STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 23-2221-INV

Proceeding to design the potential Clean Heat Standard	

VERMONT DEPARTMENT OF PUBLIC SERVICE COMMENTS ON DDA EVALUATION CRITERIA, ELIGIBILITY, AND COMPENSATION STRUCTURE

On February 22, 2024, the Vermont Public Utility Commission ("Commission") issued an order in the above referenced case requesting comments related to "evaluation criteria, eligibility, and compensation structure for default delivery agents ["DDA"]."[1] The order requested responses to specific questions. The Vermont Department of Public Service ("Department") responds to each question in turn below.

Designing such factors related to DDAs is challenging without first understanding the scope of responsibilities that a DDA might undertake. These responsibilities will likely be informed by full registration data, the Potential Study, recommendations from the Technical and Equity Advisory Groups, and other Commission processes. Nonetheless, to maintain continuous and efficient progress, the Department offers the following comments based on its experience in overseeing the State's efficiency programs and designing and evaluating Tier III of the Renewable Energy Standard to assist in informing the potential selection of one or more DDAs.

I. What criteria should the Commission use to evaluate proposals for default delivery agent appointments?

DDAs are expected to receive payment from Obligated Parties ("OPs") that choose not to implement Clean Heat Measures themselves to meet their requirements. In addition, DDAs may receive noncompliance payments if an OP does not meet its obligation and does not otherwise

[1] *Order requesting comment on evaluation criteria, eligibility, and compensation structure for default delivery agents*, Case No. 23-2221-INV, Order of 2/22/2024.

receive relief from the Commission. The DDA will be required by Act 18 to use those noncompliance funds to offer certain services.[2]

In several ways, the structure of the DDA resembles that of Vermont's Energy Efficiency Utilities ("EEUs"). For EEUs, a scope of services is established through an Order of Appointment process, and potential appointees are required to possess specific expertise to fulfill the defined scope. The EEU Governance Documents, the Process & Administration of an EEU, as well as the Orders of Appointments each can offer some guidance in this context. Additionally, the Initial Overall Performance Assessment conducted at the outset of the initial appointment process for EEUs can be informative.[3]

Based on this structure, the Department recommends that the Commission use the following criteria to evaluate proposals for DDAs. These criteria can be met either by a single entity processing all administrative and implementation work, or one entity may act as the general contractor for its scope, recognizing more than one DDA may be selected. These criteria are recommended without any specific order:

- Demonstrated experience and/or capability to implement thermal sector emissions reductions, relevant to the measure type that is being proposed to satisfy obligations;
- Demonstrated experience and or capability to serve Vermont disadvantaged communities, including populations with low-income;
- Proposed cost to meet obligations which it may be assigned;

[2] For example, Vt. Stat. Ann. tit. 30, § 8125(f). ("Compliance funds. All funds received from noncompliance payments pursuant to § 8124(f)(2) of this title shall be used by the default delivery agent to provide clean heat measures to customers with low income").
[3] Public Service Board, *Report and Recommendation Re Initial Overall Performance Assessments*, Aug 20, 2010, Docket No. 7466 (order on the initial evaluation method for considering the Burlington Electric Department as an Energy Efficiency Utility).

- Demonstrated experience and or capability to perform administrative functions necessary to carry out duties;
- Demonstrated Customer service;
- Demonstrated experience and/or capability with financial stewardship of program funds and customer dollars;
- Demonstrated ability to serve statewide obligations, as shown by statewide experience and/or plan to deliver Clean Heat Measures and respond to scope of work; and
- Quality and completeness of proposal.

Generally, prospective DDAs should have experience delivering or have a reasonable plan to deliver clean heat measures, installed measures to low and moderate income households, and measures to a state wide basis. Prospective DDAs should also have experience in customer service, performing administrative and accounting functions including calculating the cost of services, and interacting with regulatory requirements including regulatory performance metrics and verification of results.

