

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 22-2954-PET

Petition of the Department of Public Service to open an EEU Demand Resource Plan proceeding for the 2024-2026 and 2027-2029 performance periods	
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Order entered: 10/13/2022

ORDER ADDRESSING SCHEDULE, ADMINISTRATIVE NOTICE, AND DEMAND RESOURCES PLAN

UPDATE PERIOD

I. INTRODUCTION

This case concerns a petition filed by the Vermont Department of Public Service (“Department”) requesting the Vermont Public Utility Commission (“Commission”) to open an energy efficiency utility (“EEU”) Demand Resources Plan (“DRP”) proceeding. This Order addresses three matters identified by the parties and discussed at the scheduling conference held on September 27, 2022: (1) a schedule to consider EEU DRP update proposals; (2) administrative notice of the record in Case No. 19-3272-PET; and (3) the appropriate timeframe for a DRP update.

II. SCHEDULE

Efficiency Vermont, the City of Burlington Electric Department (“BED”), and Vermont Gas Systems, Inc. (“Vermont Gas”) each filed notices of intent to update the DRPs approved in Case No. 19-3272-PET. Efficiency Vermont’s notice presents a proposal “to update significant portions of the approved DRP, while leaving much of the existing structural components in place.”¹ Vermont Gas states that it intends to reassess its Commission-approved DRP “on a limited basis because the adjustments we will propose are at a program level and will have little impact on the DRP’s short-term or long-term assumptions under which we operate our EEU.”²

¹ Efficiency Vermont notice, dated September 1, 2022, Case No. 22-2954-PET.

² Vermont Gas notice, dated August 31, 2022, Case No. 19-3272-PET.

BED's notice indicates that it "intends to revise and update its current demand resource plan for the performance periods covering the years of 2024 – 2026 and 2027 – 2029."³

The Department and Efficiency Vermont have each proposed a schedule for this case. Under the Department's schedule, parties would have an opportunity to file comments, questions, and requests for information regarding the EEUs' notices. This would be followed by responses from the EEUs and then a second round of comments summarizing potentially contested issues and addressing whether a full DRP or a DRP update is warranted for each EEU. This would be followed by a decision from the Commission as to whether a DRP update, rather than a full DRP, would be appropriate for each EEU.⁴

At the scheduling conference, BED indicated that its DRP proposal is under development and remains a work in progress. As such, BED suggested that, under the Department's proposal, there would not be anything to comment on or ask questions about.⁵ Vermont Gas stated that it has no objection to the Department's proposal, which would allow an opportunity to share additional information to advance the DRP update process.⁶

Efficiency Vermont maintained that the Department's proposal for comments, questions, and information requests, followed by EEU responses, is not necessary. Efficiency Vermont characterized this as a quasi-discovery period on an incomplete record in advance of a proposal from the EEUs, with the effect of diverting staff resources from developing the DRP proposal, delaying the filing of the proposal, and ultimately prolonging this proceeding. Efficiency Vermont suggested that questions should follow the presentation of EEU DRP proposals in the form of discovery, and that the Department and other parties should have the opportunity to respond in the form of reply testimony. Efficiency Vermont proposed a schedule that is modeled in part on the DRP schedule from Case No. 19-3272-PET.

Discussion

³ BED notice, dated September 1, 2022, Case No. 22-2954-PET.

⁴ Case No. 22-2954-PET, tr. of 9/27/22 at 6-7 (Ludwig).

⁵ Case No. 22-2954-PET, tr. of 9/27/22 at 14-15 (Lyle).

⁶ Case No. 22-2954-PET. tr. of 9/27/22 at 9-10 (Bouffard).

In Case No. 18-2867-INV, the Commission adopted changes to the regulatory documents that govern Vermont's EEU programs. On August 8, 2019, the Commission issued an order that, among other things, updated the procedures relevant to a DRP proceeding. Pursuant to that Order, the length of DRPs was increased from three to six years, with the opportunity for limited updates every three years.⁷ Although the Commission adopted procedures for a six-year DRP proceeding, it has yet to specify a process for the limited three-year updates. Procedures addressing the three-year limited update were proposed by the Department in Case No. 22-1647-PET and remain pending before the Hearing Officer in that case.

Until the Commission has fully evaluated the Department's proposal in Case No. 22-1647-PET, we rely on the existing regulations governing DRP proceedings. The Process and Administration of an Energy Efficiency Utility Order of Appointment document (the "Process and Administration document") states, in relevant part, that DRPs shall be developed through a Commission process that "shall be scheduled to occur in full every six years, with opportunities to re- assess DRP elements every three years unless otherwise authorized by the Commission."⁸

In this context, we adopt Efficiency Vermont's proposed schedule, rather than the Department's proposal. Under the Department's proposal, an EEU would need to justify why a three-year update is appropriate, instead of a full DRP process. This conflicts with the current Process and Administration document language and the Order approving that language, which expressly allows the opportunity for three-year DRP updates. Moreover, at this time the EEUs have not developed or shared the exact nature or extent of their DRP updates. As such, there would be scant information on which to render a judgment as to whether a full DRP or a DRP update is appropriate. We conclude the better course is to allow the EEUs time to fully develop their proposals and then test the adequacy of the proposals through a litigation schedule. As such, we adopt the following schedule based on Efficiency Vermont's schedule proposal.⁹

⁷ *Investigation into the regulation of energy efficiency utilities in the State of Vermont*, Case No. 18-2867-INV, Order of 8/8/19 at 14-15.

