



June 18, 2025

Ms. Holly Anderson, Clerk
Vermont Public Utility Commission
112 State Street
Montpelier, VT 05620

Re: Planned Use of Surplus Thermal Energy and Process Fuels ("TEPF") funds

Dear Ms. Anderson,

The City of Burlington Electric Department ("BED") writes to inform the Public Utility Commission ("Commission" or "PUC") of its plan to use surplus thermal energy and process fuel ("TEPF") funds through calendar year end 2026. BED does so pursuant to Act 142 of the Vermont 2024 legislative session, which was enacted subsequent to the filing and approval of BED's 2024-2026 Demand Resource Plan ("DRP") which was approved in Case 22-2954.¹

Legislative and Statutory Context – Act 44

Prior to Act 142, Act 44 (2023)² governed the use of TEPF and electric efficiency charge ("EEC") funds to support innovative programs for the period 2024-2026. Act 44 provided that Energy Efficiency Utilities ("EEUs") could use a portion of their electric resource acquisition budgets, in an amount not to exceed \$2,000,000 per year, on programs and measures and services that reduce greenhouse gas emissions in the thermal and transportation sectors, subject to PUC approval for the amounts budgeted.³ Act 44 also included a provision in Section 1(f) that provided:

"Thermal energy and process fuel efficiency funding. Notwithstanding 30 V.S.A. § 209(e), a retail electricity provider that is also an entity appointed under 30 V.S.A. § 209(d)(2)(A), may during the years of 2024–2026, use

¹ See Case 22–2954, Order 1/10/2024

² Act 44 (2023) available at:

<https://legislature.vermont.gov/Documents/2024/Docs/ACTS/ACT044/ACT044%20As%20Enacted.pdf>

³ Act 44 (2023) Sec. 1 (b)

monies subject to 30 V.S.A. § 209(e) to deliver thermal and transportation measures or programs that reduce fossil fuel use regardless of the preexisting fuel source of the customer, including measures or programs permissible under this pilot program, with special emphasis on measures or programs that take a new or innovative approach to reducing fossil fuel use including modifying or supplementing existing vehicle incentive programs and electric vehicle supply equipment grant programs to incentivize high-consumption fuel users, especially individuals using more than 1000 gallons of gasoline or diesel annually and those with low and moderate income, to transition to the use of battery electric vehicles.”

The language above was intended to permit BED, as a retail electric provider that is also an appointed entity under 30 V.S.A. § 209(d)(2)(A), to use TEPF funds to deliver thermal or transportation measures or programs that reduce fossil fuel use “regardless of the preexisting fuel source of the customer.” This is because absent such authorization, the underlying statute governing the use of TEPF funds limits their use to thermal and process efficiency measures supporting customers using unregulated fuels such as oil or propane.⁴ BED customers are nearly universally served by a regulated fuel in natural gas and, absent the Act 44 language, BED would be far more limited in which customers it could serve with TEPF funds and what measures it could undertake. With the Act 44 language in mind, BED submitted in its 2024-2026 DRP—and the PUC approved—programs to provide transportation and thermal energy programs and measures and services using TEPF funds. BED’s DRP filing also stated that BED would use any excess TEPF funds during the period to further support Tier 3 or Act 44 programs.⁵

⁴ See 30 V.S.A. § 209 (e)(1)

⁵ “The City of Burlington Electric Department (“BED”) is authorized to use a portion of the funding received through the energy efficiency charge and the funding received for thermal energy-and-process-fuels programs for the implementation of greenhouse gas emission reduction programs targeted at the thermal energy and transportation sectors as called for under Vermont Public Act No. 44 (2023 Vt., Bien Sess.)” Order in Case 22-2954, 1/10/2024. In addition, the DRP filing which was approved noted, “BED proposes to use any excess TEPF funds—after accounting for traditional projects, advanced manufactured homes, Super Users, and commercial custom retrofit programs—to further support Tier 3 or Act 44 programs that focus on thermal energy consumption and/or increasing the efficiency of building space heating. BED November 13 Comments at 4; exh. BED-C at 43.”

Legislative and Statutory Context – Act 142

Subsequent to the 2024-2026 DRP’s approval in Case 22-2954 on January 10, 2024, Act 142 (2024)⁶ was enacted. Act 142 made several important changes to Act 44. First, in Section 1(b) it deleted and removed the requirement for PUC approval of the spending by EEUs on programs or measures or services that reduce greenhouse gas emissions in the thermal and transportation sectors. It also removed the requirement for PUC approval of the amounts to be budgeted by EEUs for these programs or measures or services. Next, in Section 1(b), it also made specific changes to the budgetary authorization for BED:

“An entity appointed under 30 V.S.A. § 209(d)(2)(A) that has a three-year electric resource acquisition budget of less than \$8,000,000.00 may spend up to \$800,000.00 of its resource acquisition budget, and any additional amounts the entity has available to it through annually-budgeted thermal energy and process fuel funds and carry-forward thermal energy and process fuel funds from prior periods, on programs, measures, and services that reduce greenhouse gas emissions in the thermal energy or transportation sector.”

