

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 24-1848-TF

Tariff filing of the City of Burlington Electric Department requesting a 5.5% rate increase to be effective for bills rendered on or after September 1, 2024

**VERMONT DEPARTMENT OF PUBLIC SERVICE’S RESPONSE TO
CITY OF BURLINGTON ELECTRIC DEPARTMENT’S MOTION
TO ALTER OR AMEND**

The Vermont Department of Public Service (“Department”) hereby responds to City of Burlington Electric Department’s (“BED”) motion requesting that the Vermont Public Utility Commission (“Commission”) alter or amend its Order of May 1, 2025 (“Final Order”), to correct portions of that Order and reduce the final approved rate increase in light of recently discovered evidence (“Motion”). As described in the Motion and the accompanying May 29, 2025 declaration of Emily Stebbins-Wheelock (“Declaration”), BED discovered an error in its accounting which meant that \$100,460.31 in expenses for District Energy project design and engineering services were included in BED’s filed cost-of-service in this case.¹ This contradicts an earlier discovery response from BED, along with related testimony from the Department and the findings and discussion in the Final Order.²

BED presents newly discovered information which warrants altering or amending the Final Order.³ Under Rule 2.221(A), “the Commission may reconsider issues previously before it, and

¹ See Declaration of Emily Stebbins-Wheelock (5/29/25) at ¶¶10-13.

² See Exhibit DPS-AJ-2 (BED response to Q.DPS.BED.1-22); Adam Jacobs, Vermont Department of Public Service, pf. (12/11/24) at 4; *Tariff filing of City of Burlington Electric Department*, Case No. 24-1848-TF, Order of 5/1/25 at 4–5 and finding 11.

³ A motion pursuant to V.R.C.P. 59(e) “must clearly establish either a manifest error of law or fact or must present newly discovered evidence.” *Sutton v. Purzycki*, 2022 VT 56, ¶ 67, 217 Vt. 326.

generally may examine the correctness of the judgment.”⁴ As explained below, the Department supports changes to the Final Order and agrees with BED’s proposed resolution.

BED informed the Department on May 19, 2025, that it had discovered an accounting error whereby District Energy expenses had been included in its filed cost-of-service. This error means that BED’s prior discovery response in Exhibit DPS-AJ-2 is incorrect, as is the Department’s testimony on the subject along with Finding 11 of the Commission’s Final Order. The Department sought additional information, and BED provided details consistent with the Declaration filed on May 29.⁵ After review, the Department concluded that the District Energy expenses of \$100,460.31 were non-recurring, not used and useful, and should have been excluded as a known and measurable adjustment. The Department and BED engaged in productive discussions to identify an appropriate resolution of this issue.

The proposal in BED’s Motion is the result of those discussions, and after a thorough review of alternatives the Department believes it represents the best and most efficient solution to rectify the error. As BED notes, the District Energy expenses “should have been removed from the rate year cost of service (as would any other non-recurring expense), as BED does not expect to expend funds from any source on District Energy in the rate year.”⁶ BED states that it did not intend to request recovery of these expenditures, and that removing them from the requested revenue yields a reduced rate increase of 5.31%.⁷ The Department agrees that the costs should be removed and the rate increase should be reduced to 5.31%.

⁴ *Joint Petition of Champlain Broadband, LLC*, Case No. 18-0491-PET, Order of 4/12/19 at (citation omitted); *see also* Commission Rule 2.221(A) (stating that the Commission may “amend findings of fact and conclusions of law, or make new findings and conclusions, and may direct the entry of a new judgment”).

⁵ *See generally* Declaration of Emily Stebbins-Wheelock (5/29/25).

⁶ *Id.* ¶ 13.

⁷ *See* BED Motion to Alter or Amend at 2, filed 5/29/25; Declaration of Emily Stebbins-Wheelock (5/29/25) at ¶¶ 19, 21.

To return the difference to ratepayers, BED seeks approval to record a regulatory liability for the estimated rate year overcollection of \$101,545.38. The use of these funds would be subject to Commission approval, and BED would include a proposal in its upcoming rate filing by June 16. The Department agrees that, in this scenario, a regulatory liability is an appropriate and efficient way of accounting for the overcollection. The Department also agrees that addressing the use of the funds in the next planned rate filing is appropriate, as it allows for a more thorough review and reduces the additional determinations needed in the context of this motion to amend or alter.

BED's Motion discloses a newly discovered accounting error underlying the evidence in this case and demonstrates the need for changes to the Commission's Final Order. The Motion includes a proposal to resolve the issue, and Rule 2.221(A) enables the Commission to revisit its Order and make new findings. In the Department's view, BED's proposal provides the necessary corrections and ensures that ratepayers are made whole. These circumstances highlight the critical importance of transparency and accounting accuracy for public utilities, and the Department expects that BED will redouble its efforts to uphold those principles. An amended Final Order in this case will serve the public interest.

For the foregoing reasons, the Department respectfully recommends that the Commission grant BED's Motion to alter or amend pursuant to Rule 2.221(A), make changes to the Final Order in accordance with the above, and take any additional steps necessary to fully resolve this matter.

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DATED at Montpelier, Vermont this 11th day of June 2024.

Respectfully submitted,

VERMONT DEPARTMENT OF PUBLIC SERVICE

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cc: Service List (via ePUC)