STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 24-2317-INV

Investigation of the Energy Savings Account and Customer Credit programs pursuant to 30 V.S.A. 209(d)(3)(C).

**DEPARTMENT OF PUBLIC SERVICE**
**PROPOSAL FOR PROGRAM DESIGN CHANGES FOR**
**ENERGY SAVINGS ACCOUNT AND CUSTOMER CREDIT PROGRAMS**

This case involves an investigation of the Vermont Public Utility Commission ("Commission") concerning the Energy Savings Account ("ESA") program and the Customer Credit Program ("CCP") to implement changes to 30 V.S.A. 209(d)(3)(C) pursuant to Public Act 142 of the 2024 Vermont legislative session.

On July 25, 2024 the Commission issued a notice of hearing for a scheduling conference in this case. The Department of Public Service ("Department") sent a draft schedule for review to the following parties: the Vermont Agency of Commerce and Community Development ("ACCD"), Efficiency Vermont ("EVT"), Associated Industries of Vermont, and Warren Coleman, MMR ("the Parties"). The Department received agreement on the draft schedule from all the Parties that were sent the draft schedule. On July 26, 2024, the Vermont Department of Public Service ("Department") filed a proposed schedule for this proceeding.

On July 30, 2024, the Commission held a scheduling conference in this matter and discussed the schedule proposed by the Department. The Commission adopted the Department's schedule in their order issued on August 5, 2024. The first deadline in that schedule is for the Department to file a proposal for program design changes to the ESA and CCP consistent with the language in Act 142 of 2024, which is provided in this filing.

## Background on the Department's Proposal

Act 164 of 2022 called for the convening of an Energy Savings Account ("ESA") Partnership Pilot Program Working Group ("Working Group"), to be comprised of existing participants in the pilot program, EVT, ACCD, and the Department. The Working Group was convened in July 2022 and met monthly starting in September 2022. The Department drafted and presented a straw proposal for recommended changes to the ESA Program as well as the CCP during this working group process and included a final version, based on feedback received during the Working Group process, in the report that was submitted to the General Assembly on January 15, 2023. The Department developed the proposal based on review of the existing program and pilot program guidelines, statutory language, consideration of the impacts of these programs on non-participating ratepayers, and comments received from ESA participants as well as EVT and ACCD. The proposal contained in this filing is what was included in that legislative report.

## ESA and CCP Program Changes included in Act 142 of 2024

The changes to 30 V.S.A. § 209 included in Act 142 state a customer who pays an average annual energy efficiency charge of at least $5,000.00 may apply to the Commission to self-administer energy efficiency through the use of an energy savings account or customer credit program which shall contain a percentage up to 75 percent and 90 percent, respectively of the customer's energy efficiency charge payments as determined by the Commission. The remaining portion of the charge shall be used for administrative, measurement, verification, and evaluation costs and for systemwide energy benefits. Customer energy efficiency funds may be approved for use by the Commission for one or more of the following: electric energy efficiency projects and non-electric efficiency projects, which may include thermal and process fuel efficiency, flexible load management, combined heat and power systems, demand management, energy productivity, and energy storage. These funds shall not be used for the purchase or installation of new equipment capable of combusting fossil fuels. The Commission in its rules or order shall establish criteria for each program and approval of these applications, establish application and enrollment periods, establish participant requirements, and establish the methodology for evaluation, measurement, and verification for programs. The total amount of customer energy efficiency funds that can be placed into energy savings accounts or the customer credit program annually is $2,000,000.00 and $1,000,000.00, respectively.

## **Department Proposal for ESA Program Design**

Given the language included in Act 142, the Department recommends the following program design for the ESA Program regarding criteria, allowable measures and reimbursement, application and enrollment periods, participant requirements, and the methodology for evaluation, measurement, and verification for programs.

### **Program Criteria:**

The design of this program is meant to include technical assistance from the energy efficiency utility (“EEU”) for projects and measures.

A guiding principle of the program should be to prioritize electric efficiency measures/projects and an energy audit should be completed to identify cost-effective electric efficiency measures before the customer proceeds with any non-electric efficiency projects under this program. The Department recommends this prioritization to retain as much system-wide benefits to all electric ratepayers as possible and thereby helping to keep electric rates lower for all ratepayers. A second level of non-electric efficiency measures should be included for those participants that may have exhausted cost-effective electric efficiency measures, but are still paying an EEC, so they can continue to receive benefits from the program by pursuing thermal and other types of measures/projects.

Before implementing projects, participants should submit an Energy Management Plan ("EMP") to the Commission (after it is reviewed by the EEU and the Department) explaining the need for the projects, the estimated electric and other energy and non-energy benefits, the expected cost, and, if all electric efficiency measures identified in the energy audit have not been completed, why the project is being prioritized by the participant.

The Department recommends that program participants be allowed to participate in EVT midstream, point-of-sale programs, but not in any other EVT custom or downstream incentive programs.

