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May 1, 2024

Ms. Holly Anderson, Clerk
Vermont Public Utility Commission
112 State Street
Post Office Drawer 20
Montpelier, Vermont 05620-2701

Re: Case No. 22-2954-PET
Efficiency Vermont Notice of Unanticipated Energy Efficiency Utility Funding and
Request to Schedule the Review of Additional Demand Resources Plan Amendments

Dear Clerk Anderson,

Pursuant to Section I.2.C of the Public Utility Commission's (the "Commission" or "PUC") *Process and Administration of an Energy Efficiency Utility ["EEU"] Order of Appointment* (the "P&A Document"),¹ "[a]n EEU shall notify the Commission and the Department of any Unanticipated Additional Funding that it secures."² Section I.2.C(b) continues that:

If any individual source of Unanticipated Additional Funding acquired by an EEU is to be used to perform activities within the scope of its Order of Appointment and is equal to or greater than \$100,000, then an EEU shall propose to the Commission a method, if any, by which the Unanticipated Additional Funding should affect QPIs, fees, and/or services to be provided by an EEU.

Id. The P&A Document further directs the Commission to establish a process by which the Commission will then determine the effect of Unanticipated Additional Funding on EEU quantifiable performance indicators ("QPIs"), fees and services. This filing will serve as Efficiency Vermont's notice of its receipt of Unanticipated Additional Funding, and request that the Commission confirm the process and establish a schedule for assessing the method by which this funding affects approved QPIs, fees and services through the subsequent submission of proposed Demand Resources Plan ("DRP") amendments in this investigation.

¹ See *Process and Administration of an Energy Efficiency Utility Order of Appointment*, approved by the Vermont Public Utility Commission on December 27, 2022 in Case No. 22-1647-PET.

² Pursuant to Section VI.35 of the P&A Document, the term "Unanticipated Additional Funding means any funding secured by an EEU in addition to Commission-ordered budgets to support EEU implementation."

I. Notice of Unanticipated Additional Funding

With this filing Efficiency Vermont provides notice to the Commission that the State of Vermont through the Department of Public Service (the “Department” or “DPS”) has entered into a contract with Efficiency Vermont for a total of \$25 million in federal American Rescue Plan Act (“ARPA”) funds for calendar years 2024 through 2026 (the “Contract” or “Contract No. 47391”). This funding includes support for low-to-moderate income (“LMI”) residential weatherization, for weatherization technical assistance to orient homeowners towards completing weatherization projects, incentives for home repairs that are deemed necessary for weatherization work, and an administrator’s performance award.³ Copies of State of Vermont Contract Nos. 43791A and 47391 Amendment # 1 (together Contract No. 47391) entered into by Vermont Energy Investment Corporation (“VEIC”), as the administrator of Efficiency Vermont, and the Department are included with this notice as Attachments 1 and 2.⁴

II. Request to Establish a Process and Schedule to Consider Amendments to Efficiency Vermont’s approved DRP

In order for Efficiency Vermont to determine how the Unanticipated Additional Funding should affect its approved QPIs, fees and services during the 2024-2026 DRP performance period, and to propose amendments to its approved DRP,⁵ Efficiency Vermont asks the Commission to affirm that activities supported by Contract No. 47391 should be managed as activities separate from those supported by the energy efficiency charge (“EEC”) or Thermal Energy and Process Fuels (“TEPF”) budget. Efficiency Vermont submits that this approach is consistent with the requirements of the Contract, and consistent with Efficiency Vermont’s

³ Note that pursuant to Section I.2.C(f) of the P&A Document:

If an EEU obtains Unanticipated Additional Funding for activities that are not within an EEU’s scope of work under an Order of Appointment at the time of acquisition, then compensation for those activities shall be established by the EEU and the funding source.

Id. While Act 74 could be read to make Efficiency Vermont’s Contract 4731 services fall within an EEU’s scope of work, the Contract establishes performance-based compensation for Efficiency Vermont’s administration of the APRA-funded activities, and consideration of the compensation for these services is not germane to Efficiency Vermont’s DRP.

⁴ Please note that Contract No. 43791 bears the wrong State number which has been corrected to Contract No. 47391 via the amendment.

⁵ Efficiency Vermont’s updated DRP for the 2024-2026 performance period was approved by Order of the Commission in Case No. 22-2954-PET on September 26, 2023. That DRP was amended to allow for the implementation of greenhouse gas emissions reduction programs authorized by Act No. 44 during the 2024 performance period by Commission Order issued January 10, 2024. Authorization for the implementation of these programs in the 2025-2026 performance period is pending before the Commission at this time.

current practice with respect to funding and services being undertaken pursuant to other ARPA funding.⁶

Efficiency Vermont also requests that the Commission open a process for establishing a schedule for proposed amendments to Efficiency Vermont's 2024-2026 DRP on account of the receipt of the Unanticipated Additional Funding described in this notice. In order for Efficiency Vermont to propose amendments, it asks the Commission to confirm that activities associated with the delivery of services provided under Contract No. 47391 are separate from those supported by its approved 2024-2026 EEC and TEPF budgets. Efficiency Vermont recommends that all necessary amendments to its 2024-2026 DRP should be identified with the Department and proposed as a schedule for the next steps in this proceeding no more than 30 days following the Commission's issuance of an Order confirming the treatment of Contract activities as discussed in this notice pleading.

III. Discussion

a. Unanticipated Additional Funding Background

On June 9, 2022, Governor Scott signed Act No. 185 into law.⁷ Section G.600 of the Act identifies "Climate Action Investments" and provides authorization for the use of certain ARPA monies for the purpose of reducing greenhouse gas emissions in Vermont. In furtherance of Act No. 185, the Department executed Contract No. 47391 with VEIC for the purpose of providing weatherization incentives and services as detailed in the Contract. In addition to program activities, Contract No. 47391 includes the State of Vermont's terms and conditions for use of Federal ARPA funding based on its interpretation of applicable U.S. Treasury guidance.

