficiency Utility MPRs. The Commission, therefore, approves a portion of the transfer request, consistent with the Department's recommendation, we require BED to retain enough TEPF funds to achieve MPR #3. Therefore, we authorize BED to transfer \$218,000 of TEPF funds to the DES project. The goal for MPR #3 continues to be \$327,750 and is not affected by this transfer.

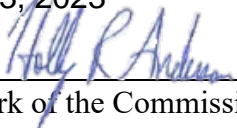
**SO ORDERED.**

Dated at Montpelier, Vermont, this 3rd day of November, 2023.

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

OFFICE OF THE CLERK

Filed: November 3, 2023

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](mailto: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.*

PUC Case No. 23-1870-PET - SERVICE LIST

Parties:

Megan Ludwig, Esq.  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620-2601  
megan.ludwig@vermont.gov

(for Vermont  
Department of Public  
Service)

Thomas Lyle  
City of Burlington Electric Department  
tlyle@burlingtonelectric.com

(for City of Burlington  
Electric Department)