As stated in Act 142, customers in this program can be reimbursed up to 75% of their EEC contributions. The Department recommends that reimbursement should be net of required taxes. The Department also recommends that the 25% of EEC contributions retained and not allowed for use by the customer should be split between the EEU and Department for EM&V, program administration, technical assistance, and other costs including customer participation in midstream and point-of-sale programs; with the Department portion equaling 2%. This should also be inclusive of societal cost-effectiveness screening and technical assistance.  The EEU should collect project-level information, including energy savings and proof of installation, to the same standards the Commission and Department require for all EEU-directed projects.

**Allowable Measures and Reimbursement:**

The Department interprets Act 142 to provide latitude to the Commission to determine whether to allow for one or more of the following for this program:  electric energy efficiency projects and non-electric efficiency projects, which may include thermal and process fuel efficiency, flexible load management, combined heat and power systems, demand management, energy productivity, and energy storage.  The Department recommends allowing for the largest amount of flexibility as possible for the participants and would include all of these types of measures/projects as eligible for use of ESA funds.  However, the Department also recommends that participants complete an energy audit to identify cost-effective electric efficiency measures after being selected for enrollment in the program to encourage prioritization of electric efficiency measures over non-electric energy savings measures.  Energy audits and costs associated with required screening should be an eligible expense to be 100% reimbursed through the ESA.  Walk-through energy audits should be provided by the EEU as part of their technical assistance.  The Department recommends that the EEU provides societal cost-effectiveness screening for all measures, as they do for their existing programs.

The Department recommends the following definition for “energy ,productivity,” which is a revision to the definition used for the ESA Pilot program, “Energy productivity programs and measures are investments that reduce the amount of energy required to produce a unit of product below baseline energy use. Any new equipment installed to increase productivity must be a higher efficiency version of the equipment than that represented by industry standard practice equipment or minimum efficiency equipment as set by federal or state standards and codes, if such equipment is available. Baseline energy use shall be calculated as the average amount of energy required to make one unit of the same product during a representative two-week baseline period in the two years preceding implementation of the program or measure. The value of the lifetime energy savings generated by the lower energy consumption per unit of product compared to the baseline energy use per unit should be greater than the cost of the newly installed equipment."

This definition revision is intended to ensure that there is energy savings as part of this measure. If efficient equipment isn't used in the project to reduce the amount of energy required to produce a unit of product when increasing production, then it is not an efficiency measure and is simply a production improvement that should be paid for by the business and not by ESA funds.

The Department recommends that program participants be reimbursed up to 100% of total project costs (including materials and installation) as allowed for in the ESA Pilot program. The Department also recommends that the cost of engineering planning, and study costs should be reimbursed up to 25% of the total costs. This cap is recommended to ensure some energy savings or benefits are achieved with the EEC funds rather than spending all the funds on engineering or studies with no projects implemented. Additionally, it seems reasonable to assume that if a company has to invest some funding in the engineering and study costs for a project it would be more likely to be implemented than if all of the costs are covered.

The Department recommends that participants are provided three years to spend accrued EEC funds. Any remaining EEC funds accumulated after three-year period should be returned to the EEU. Reconciliation should occur annually at the end of each calendar year (e.g., EEC collected in 2024 that is unspent by the end of 2027 reverts to the EEU). Customers may apply to the Commission to keep funds up to six years if more than three years is needed to complete a project, but funds must be obligated to receive an extension.

**Application and Enrollment Periods:**

The language in 30 V.S.A. § 209 states that customers (who pay an average annual energy efficiency charge of at least $5,000.00) must submit an application to enter this program. The Department recommends that enrollment is offered once every three years to align with the EEU three-year budget and goal setting process, which will provide predictability in the amount set aside for these programs and an estimate of the savings that would be achieved for a performance period. Also, this would minimize the administrative burden of continually reviewing applications if there was a continual open enrollment period. The Department acknowledges that it may be necessary to have an initial application process and enrollment period that doesn't precisely follow this recommendation to provide an opportunity for program participation sooner than a regular cycle would happen. For example, a regular cycle might call for applications to be submitted 18 months before a new three-year performance period (which would be July 1, 2025 for the next performance period) with an enrollment period starting at the beginning of the new period (January 1, 2027 in this example). For the first enrollment the Commission may want to allow for an earlier application process, perhaps in January, 2025, with a longer enrollment period that starts in 2025 and goes through the next performance period which will end in December, 2029) to provide for program participation prior to January, 2027 and avoid two application processes within a short time frame. The Commission may also want to consider an automatic approval of existing ESA pilot participants into the new program with a simplified application given the likelihood of those customers having existing energy management plans with measures that could be quickly implemented.

The Department also recommends an automatic renewal for participants for an additional three years if they choose and a full open enrollment every six years. If the Commission starts an application process as described above, the Department suggests the first full open enrollment period to be for the performance period of 2030-2032. Allowing a participant to extend for a total of six years would allow for larger and more complex projects that take a longer amount of time to develop and complete.

The changes to 30 V.S.A. § 209 in Act 142 include a program cap of $2 million in EEC for this program. The Department suggests if the program is oversubscribed during an enrollment period that the largest energy users are prioritized for the selection of participants. Not only does it make sense to provide efficiency and other measures to those with the highest energy use first, this is also an objective and quantifiable metric. Other potential considerations will be subjective and more difficult to compare between customers.

