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February 15, 2024
Holly Anderson, PUC Clerk
Vermont Public Utility Commission
112 State Street
Montpelier, VT 05620-2701

Re: Case No. 23-2221-INV, Investigation into the Clean Heat Standard Default Delivery Agent Costs and Quantities, VEIC reply comments regarding DDA number, geographic scope, obligations, and responsibilities

Dear Ms. Anderson,

On December 11, 2023 the Vermont Public Utility Commission ("Commission") requested comments in this proceeding on the number and geographic scope of Default Delivery Agent(s) (DDA), and the obligations and responsibilities of the DDA, including addressing the "program offerings" of a DDA. On January 25, 2024 the Commission held a workshop where participants discussed this topic. By this letter, VEIC provides reply comments to topics and discussions raised in the workshop and filings from participants.

i. Statewide entity interpretation, eligibility, and obligation

Statewide entity definition

It was evident from comments during the January 25, 2024 workshop that several definitions of "statewide entity" are emerging from various parties. In 30 V.S.A. § 8125 defines the DDA as "…one or more statewide entities capable of providing a variety of clean heat measures". VEIC disagrees with comments raised by some parties suggesting that competition among DDAs would be beneficial; VEIC believes it would be more beneficial for the DDA to be regulated as a statewide administrator under a form of performance regulation that encourages lower cost credits through higher levels of performance. The alternative suggestion that DDAs should compete against each other for the lowest cost credit would generate confusion among customers, and potentially break up long-standing partnerships and collaborations among regulated service providers like Distribution Utilities ("DU") and Energy Efficiency Utilities ("EEU"). For example, VGS suggests that *a "proposal for DDA should not be denied simply* *because an entity does not currently serve a "statewide" population if it reasonably establishes the capability of providing such services at a future date"* (P. 2). VEIC is unclear how, if VGS were selected to perform DDA responsibilities outside of its existing DU and EEU territory, this expansion would affect VEIC's performance regulation for thermal services as the administrator of Efficiency Vermont? Currently, the service territory of Efficiency Vermont is geographically distinct to VGS's thermal efficiency programs. If these two territories were coterminous, or overlapping in parts, to each other there would be competition for the "least cost" credit, and create the potential for significant customer and market confusion resulting from the overlap of program responsibilities and marketing. Rather than encourage uptake in clean heat measures, VEIC believes overlap of similar DDA services could have a chilling effect on the market and slow the uptake in Clean Heat Standard measures. DDA's being in competition with each other, overlapping in geographic territory, would therefore be inefficient for the DDA model. For this reason, VEIC believes that if EEUs or DUs are selected to be a DDA for completing similar roles as they are charged with doing today, the definition of "statewide entity" should be consistent with the existing EEU and DU geographic scope.

The Department of Public Service ("The Department") provided further reasoning in the workshop on why they don't support competition among low-income weatherization providers. VEIC agrees with this reasoning and agrees that the groups doing low-income weatherization in the State are highly effective and are only limited in their effect by budget and workforce capacity – neither of which would be improved through the introduction of competition. VEIC would extend this reasoning to include more than low-income weatherization, but moderate-income and market-based weatherization, and the thermal efficiency sector. VEIC sees this sector as already dominated by EEU, DU, and weatherization agency support, and existing entities should not be put into further competition by a DDA. VEIC generally agrees with the Department's interpretation of statewide entity, though disputes the Department's characterization of underserved parts of the state in weatherization[1].

[1] *Efficiency Vermont cautions against the characterization in the Department's comments that sections of the state have been traditionally underserved through Vermont's efficiency programs. Efficiency Vermont has performance requirements (geographic equity performance requirements) that ensure the benefits of energy efficiency reach all parts of the state, across distribution utility geographic territories and state counties. Efficiency Vermont has successfully*

Eligibility

VEIC does not believe that obligated parties should be DDAs. There is risk of market capture by such an entity, this may be especially true if the obligated party were also an existing regulated service provider. As a general matter, VEIC believes an obligated party should have a vested interest in remaining competitive and keeping its costs to consumers down. This would compel an obligated party to purchase credits at the lowest cost. However, if a customer is forced by geography to use a specific provider for fuel services, then as an obligated party the service provider has less motivation to reduce its costs to customers. In this way, an obligated party might pass on DDA costs direct to customers in an attempt to make the DDA credit prices look smaller or more attractive to other obligated parties.

