

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 23-2221-INV

Investigation into the Clean Heat Standard Default Delivery Agents Costs and Quantities	
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VERMONT DEPARTMENT OF PUBLIC SERVICE
RECOMMENDATIONS FOR SCHEDULE

On October 23, 2023, the Vermont Public Utility Commission (“Commission”) issued an Order establishing the scope and procedures for this proceeding and requested comments on the timing of the appointment of the default delivery agent(s) (“DDA”) and recommendations for schedules within the two tracks¹ that it intends to establish. The Commission specifically requested comments on “the timing of the appointment of DDA(s) by the statutory deadline of June 1, 2024, relative to the September 1, 2024, statutory deadline for the Department’s potential study and the subsequent consideration of DDA budgets and plans, and whether the current statutory schedule is practicable.”²

Section 8125(a) of the Affordable Heat Act provides that “in place of obligated-party specific programs, the Commission shall provide for the development and implementation of statewide clean heat programs by one or more default delivery agents....”³ Further, section 8125(d) provides that obligated parties may seek Commission approval to meet Clean Heat requirements, in whole or part, three different ways other than through DDA(s), and that any

¹ *Order addressing case scope and procedures and seeking recommendations for schedule*, Case No. 23-2221-INV, Order of 10/23/23, at 3. “One track of this proceeding will focus on matters related to the three-year budgets and plans of the DDA(s). The other track will focus on matters related to the appointment of DDA(s), including: (1) obligations, responsibilities, and compensation structure of the DDA(s); (2) eligibility requirements and evaluation criteria for DDA appointments; and (3) the possible number of DDA appointments. Once the Commission has decided the issues in the second track of this docket, the solicitation, review, and appointment of DDAs will occur in a separate proceeding.”

² *Id.* At 4.

³ Vt. Stat. Ann. tit. 30, § 8125(a).

such requests, “shall not be unreasonably withheld.”⁴

The process to develop the eligibility requirements and evaluation criteria for selecting DDA(s), determining the possible number of DDA(s) to be appointed, and defining the DDA(s) responsibilities and compensation structure should commence immediately through a workshop process and conclude by June 1, 2024. The Department suggests this be referred to as “Track A.”

However, Establishing the budgets and three-year plans for the DDA(s) should only be undertaken once the overall requirement for Clean Heat credits is known and the Technical Advisory Group (“TAG”) measure characterizations have been developed. The Department suggests this be referred to as “Track B.”

The TAG work will be closely tied to the work of the DDA(s). The TAG will be responsible for “establishing and revising the lifecycle carbon dioxide equivalent (CO₂e) emissions accounting methodology to determine each obligated party’s annual requirement.”⁵ The Department suggests that the TAG be convened in the near term to commence work on establishing Clean Heat credit values that will inform both the DDA(s) and the obligated parties’ determination of how they intend to meet their obligations. Based on the work of TAG, the Commission will assign annual requirements.⁶ Each obligated party will then propose to the Commission how it intends to meet its requirement.⁷

The credits that need to be delivered by the DDA(s) will be highly dependent on how

4 tit. 30, § 8125(d)(1). “...the obligated party may seek to meet its requirement, in whole or in part, through one or more of the following ways: by delivering eligible clean heat measures, by contracting for delivery of eligible clean heat measures, or through the market purchase of clean heat credits. An obligated party shall be approved by the Commission to meet its annual requirement using a method other than the default delivery agent if it provides sufficient details on the party’s capacity and resources to achieve the emissions reductions. This approval shall not be unreasonably withheld.”

5 tit. 30, § 8128(a)(1).

6 *Id.*

7 tit. 30, § 8125(d)(2).

obligated parties propose to meet requirements (and if the Commission accepts the proposals).

The DDA(s) budgets, included in “Track B,” will not be finalized until obligated parties elect whether to satisfy their obligations through the DDA(s), which is not required until at least 120 days after the Clean Heat credit price is communicated to obligated parties.⁸ Thus, the budget setting process will necessarily be iterative, and budgets will not be known for some time.

The Potential Study is a critical first step in understanding the types and quantities of measures that will need to be delivered under the proposed Clean Heat Standard. The Potential Study is needed for obligated parties and DDA(s) to design rational programs that reflect an appropriately informed understanding of the thermal sector potential. However, the Potential Study will not be complete until September 1, 2024, which is only two months after the statutory deadline for the Commission to appoint DDA(s) and resolve several related complexities, such as compensation structures and evaluation criteria. Accordingly, given the acute need for thoughtful and close consideration in shaping such critical building blocks of a new regulatory framework, it would make sense for the Commission to consider seeking a legislative amendment that would allow the actual selection of DDA(s) to occur after the Potential Study is complete, the obligated entities’ requirements are known, and measure characterizations have been developed. In any case, a reasonable date by which DDA(s) could be appointed and Clean Heat credit costs could be shared with obligated entities is June 1, 2025.

The Department proposes the following general schedules for Tracks A and B.

- Proposed Sequence of Track A:
 - o January 2024: Workshop 1 to discuss DDA(s) responsibilities and evaluation criteria.

⁸ tit. 30, § 8125(d)(3).

- February 2024: Written comments and reply comments on Workshop 1 topics.
- March 2024: Workshop 2 on DDA(s) compensation structure.
- April 2024: Written comments and reply comments on Workshop 2 topics.
- May 2024: Commission issues draft RFP solicitation for DDA(s) for comment.
 - Stakeholders submit comments.
- June 1, 2024: Commission finalizes RFP for DDA(s) selection and Track A concludes.

As stated above, the demand for DDA(s) will be initially unknown, as will be the scope of work associated with possible Clean Heat measures or credits needing fulfillment. Given these considerations, the Commission could put in place the framework and structure for selecting the DDA(s) by June 1, 2024, while delaying the actual DDA(s) selection until after potential has been evaluated and clean heat obligations have been established.

- Proposed Sequence of Track B

- June – August 2024:
 - Commission publishes estimated overall clean heat credit requirement based on the January 31, 2024, filings by obligated parties.
 - Commission determines criteria by which obligated parties' requests to deliver clean heat programs will be evaluated under title 30, section 8125(d)(1) of Act 18 through a workshop and opportunity for comment and reply comments prior to Commission-issued guidance to obligated parties.
- September 2024: Workshop presentation on the *Thermal Sector Carbon Reduction Potential Study*.
- September 2024: Commission Issues Request for Proposals for DDA(s).

- Early November 2024: DDA(s) proposals due.
- Late November 2024: Workshop for DDA(s) contract bidders to present proposals.
- December 2024: Stakeholder comments, Reply comments.
- January 15, 2025: Commission issues decision on DDA(s) contract(s).
- Commission refines DDA(s) budget proposals based on obligated parties' decision regarding how they will comply with their obligations.

As noted, if the Commission elects to adopt the Department recommended schedule, it would be necessary for the legislature to revisit and amend the June 1, 2024, date because while this approach would make progress towards the Section 8125(b) requirement, it would not meet the current statutory deadline. Should the Commission elect not to seek a legislative change, or should such a change not be granted, the schedule could be condensed to allow for at least one DDA appointment to occur by June 1, 2024. However, that approach would not provide for informed decision making or robust public participation and deliberation.

Dated at Montpelier, Vermont this 6th day of November 2023.

VERMONT DEPARTMENT OF PUBLIC SERVICE

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