STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 23-2221-INV

Proceeding to design the potential Clean Heat Standard	

VERMONT DEPARTMENT OF PUBLIC SERVICE
REPLY COMMENTS ON DDA NUMBER, OBLIGATIONS AND RESPONSIBILITIES

On December 11, 2023, Vermont Public Utility Commission ("Commission") issued an Order seeking comments addressing "the possible number and geographic scope of [Default Delivery Agents] ("DDAs") as well as a DDA's obligations and responsibilities."[1] In the Order, the Commission requested comments on specific subtopics. On January 25, 2023, the Commission held a workshop on the topic. Through workshop discussion and written comments, stakeholders discussed the potential scope and role of one or more DDAs in the Clean Heat Standard ("CHS"). In the initial December 11, 2023, Order, the Commission requested comments on specific subtopics, which are represented below by headers.

1. Number and Geographic Scope of Default Delivery Agents

The Vermont Department of Public Service ("Department") maintains that it is premature to determine the exact number of potential DDA(s) before examining responses to the Commission's request for DDA proposals. In initial comments on DDA number, obligations and responsibilities, the Department noted that it is conceivable that the Commission may select multiple entities to fulfill DDA obligations.[2] For example, one DDA could offer clean heat credits from renewable fuels, while another could offer clean heat credits from implemented measures. The scope of work that respondents can provide, including at least the scale of

---

[1] *Order requesting comments on default delivery agent obligations, responsibilities, and number,* Case No. 23-2221-INV, Order of 12/11/23.
[2] 1/19/*23 Department of Public Service Comment on Default Delivery Agent Obligations, Responsibilities, and Number*, 2-3.

operation, service demographics, and ability to offer statewide services will determine the number of DDA(s) that will be necessary to best serve all Vermonters.

Multiple DDAs Scenario

Act 18 mandates that the DDA must be "one or more statewide entities."[3] In its initial comments, Vermont Gas Systems suggested that this statewide requirement be interpreted broadly by the Commission so that a DDA proposal is not rejected solely because the entity does not currently serve a statewide population, if it shows that it can in the future.[4] The Department maintains that any DDA should have the capacity to deliver clean heat measures statewide. However, this does not mean that a DDA must currently be serving a statewide population, as long as it shows it has the capacity and resources to serve statewide, either directly or through partners.

If multiple DDAs are appointed, the Commission should explicitly define scopes of work to avoid confusion and overlap that lead to inefficiency and greater cost for lower quality service.[5] For example, a DDA should not compete directly with a pre-existing program like the Low-Income Weatherization Assistance Program (WAP) currently administered in Vermont by the Office of Economic Opportunity. The WAP is offered at no-cost to qualified applicants and has a robust weatherization technical manual and quality control program for each weatherization project.[6] This ensures that weatherization measures are properly installed and comply with state and federal standards.[7]

---

[3] Vt. Stat. Ann. tit. 30, § 8125(b).
[4] 1/19/24 VGS comments at 2.
[5] *See,* 1/19/24 Department Comment at 2.
[6] Department of Children and Families, Office of Economic Opportunity, Home Weatherization Assistance Program, *https://dcf.vermont.gov/benefits/weatherization*; Department of Children and Families, Office of Economic Opportunity, WAP Technical Manual, *https://dcf.vermont.gov/oeo/programs/wap/manual*.
[7] WAP Technical Manual; 10 C.F.R. § 440.21(c).

Additionally, the WAP has funding available to address a wide range of health and safety issues at low-income properties that, if not addressed, would preclude weatherization altogether.[8] If a DDA were to directly offer low-income weatherization services, then an equally robust and quality-controlled program should be administered by the DDA. This is necessary to avoid negative outcomes associated with poorly installed weatherization measures including poor air quality, mold and moisture issues, and structural decay associated with inadequate ventilation and improper use of building materials. Quality control would ensure that the low-income population will not receive a final product of lower quality and value than what is currently offered by WAP.

If there are multiple DDAs selected, they should charge a consistent price for similar clean heat measures offered to obligated entities that intend to use the DDAs to meet all or part of their obligations. In initial comments, Mr. Weiss asserted that differential pricing would promote competition among DDAs, giving obligated parties flexibility in selecting a DDA and the ability to pursue the lowest cost option.[9] However, the Department maintains that driving obligated entities to the lowest cost options first, would create a potential inequity amongst customers who are served by obligated parties that were not first in line to receive a limited number of lower cost measures, or who are geographically out of a single DDA's service area (if non-statewide services are allowed). Furthermore, requiring a consistent price across all DDAs still allows for competition within the services offered by a DDA. DDAs would have an incentive to contract for or deliver/ install least-cost measures. DDAs would be encouraged to acquire credits as efficiently as possible to maximize their ability to create clean heat credits

[8] WAP Technical Manual, Section 4: Non-Energy Saving Measures (2020) (Including non-energy saving measures such as health & safety measures, incidental repair measures, ancillary measures).
[9] 1/19/24 T. Weiss comments at 1.

eligible for purchase by obligated entities.

Single DDA Scenario

Alternatively, if a DDA operates solely as an administrator of the program, appointing a single DDA may be appropriate. Rather than implementing measures itself, in this scenario, the DDA would orchestrate statewide compliance by purchasing clean heat credits from several different entities to then re-sell to obligated parties. Contracting for the delivery and implementation of clean heat measures would promote efficiency and equity around the state. The DDA's ability to provide clean heat measures across the entire state should be prioritized and measured on an ongoing basis. Once the Commission defines the scope of services in the DDA solicitation and receives proposals from potential DDA(s), the appropriate number of DDAs will be clearer. In the meantime, the potential for multiple DDAs should not be dismissed.