II. WHAT SHOULD BE THE ELIGIBILITY REQUIREMENTS FOR AN ENTITY TO BE APPOINTED AS A DEFAULT DELIVERY AGENT?

In determining entity eligibility to serve in the role of the DDA, the entity should meet the following requirements:

- Demonstrated ability to deliver a substantial portion of any one of the Act's DDA obligations;
- Demonstrated creditworthiness, to ensure that payments from OPs are secure;

- An entity should not be an OP, in order to avoid one OP needing to pay or support a competitor in the marketplace. Such regulatory intervention would be inefficient and disruptive to the market; and
- Demonstrated an in-state presence. A DDA that has an in-state operation would have the desired effect of keeping and creating clean energy jobs in the local economy. Delivery of Clean Heat Measures will likely require on-the-ground experience, and a local in-state presence will aid in successful execution of its scope of work.

III. WHAT SHOULD BE THE COMPENSATION STRUCTURE FOR A DEFAULT DELIVERY AGENT?

Any entity chosen to serve as a DDA will likely be responsible for a broad range of administrative functions. These range from procurement of the actual measure installation that creates a Clean Heat Credit, to the administrative aspects of reporting and complying with evaluation of success, to managing funds, to implementing broader market uplift, marketing, or workforce development strategies. Given the range of services that may be offered and the multiple objectives to be completed, it is necessary to create a DDA compensation structure that will provide sufficient funding to allow for successful program outcomes while ensuring a fair return for their efforts.

As noted in the Department's comments regarding evaluation criteria, the compensation structure currently used by EEUs in Vermont may also be used as a basis for considering DDA compensation structure.[4] However, it should be noted that the specifics of the EEUs compensation structures vary depending on the type of entity. For example, the EEU compensation structure for Vermont Energy Investment Corporation ("VEIC") differs from

[4] *Process and Administration of an Energy Efficiency Utility Order of Appointment*, December 27, 2022, Case No. 22-1647-PET.

Burlington Electric Department because VEIC has potential to earn a performance award for exceeding goals for the performance period.[5] The structure of an entity applying to be a DDA should be taken into account when determining specific compensation structure. Specifically, this means finding the right risk to reward balance with regard to financial investment versus return on investment. For example, if the entity is investing its own privately held capital to be the DDA, then a higher return on that investment may be warranted given the greater downside risks involved. Conversely, if a fully public entity such as the Weatherization Assistance Program were to be a DDA, they may only require that their costs be reimbursed with very little markup on services provided. Still, in general, providing a DDA a reasonable return as an incentive for efficient resource acquisition would increase the likelihood that a Request for Proposal soliciting prospective DDAs would attract substantial interest. This type of performance-based structure may have downside risk for the DDA as well, depending on their scope and level of financial exposure.

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[5] https://epuc.vermont.gov/?q=downloadfile/631756/168770.

Order of Appointment for the City of Burlington Electric Department, Case No. 18-2867-INV, SECTION III: COMPENSATION 1. D. Reimbursement of BED from EEU funding sources under the Commission's jurisdiction shall be limited over each performance period by the total budget adopted for BED in the [Demand Resource Plan] DRP process. BED shall not exceed three-year spending limits as defined in the DRP for RA or DSS activities, or for any other categories that may be designated by the Commission (such as individual eligible DSS budget categories) without approval from the Commission, unless funds are transferred that do not require Commission approval as provided in Section III.3.

Order of Appointment for Vermont Energy Investment Corporation, Case No. 22-1647-PET, Section III: Compensation 1. D. Performance compensation to be paid based on the attainment of quantifiable performance indicator ("QPI") targets established under the DRP Proceeding, from funds collected through the EEC or other sources under the jurisdiction of the Commission and withheld from the budget for this purpose;

Order for Appointment for Vermont Gas Systems, Inc. Case No. 18-2867-INV, Section III Cost Reimbursement, 1. 1. VGS shall be reimbursed for actual costs and expenses incurred in connection with the provision of services and initiatives necessary to perform the responsibilities of an EEU under this Appointment. Such costs shall include direct labor and expenses, and allocation of eligible indirect costs for both Resource Acquisition ("RA") and DSS activities.