Obligation of DDA

VEIC disagrees with VGS's suggestion that DDAs become obligated parties themselves upon accepting a DDA appointment and have an obligation to serve any obligated party at the schedule of costs it initially files with the Commission [2] . The distinct responsibilities of the DDA in Act 18 makes it clear the role and responsibilities of the DDA are not the same as obligated parties. VEIC believes the Commission should evaluate the relationship between the DDA(s) and obligated parties as being akin to the EEUs and DUs toward fulfillment of least-cost integrated planning. 30 V.S.A. §218c requires Vermont's DUs to prepare and implement least-cost integrated plans for provision of energy services to its Vermont customers, including comprehensive energy efficiency programs. 30 V.S.A §209 allows for the Commission appointment of independent efficiency entities in place of utility-specific programs developed pursuant to least-cost planning of 218c. In this way, an appointed EEU, through its implementation of approved EEU DRPs, fulfills the requirement of delivery of comprehensive energy efficiency programs; however, fulfillment of this requirement does not make EEUs

met these requirements over many performance periods. Efficiency Vermont notes that energy burden reports demonstrate there are areas in the state with high energy burdens; however, it is incorrect to assume this is a result of efficiency programs underserving high energy burden areas, as energy burden involves many facets of energy usage that do not currently involve Vermont's efficiency programs (e.g. transportation energy expenditure, etc.).

[2] VGS DDA comments, P. 2, January 19, 2024

themselves the entities subject to §218c (i.e. distribution utilities). VEIC believes the commission should think of the DDA(s) and obligated parties' relationship in a similar manner: for the obligated parties that don't opt-out of the DDA cost, the appointment of a DDA(s) and their implementation of DDA plans fulfills those obligated parties' requirements. Performance of the DDA is then regulated separately through DDA evaluation, compensation, etc.

EEUs are managed today under performance regulation, and a similar approach should be taken for the DDA – to create incentives and opportunities for the DDA to perform, or outperform, the goals established in Commission-approved DDA plans, with a system of checks and balances to assure equitable delivery of services. A DDA(s) should not be subject to the same penalties of an obligated party, but under performance regulation it is reasonable for the Commission to establish risks and rewards for performance that are reasonable and compel strong performance. VEIC cautions the Commission that if the DDA responsibilities are deemed as punitive, the Commission would be limiting the potential set of interested parties willing to perform the DDA responsibilities.

ii. Number of DDA

VEIC agrees with the Department's suggestion that assigning more than one DDA to provide the same service is likely to create confusion.[3] Assigning more than one DDA to provide the same service will create overlapping duties from the perspective of a customer and is likely to increase costs. Additionally, VEIC agrees with the Department's equity concerns around DDA credit pricing in their comments, *"Additionally, if multiple DDAs are appointed, the Commission will need to determine whether the clean heat credit price charged to obligated parties should be consistent across DDAs. If one DDA were able to deliver credits at a lower price it would raise equity concerns around which obligated entities had access to those lower-priced credits" (P. 2).* Equity concerns arise from multiple DDAs providing the same service with different DDA costs. Efficiency Vermont agrees with the Department's comments that this raises equity concerns around which obligated entities have access to those lower-priced credits, and customers of

[3] Department Comments on DDA Obligations, Responsibilities, and Number, P. 2, January 19, 2024

different obligated parties then being subject to paying different DDA cost depending on fuel provider.

iii. Market transformation

A core tenet of the Clean Heat Standard is to *transform* the use of thermal energy in Vermont *above* the levels already being achieved through existing programs. Incremental resources are needed to fund and support the market transformation activities critical to achieving Vermont's thermal sector GHG reduction requirements. As the Department states in its comments, "*§ 8125 provides that a "default delivery agent may propose a portion of its budget towards promotion and market uplift, workforce development, and trainings for clean heat measures"" (P.5)* It should be noted that many market transformation activities carried out by a DDA(s), such as advertising, education, supply chain development, and workforce training, would uplift the entire market of installed clean heat measures and support more installations of clean heat measures across the entire state, not just for the obligated parties (or customers of obligated parties) that pay a DDA cost. As such, the benefits of market transformation will be experienced by all obligated parties procuring clean heat credits from installed clean heat measures, not just those that pay the DDA cost.