The Department also recommends that if a participant withdraws from the program they be required to wait until next full enrollment period to reapply.

**Participant requirements:**

Commercial and Industrial customers who pay an average annual energy efficiency charge of at least $5,000 are eligible to participate in the program.

**Methodology for Program Evaluation, Measurement, and Verification:**

The Department will verify project energy savings during the annual EEU savings verification process. The EEU will claim energy savings, greenhouse gas reductions, etc. from projects. If more than one EEU or an EEU and distribution utility are involved in a project the savings will be split proportional to the investments of each entity.

## Department Proposal for CCP Design

Given the language included in Act 142, the Department recommends the following program design for the CCP regarding criteria, allowable measures and reimbursement, application and enrollment periods, participant requirements, and the methodology for evaluation, measurement, and verification for programs.

**Program Criteria:**

This program is available to Commercial and Industrial customers who pay an average annual energy efficiency charge of at least $5,000.

The design of this program is meant to be more independently driven by the customer/participant than the ESA program. No technical assistance will be provided by an EEU unless they are hired separately to provide assistance.

In the application process the customer should demonstrate their commitment to pursuing cost effective energy efficiency (electric and thermal), demand management, combined heat and power, or energy storage on its own.

The Department recommends that program participants not be allowed to participate in any EEU programs including midstream, point-of-sale programs.

As stated in Act 142, customers in this program can be reimbursed up to 90% of their EEC contributions. The Department recommends that should be net of required taxes. The Department also recommends that the 10% of EEC contributions retained and not allowed for use by the customer should be split between the EEU and Department for EM&V and administrative costs; with the Department portion equaling 2%. This should also be inclusive of societal cost-effectiveness screening. The EEU should collect project-level information, including energy savings, to the same standards the Commission and Department require for all EEU-directed projects.

**Allowable Measures and reimbursement:**

The Department interprets Act 142 to provide latitude to the Commission to determine whether to allow one or more of the following for this program: electric energy efficiency projects and non-electric efficiency projects, which may include thermal and process fuel efficiency, flexible load management, combined heat and power systems, demand management, energy productivity, and energy storage. The Department recommends allowing for the largest amount of flexibility as possible for the participants and would include all types of measures/projects eligible for Customer Credit Program participants. The Department recommends that the EEU provide cost-effectiveness screening for all measures, as they do for their existing programs. The Department also recommends a requirement that the estimated project lifetime monetary benefits must be equal to or exceed project costs.

Additionally, the Department recommends the same energy productivity definition as included in the ESA program design also be used for this program.

The Department recommends that program participants be reimbursed up to 100% of total project costs (including materials and installation). The Department also recommends that the cost of engineering planning, and study costs should be reimbursed up to 25% of the total costs. This cap is recommended to ensure that EEC funds are spent on achieving some energy savings or benefits , rather than on conducting engineering studies with no projects implemented. Additionally, it seems reasonable to assume that if a company has to invest some funding in the engineering and study costs for a project it would be more likely to be implemented than if all of the costs are covered.

The Department recommends that participants be provided three years to spend accrued EEC. Any remaining EEC after three-year period goes to the EEU (obligated funds would not need to be submitted to the EEU). Customers may apply to the Commission to keep funds up to six years if more than three years is needed to complete a project, but funds must be obligated to receive an extension.

**Application and Enrollment Periods:**

The Department recommends the same application and enrollment process as the ESA program.

The changes to 30 V.S.A. § 209 in Act 142 include a program cap of $1 million in EEC for this program. The Department suggests if the program is oversubscribed during an enrollment period that the largest energy users are prioritized for the selection of participants. Not only does it make sense to provide efficiency and other measures to those with the highest energy use first, this is also an objective and quantifiable metric. Other potential considerations will be subjective and more difficult to compare between customers.

The Department also recommends that if a participant withdraws from the program they have to wait until next full enrollment period to reapply.

**Participant requirements:**

Commercial and Industrial customers who pay an average annual energy efficiency charge of at least $5,000 are eligible for the CCP. The Department also recommends that participant companies be required to have a designated, dedicated contractor or staff within the corporation with responsibility to develop, analyze, implement, and verify projects. These personnel should be Certified Energy professionals or licensed engineers and/or have an applicable degree from an ABET-accredited institution or formal energy or environmental certification such as an ISO or EU standard. This should be certified/justified every three years.

**Methodology for Program Evaluation, Measurement, and Verification:**

The Department will verify project energy savings during the regular EEU annual verification process, this will allow an EEU to report the verified savings for these participants, although it won't count towards the EEU's Quantifiable Performance Indicators (QPIs). The EEU will track energy savings, GHG reductions, etc., from projects but will not claim these project benefits.

Dated at Montpelier, Vermont this 22nd day of August, 2024.

VERMONT DEPARTMENT OF PUBLIC SERVICE

By: /s/ Megan Ludwig____________

Megan Ludwig, Special Counsel
112 State Street
Montpelier, VT 05620-2601
(802) 828-4014
megan.ludwig@vermont.gov