The above language capped BED’s EEC expenditures for programs, measures and services that reduce greenhouse gas emissions through its electric resource acquisition budget to \$800,000 during the DRP 2024-2026 cycle, but notably also added explicit authority for BED to use “any additional amounts” available through annual TEPF budgets and TEPF carry-forward funds from prior periods on programs or measures or services in the thermal or transportation sectors. While this language supersedes the Act 44 language upon which the 2024-2026 BED DRP was approved, it is also consistent with BED’s expressed intent in that DRP to use excess TEPF funds to support Tier III/Act 44 programs as noted previously.

Act 142 also provided for a requirement for a sworn attestation by EEUs regarding their use of EEC funds, consistent with several criteria laid out in Act 142 Section 1 (b) (1-5). Notably, it did not require a similar sworn attestation for TEPF spending under that same Section.

⁶ Act 142 (2024), available at:

<https://legislature.vermont.gov/Documents/2024/Docs/ACTS/ACT142/ACT142%20As%20Enacted.pdf>

Lastly, while Act 142 retained Section 1(f), which originally provided BED the authority to use TEPF funds for transportation and thermal measures for all customers regardless of whether they are regulated or unregulated fuel customers, those provisions are narrower than the broader authority granted in Section 1(b) for using TEPF annually budgeted funds and any TEPF carryforward funds available to BED to support thermal and transportation programs without need for sworn attestation or PUC approvals. While the Section 1(f) language from Act 44 provides a “notwithstanding” reference to 30 V.S.A. § 209(e) (which, read on its own, could still be viewed as requiring additional PUC review or approval), the more recently adopted Section 1(b) language from Act 142 provides a far broader reference to “notwithstanding any provision of law or order of the Public Utility Commission (PUC) to the contrary.” That broader language supersedes the narrower notwithstanding reference in Section 1(f) through the “any provision” language, and provides clear authority for BED to use available TEPF funds for thermal and transportation measures without additional review or approvals, but as mentioned also consistent with the Commission-approved BED DRP for 2024-2026.

Based on the foregoing, it appears that BED is required neither to make sworn attestation nor to seek further PUC approval for its use of TEPF funds that are consistent with the requirements of Act 142. However, BED nonetheless believes it good practice to keep the Public Service Department (“Department”) and the Commission updated on its latest plans for using these funds under Act 142, and provides this letter today for that purpose. BED also recognizes in consulting with the Department that given the overlap of the legislative changes made in Act 44 and subsequently Act 142 with the DRP process, potential for confusion exists. Through our letter today we hope to have provided a useful procedural and session law history that informs BED’s current work under Act 142 and the 2024-2026 DRP.

Planned Uses of Excess TEPF Funds

In general, BED plans to use the authorization provided under Act 142 of the Vermont 2024 legislative session to use unspent TEPF funds to further support existing

greenhouse gas emission reduction programs.⁷ The specific uses that BED is currently planning for are detailed below.

Prescriptive Programs

First, BED will use surplus TEPF funds to support its approved Act 44 programs, pursuant to Act 142. In Case 22-2954, the Commission approved BED’s 2024–2026 DRP, including its Act 44 programs (previously referred to as Act 151).⁸ This approval has allowed BED to use electric resource acquisition funds to enhance customer incentives for a variety of programs, including support for some of BED’s prescriptive Tier III measures. As shown in the table below, as of December 31, 2024, BED had spent a total of \$334,341 in Act 44 electric resource acquisition funds on 508 measures and projects in this DRP period:

Act 44 Measure	CYE 2024 Expenditures	Qty
CDHP	\$ 13,650	25
EVSE	\$ 21,700	61
Electric Vehicles	\$ 140,500	281
Geothermal Well Testing	\$ 29,348	2
HRV/ERV	\$ 500	2
SZ/MZ HP	\$ 87,400	137
Total Incentives	\$ 293,098	508
Other	\$ 41,243	
Total Expenses	\$ 334,341	

The pace of spending in 2024 exceeded original expectations for these Act 44 programs (as proposed in Case 22-2954). Maintaining consistent and strong support of BED’s popular Tier III and other programs to reduce fossil fuel use and associated greenhouse gas emissions is a top priority for the City of Burlington and consistent with Vermont policy. Therefore, as of February 2025, BED began pursuant to Act 142 and the 2024-2026 DRP using TEPF monies to fund 50 percent of the Act 44 incentive for the above-noted measures. Total customer incentives for the measures highlighted in the

⁷ Section 1 (b) [ACT142 As Enacted.pdf](#)

⁸ Case 22-2954, Orders of 09/26/2023, 1/10/2024 and 07/16/2024.

table above will remain unchanged for 2025, but the source of the customer incentive is now split among Tier III funds from BED's operating budget, EEU Act 44 electric resource acquisition funds, and EEU TEPF funds. BED currently projects that supporting Act 44/Act 142 programs in this way will use approximately \$350,000 to \$375,000 of surplus TEPF funds through December 31, 2026. As indicated in our DRP, it is BED's understanding that the Act 44/Act 142 funding (now supplemented by TEPF funding) results in additional heat pumps, EVs, and other prescriptive strategic electrification measures.