In its comments, the Department recognizes that *"while these* ***[market transformation]*** *activities may well be critical to the overall achievement of Vermont's Greenhouse Gas reduction requirements for the thermal sector, incorporating these costs into the DDA budget has potential to raise per credit price. This may serve as a disincentive for obligated entities to select DDA service delivery as their compliance pathway under the Clean Heat Standard and make the DDA an option of last resort rather than the default"* (P. 6). VEIC recognizes this concern raised by the Department and does not dispute that the cost to administer market transformation activities would increase DDA credit cost if no other revenue source were available. However, as described above: a) Act 18 suggests that the DDA may carry out market transformation activities[4], b) market transformation activities will be needed to meet GWSA requirements, and c) all obligated parties seeking to procure clean heat credits from installed clean heat measures

[4] "The default delivery agent may propose a portion of its budget towards promotion and market uplift, workforce development, and trainings for clean heat measures; and opportunity for public participation" (*§ 8125*, Act 18).

will benefit from DDA market transformation activities. To assure that market transformation costs are not asymmetrically put onto the cost of DDA credits, VEIC recommends that the commission consider a separate funding stream for DDA market transformation activities, separate from the revenue generated from obligated parties paying for credits from the DDA. VEIC identifies two potential paths for this market transformation funding stream:

1. *Recognition of market transformation in credit ownership (VEIC's recommended approach).*

As detailed in its December 8, 2023 comments, and January 16, 2024 reply comments, Efficiency Vermont recommends that credit ownership be split/allocated in proportion to funder(s) contribution, and that for installed clean heat measures a portion of each clean heat credit (as determined by the Technical Advisory Group ("TAG") and/or TAG evaluation) be attributed to the impact/uplift from market transformation. The portions of clean heat credits attributable to market transformation can then be aggregated and monetized to fund DDA market transformation activities.

2. *Distinct market transformation funding stream.*

If the Commission decides against VEIC's recommendation to reflect the impact of market transformation in installed clean heat credit ownership, then market transformation will need to be funded through another funding stream. VEIC does not have a funding stream or policy mechanism to identify at this time, but with this filing seeks to emphasize that DDA market transformation activities need to be funded and need to be funded separate from the DDA cost and DDA cost revenue stream to avoid market distortion.

iv. DDA cost reporting and info sharing

The Department's comments characterized a scenario whereby fixed program administration costs would mean that OP's opting out of DDA services would reduce the number of credits and increase the credit cost. The Department further explained that published credit price will be what obligated parties' compliance decisions are determined on and will expect the published prices to be honored[5]. Generally, VEIC agrees that the scenario described by the Department's comments could result in higher DDA credit costs, and in the workshop the Department provided further commentary that this is a risk of accepting a DDA appointment. VEIC agrees that the DDA model is at risk if the volume of credits declines. Declining credit volumes for the DDA will make the services more expensive, and less desirable for obligated parties to sign up for. VEIC generally supports a suggestion made at the workshop about DDA costs being published as a range. VEIC believes that a single published credit price for DDA service could misconstrue the fact that costs are flexible up through final enrollment in DDA services. Accordingly, the initial price for a DDA credit should not be treated as immutable, and only once all parties have opted into/out of a price range, should the final price be determined and honored. As a general matter, VEIC agrees that a tiered pricing system may be practical to implement based on the number of credits asked to be generated and should be explored further in the budget proceeding with the appointed DDA. However, the principal matter at hand in this comment is that the Commission has a vested interest in ensuring that the DDA is a sustainable economic model, otherwise performance of the DDA and achievement of Act 18 requirements is in doubt.

v. Priorities for first stage Order in DDA:

VEIC recommends that the Commission provide certainty for the subsequent stages of a DDA order by making important decisions on several topics before proceeding further. These topics are:

1. The geographic scope and number of DDA services; VEIC believes the DDA should be Statewide and serve as a regulated provider of credits under a performance-based form of regulation.
2. The DDA assumption of risk/obligation; VEIC believes the DDA's obligations should be reflective of a performance-based regulated entity and not assuming of

[5] Department Comments on DDA Obligations, Responsibilities, and Number, P. 4, January 19, 2024

the obligated party's role as being subject to a full alternative compliance (i.e., penalty) payment.

3. The role of DDA; VEIC believes the DDA is intended to be a regulated entity under the Commission's oversight, and should not compete for services, nor should there be duplicate DDA costs for provision of same services.
4. Whether or not the DDA's obligations require a higher level of market activity than what is currently achievable as identified in the potential study, the DDA should have opportunity to propose market transformation activities in the budget.

Conclusion:

For the reasons stated above, VEIC recommends that the Commission adopt the roles and responsibilities of the DDA as communicated above. VEIC appreciates this opportunity to engage with stakeholders and provide these reply comments in the matters stated above.

Please do not hesitate to contact me with any questions regarding these comments.

Sincerely,

David C. Westman

Director, Regulatory and State Agency Affairs