- Obligations and Responsibilities

Scope of work and budget building

The DDA scope of work is highly dependent on factors yet to be determined. As described in the Department's initial comments, the results of the Department's Potential Study will provide data which the Commission will use to develop DDA obligations, estimated measure costs and emissions reductions as the basis for creating a credit price.[10] Potential DDAs will not be able to respond to Commission solicitation in detail without knowing the number of obligated entities that may opt to meet annual requirements through a DDA, the scale of measures to be implemented, and an estimate of the cost. Likewise, obligated parties cannot reasonably plan and determine appropriate levels of reliance on a DDA without knowing the

[10] *See*, 1/19/23 Department Comments.

scope of their obligations and the price of credits.

Still, any potential DDA should at least be prepared to satisfy most of the functions defined in the Act, thereby avoiding the need for an excessive number of DDAs. These functions include: providing or contracting for the provision of clean heat measures, generating and selling clean heat credits to obligated parties, receiving non-compliance payments for the provision of measures to low-income persons, promoting consumer education and market uplift, developing clean heat related workforce, training on clean heat measures, and promoting public participation in program implementation.[11]

Reporting and information sharing

The Department maintains that once obligated parties pay the per-credit fee to the DDA(s) in order to satisfy their credit obligations, the DDA(s) should effectively stand in the place of the obligated party.[12] Accordingly, DDAs should have at least the same reporting and information sharing requirements as obligated parties for the credits acquired on behalf of obligated parties.[13] DDAs should also be required to share any non-confidential cost and planning data to allow obligated parties to anticipate credit scarcity and plan efficiently, and to allow for verification and certification of Clean Heat Credit claims by the Department and Commission, respectively. This requirement would enable DDA performance measurement and

[11] tit. 30,§§ 8122(c), 8124(f)(2), 8125.
[12] *See*, tit. 30, §8125(a) "The Commission may specify that appointment of a default delivery agent to deliver clean heat services, on behalf of obligated entities who pay the per-credit fee to the default delivery agent, satisfies those entities' corresponding obligations under this chapter."
[13] *See*, tit. 30, § 8125(d)(2) "The Commission shall provide a form for an *obligated party* to indicate how it intends to meet its requirement. The form shall require sufficient information to determine the nature of the credits that the default delivery agent will be responsible to deliver on behalf of the obligated party. If the Commission approves of a plan for an obligated party to meet its obligation through a mechanism other than payment to a designated default delivery agent, then the Commission shall make such approvals known to the default delivery agent as soon as practicable" (emphasis added); *See*, tit. 30, § 8125(d)(1), "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."

accountability, and facilitate the Commission's 3-year planning interval process of setting both the credit price and adjusting retirement obligations.[14]

Requiring DDAs to provide implementation plans and similar data to obligated parties will enable obligated parties to anticipate potential credit shortages and act accordingly by purchasing credits early or planning to self-generate credits. Act 18 mandates that obligated parties provide specific types and number of measures to customers with low and moderate income.[15] Obligated parties should have access to DDA low- and moderate-income measure implementation plans so they will have advance notice of the potential availability, or scarcity of qualifying measures.

- Required work areas

The Department maintains that delivery of measures to low- and moderate-income households should be a required work area for a DDA. See discussion above.

At the January 25 workshop, questions were raised about how performance from a DDA can be assured. While 100% certainty of performance by a DDA cannot be guaranteed, the DDA compensation structure can provide incentives for good performance and penalize poor performance, through established performance-based contracting and/or regulation structures. Under this structure, if a DDA fails to implement or deliver the measures on behalf of an obligated party that has made payment to that DDA, the obligated party should not be required to

[14] tit. 30, § 8125(e)(1).

[15] tit. 30, § 8124(d)(2), "Of their annual requirement, each obligated party shall retire at least 16 percent from customers with low income and an additional 16 percent from customers with low or moderate income. For each of these groups, at least one-half of these credits shall be from installed clean heat measures that require capital investments in homes, have measure lives of 10 years or more, and are estimated by the Technical Advisory Group to lower annual energy bills. Examples shall include weatherization improvements and installation of heat pumps, heat pump water heaters, and advanced wood heating systems. The Commission may identify additional measures that qualify as installed measures."

pay a noncompliance fee.[16] However, any part of an annual requirement not satisfied will be rolled over into the obligated party's requirement in the following year(s).[17] The Department expects to further address this topic in comments requested by the Commission to address DDA evaluation criteria, eligibility, and compensation structure.

Conclusion

The DDA(s) structure depends on several elements of the Clean Heat Standard design. The Department's potential study, the number and substance of DDA proposals to the Commission, and the way in which obligated parties seek to comply with annual requirements will all impact the role of DDA(s). As these elements come into focus, the Commission should prioritize statewide equity, efficiency, and transparency for the Vermont households and obligated parties who will depend on DDA(s) to implement clean heat measures.

Dated at Montpelier, Vermont this 15th day of February 2024.

VERMONT DEPARTMENT OF PUBLIC SERVICE

By: /s/ *Henry Mauck*
Henry Mauck, Special Counsel
112 State Street
Montpelier, VT 05620
(802) 461-8379
henry.mauck@vermont.gov

[16] *See*, tit. 30, § 8124(3), "…the Commission may waive the noncompliance payment required by subdivision (2) of this subsection for an obligated party if the Commission: (A) finds that the obligated party made a good faith effort to acquire the required amount and its failure resulted from market factors beyond its control; and (B) directs the obligated party to add the number of credits deficient to one or more future years."

[17] tit. 30, § 8124(3)(B).