Custom Programs

Second, BED will continue to use surplus TEPF funds to support or augment Tier III incentives for custom electrification projects. For example, in June 2024, BED used TEPF funds to pay 50 percent of a \$275,000 incentive for five electric transit buses to Green Mountain Transit. BED is also in discussions with customers including the Burlington School District, the University of Vermont, Rhino Foods, and others about custom electrification projects for which BED may provide incentives funded through both Tier III and TEPF monies in calendar years 2025 and 2026. BED currently projects spending up to \$425,000 of surplus TEPF funds to support custom electrification projects through December 31, 2026 (inclusive of \$112,205 to cover the Department's EMV budget deficit).

DOE Grant Cost Share

Third, beginning in fiscal year 2026, BED will rely on TEPF monies to fund an estimated \$700,000 in cost share for a Department of Energy grant project. At present, BED anticipates total grant-related costs of \$1.3 million between now and December 31, 2026. This project, "Building GIANTS," is focused on flexible thermal load management in both residential and commercial buildings. It will enable BED to better manage peak demand for residential heat pumps and commercial heating and ventilation systems in support of greater thermal electrification. The project will also involve pilot rates that provide bill credits for residential heat pump enrollment and commercial building system automation. TEPF funds will be used to support BED's 50% cost share for the grant, including the purchase of smart thermostats and home energy monitors for heat pump control and usage monitoring for as many as 1500 residential customers. Adding

controls has the potential to increase fossil fuel savings by allowing customers to establish lower temperature setpoints for existing fossil fuel-based boilers to begin delivering space heating. Controls may also generate additional utility benefits by shifting heating and cooling loads to off peak time periods.

Potential Federal EV Tax Credit Replacement

With the recent change in Presidential administration, and recent passage in the U.S. House of Representatives of legislation that would phase out or eliminate a number of electrification incentives, current federal tax incentives for electric vehicles (“EVs”) may be at risk. The federal legislation also proposes a new annual EV registration fee, and the Congress has also sought to enact policy to override California’s Clean Air Act waiver which has provided states including Vermont the ability to set stronger standards for vehicle emissions, supporting the deployment of clean technologies such as EVs.

BED is monitoring federal EV policy closely. If federal EV tax incentives are reduced or ended, BED may use some of its surplus TEPF funds to replace—potentially in full, but more likely in part—the current federal EV tax credit for Burlington customers. The rationale for using surplus TEPF funds as a full or partial replacement of the federal tax incentive would be to maintain the cost-competitiveness of electric vehicles relative to traditional vehicles and avoid a decline in EV program participation, which would be detrimental to the City’s Net Zero Energy goal. BED also notes that certain state incentives and programs that were in place at the time of BED’s DRP filing, such as the state EV rebate⁹, are no longer funded, making BED incentives critical for customers to support cost-effectiveness for EV purchases and leases. The amount of spending for such an initiative would vary depending on the timing of implementation, the number of EVs incented, and the amount of the incentive; an indicative estimate, however, is that this program could use up to \$1.3M to \$1.5M of surplus TEPF funds through December 31, 2026. That figure represents an upper bound and could be lower depending on how the federal policy changes are implemented including whether they are immediately changed or whether there is a phase out, and how BED backfills the lost federal incentive for BED customers. BED will file with the Commission an updated

⁹ <https://vtrans.vermont.gov/climate/incentives>

letter of intent regarding this potential use of TEPF funds no later than November 1, 2025 as part of BED's triennial EEU update plan or separately.

Weatherization uses

Finally, BED plans to further explore how to accelerate weatherization project completions in residential rental buildings consistent with City policy supporting rental weatherization standards and low- and moderate-income homes. Using BED's available TEPF funds could help income-eligible customers weatherize their buildings sooner. BED will continue to discuss this concept with the Department and will file an updated letter of intent with the Commission no later than November 1, 2025 as part of its triennial EEU update plan or separately.

Conclusion

The use of TEPF funds for the purposes described above will not impede BED's ability to continue supporting approved TEPF programs, including traditional TEPF programs, Zero Energy modular homes, high mileage drivers, and commercial custom programs.

BED has shared this letter with the Department in advance of this communication and has discussed its contents with them.

Should the Commission have any questions or concerns, please do not hesitate to contact me.

Sincerely,

Thomas Lyle