Notably, as a condition of Contract No. 47391, Efficiency Vermont's use of Federal ARPA funds is significantly restricted compared to the use of traditional EEU funds authorized for use by the Commission under 30 V.S.A. § 209. The restrictions imposed on this funding include a prohibition on providing incentives to households with greater than 120% Area Median Income ("AMI"). There are also separate requirements for tracking and reporting the use and effect of these funds, which must be separate from the use and effect of EEU funding. In combined effect, while this contract may have been stipulated by the Legislature to be deposited in the 30

⁶ Note that Efficiency Vermont is currently administering other AARP funding utilizing this same method. For example, see the Commission's 4/25/2024 *Order Regarding Efficiency Vermont Notice of Unanticipated Energy Efficiency Utility Funding in Case No. 19-3272-PET*. The Order establishes that the results from the ARPA funded \$5M Weatherization and \$2M workforce development activities are tracked separately from Efficiency Vermont's Commission approved EEC and TEPF services, budgets and goals.

⁷ As used in this Notice "Act No. 185" refers to *An act relating to making appropriations for the support of Government*, as signed into law June 9, 2022.

V.S.A. § 209 Electric Efficiency Fund,⁸ the terms of the Contract necessitate that the ARPA-based funding be accounted for separately from the EEU funds administered by Efficiency Vermont. Efficiency Vermont seeks the Commission's confirmation that this accounting shall be employed.

**b. Administration of \$25 million of ARPA-based Contract
Funding for Residential Weatherization**

The following description provides detail on how Efficiency Vermont is tracking and reporting its ARPA-supported Contract No. 47391 spending, projects, savings, and results. These efforts keep the Contract activities separate from Efficiency Vermont's TEPF-supported EEU activities.

Efficiency Vermont is using project identifiers and labor codes within its database to separate the ARPA projects and activities funded through Contract No. 47391 from those that are supported by TEPF funding or EEC funding. Further, for LMI projects, homeowner households considering a project self-attest to income eligibility requirements, whereas for rental property-owners, rent levels of the building receiving the benefit of the weatherization services are used as a proxy for income of the tenants. Program participants receive project funding exclusively in accordance with the terms of the Contract. Efficiency Vermont's project identifiers use a special project type, and are tracked separately within its database. These identifiers ensure that ARPA Contract funds are not deployed to the greater pool of projects supported by TEPF and EEC funds. The project identifiers allow Efficiency Vermont to evaluate these projects specifically and to track results pursuant to ARPA reporting guidelines outlined by the Department and the State of Vermont. This method of tracking applies to all ARPA-supported Contract projects.

On a quarterly basis, Efficiency Vermont will report directly to the Department on the use and effect of Contract No. 47391 funds toward completion of projects. This includes total housing units weatherized, energy savings, greenhouse gas emissions savings, total customers provided weatherization technical assistance, total home repair projects, and these figures by county, and by income bracket (*e.g.*, low or moderate income). Further, Efficiency Vermont reports the ARPA spending both on an annual and cumulative basis.

⁸ See Act No. 74 at Sections G.600(a)(3) and (4).

Table 1. Contract No. 47391 Funding Summary

	2024	2025	2026	Total
Program Costs ⁹	\$6,825,848	\$7,926,843	\$8,997,309	\$23,750,000
Compensation		\$625,000	\$625,000	\$1,250,000
Housing units weatherized (approx.)	489	589	689	1,767
Weatherization technical assistance	270	270	270	810
Home Repairs	50	50	50	150

c. Request for Commission Affirmation that Contract No. 47391 Activities are Separate from those Supported by Approved 2024-2026 EEC and TEPF Budgets

Contract No. 47391 provides for the delivery of service by Efficiency Vermont subject to a performance-based arrangement. The terms established under the Contract will affect Efficiency Vermont's delivery of services. Efficiency Vermont will make a proposal to the Commission but, given that it will require a significant effort, believes it would be most efficient for the Commission to first confirm that Contract activities are separate for those EEU activities supported via the 2024-2026 EEC and TEPF budgets.

d. Request for the Commission to Establish a Schedule for Efficiency Vermont to file Proposed Amendments to its 2024-2026 DRP

Efficiency Vermont requests that the Commission establish a schedule for filing amendments to the DRP that will provide a remodeling and rebudgeting of the TEPF portfolio. The current approved 2024-2026 DRP includes moderate income weatherization services funded with TEPF funds, though Efficiency Vermont now believes that this market will largely be served through the programs delivered under Contract No. 47391, and would request the opportunity to propose a new portfolio of programs and services that shift spending on moderate income weatherization to other TEPF services. Efficiency Vermont is aware that there may be additional elements of the DRP to be addressed, and will work with the Department to both identify and develop a reasonable schedule for advancing all amendments for the DRP. As such, Efficiency Vermont recommends that the Commission establish a date [30] days following the issuance of its response to this notice for the submission of proposed schedule for DRP Amendments.

⁹ Program Costs includes items that go toward the overall program suite including incentives, subcontractor costs, other direct costs (marketing), labor, and indirect costs.

IV. Conclusion

Thank you for your consideration of the matters identified in this notice. On the basis of the materials presented, Efficiency Vermont recommends that further action is required by the Commission, as discussed above, before Efficiency Vermont develops and files proposed amendments to its 2024-2026 DRP concerning its TEPF services, budgets and goals, and stands ready for any questions or additional process the Commission may wish to pursue. Efficiency Vermont has shared an advance copy of this filing with representatives at the Department.

Sincerely,



David C. Westman
Director, Regulatory and State Agency Affairs