The range of reasonable returns should vary appropriately based on the structure and level of risk undertaken by prospective DDAs. It will be important for entities that apply to be a DDA to propose the compensation structure, appropriate metrics by which to be compensated, and identify the level of risk taken. DDAs should be aware that performance will be reflected in the level of return compensation received.

In addition to the performance-based return on direct acquisition of resources, it is important to note that a DDA compensation structure may need to include funding for the provision of services and management of programs related to Clean Heat Credit market development. Funding for development and support service ("DSS") activities, such as budget management and the fiscal administration necessary to process the transfer of obligations from OPs and any noncompliance payments, could be a part of a DDA's scope. As with the compensation structure of EEUs, under a performance-based compensation structure, these types of DSS costs may warrant a different compensation structure, where DSS services are reimbursed for successful completion of a task, with a markup or fee tied to it.

A performance-based compensation structure would incentivize the DDA to pursue efficient measure implementation at or above GWSA target rates by incentivizing lowest cost measure acquisition while ensuring measure quality and customer satisfaction. An incentive structure providing both upward and downward adjustment of measure implementation would protect the consumer's interest in keeping thermal energy prices affordable by incentivizing efficient outcomes. Specifics of any performance compensation structure for a DDA will necessarily depend on the scope of work, the type of entity, and their financial structure. Those metrics can and should be determined at a later time.

IV. ARE THERE ANY PARTS OF THE EXISTING ENERGY EFFICIENCY UTILITY ORDER OF APPOINTMENT REGULATORY MODEL THAT CAN SERVE AS HELPFUL MODELS FOR THE CREATION, APPOINTMENT, AND REGULATORY OVERSIGHT OF A DEFAULT DELIVERY AGENT?

In addition to a performance-based compensation structure, the DDA should be subject to similar oversight and accountability measures as EEUs. The DDA should be subject to performance evaluations to consider re-issuance of DDA status or for cause termination of appointment. The DDA should also have similar reporting requirements as EEUs, such as the use of Generally Accepted Accounting Principles and Standards' implementation of a dispute resolution process, and the use of sufficient information technology with industry standard cybersecurity to securely document transactions, track measures, and secure confidential customer information. Regarding the management of confidential customer information, the DDA should ensure that a confidential information management system is in place to provide all appropriate protections.

In the event of a good cause modification to the emissions retirement schedule or an OP obligation is transferred to the DDA, the DDA would be subject to the same waiver of obligations and such waiver should not be used to penalize or terminate the DDA. Additionally, the DDAs, like EEUs, should be encouraged to:

- Pursue innovative approaches to the cost-effective acquisition of thermal efficiency resources;
- If appropriate under their scope, coordinate with and leverage regional and national thermal energy efficiency efforts;
- Design and implement programs that are extendable and scalable in future years to help

achieve the goals established in 10 V.S.A. § 578; and

- Provide comprehensive services to all customers, prioritizing low and moderate income customers.

V. WHAT OTHER INFORMATION SHOULD THE COMMISSION SEEK OR CONSIDER AS PART OF THE SOLICITATION OR REVIEW OF DEFAULT DELIVERY AGENT PROPOSALS?

In reviewing DDA proposals, the Commission should ensure a transparent and open process to the extent possible. Although time is limited in the Clean Heat Standard design process, the Commission should seek to engage Vermonters to determine their priorities for Clean Heat Measure delivery. This input can help guide the Commission's decision in selecting which entity will serve as a DDA. The Equity Advisory Group may also be able to provide support in this area.

Thank you for the opportunity to comment.

Dated at Montpelier, Vermont this 8th day of March 2024.

Respectfully Submitted,

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