⁸ Process and Administration document, Section II.3.C.(e).

⁹ Although the schedule does not expressly include the opportunity for comments, questions, or information requests regarding the EEUs' update notices, we note that the Process and Administration document requires an EEU to engage with stakeholders --- including the Department --- in the development of a DRP proposal. We encourage the EEUs to use the stakeholder engagement process to address the Department's questions and information requests.

December 20, 2022	Deadline for EEUs to file DRP update proposals accompanied by pre-filed testimony and exhibits
December 21, 2022	Discovery requests on EEU proposals begins, with 14-day response
December 30, 2022	Deadline for motions to intervene
January 9, 2023	Deadline for responses to motions to intervene
January 26, 2023	Last day for discovery requests on EEU proposals, with 14-day response ¹⁰
February 2, 2023	Public workshop regarding EEU proposals
February 23, 2023	Deadline for reply testimony and exhibits in response to EEU proposals
February 24-March 16, 2023	Discovery requests on parties' reply testimony, with 14-day response
April 4, 2023	Scheduling conference to discuss further process; parties to file proposed schedules seven days before scheduling conference (March 28)

III. ADMINISTRATIVE NOTICE

The Department's petition to initiate this proceeding included a recommendation to consider taking administrative notice of the record in Case No. 19-3272-PET for the purpose of considering updates to the EEU DRPs. This topic was discussed at the September 27 scheduling conference. The Department and parties agreed that it would be efficient for the Commission and the parties to have the full record from that case to reference and to avoid relitigating settled facts. We agree with this assessment. Pursuant to 3 V.S.A. § 810(4), we take administrative notice of the record evidence and orders in Case No. 19-3272-PET.

¹⁰ Any person with a motion to intervene still pending on January 26, 2023, may serve discovery requests on an EEU at that time. If any such motion is denied before February 9, 2023, the EEU need not respond to the discovery requests. If a decision on any such motion is still pending as of February 9, 2023, the EEU must respond to any discovery requests served by that movant.

IV. TIMEFRAME OF A DEMAND RESOURCES PLAN UPDATE

Consistent with the Department's petition, the Commission's Order opening this proceeding stated that this proceeding would "address budgets, savings goals, and performance metrics for the 2024-2026 and 2027-2029 performance periods."¹¹ In its DRP update notice, Efficiency Vermont observed that updating a six-year DRP may not necessitate an incremental extension of the timeframe of the previously approved DRP. Instead, Efficiency Vermont suggests that a proposal could be an update to the second three-year performance period of a six-year DRP with updated long-term modeling results. Thus, a DRP update would not require specific quantifiable performance indicator targets and compensation tables for the 2027-2029 performance period and would not require extension of long-term modeling by an additional three years. Efficiency Vermont maintains that it may be beneficial to present updates in the context of the previously approved DRP values.¹²

In comments filed October 4, 2022, the Department noted that its electric and natural gas energy efficiency potential study and associated rate and bill impact calculators extend 20 years, from 2024-2043. The Department recommends that the EEU electric and natural gas DRP proposals should use the same 20-year timeframe, which would facilitate uniformity and comparison. The Department further recommends that long-term forecasts for thermal-energy-and-process-fuels efficiency should be for ten years. Finally, the Department recommends that establishing budgets and performance goals for the 2024-2026 performance period is most important for this proceeding and it is not necessary to develop specific quantifiable performance indicator targets and compensation tables for the 2027-2029 performance period at this time.

Having considered the parties' comments, we rescind the portion of our August 18, 2022, Order opening this proceeding that called for the establishment of budgets, savings goals, and performance metrics for the 2027-2029 performance period. It is more consistent with the intent of a three-year update to focus on the second three-year performance period of a six-year DRP. In this case, that will cover the 2024-2026 performance period.¹³ For the purposes of long-term

¹¹ Order of 8/18/22 at 1-2.

¹² Efficiency Vermont notice, dated September 1, 2022, Case No. 22-2954-PET at 3.

¹³ We recognize that BED's notice states that it intends to revise and update its DRP for both 2024-2026 and 2027-2029. Our decision today does not preclude BED from continuing to pursue this approach if it wishes.

modeling in this case, we adopt the Department's recommendation that forecasts should extend 20 years for electricity and natural gas and ten years for thermal energy and process fuels.¹⁴

SO ORDERED.

¹⁴ In future DRP updates we may reach a different conclusion for long-term modeling, especially if the Department's initiation of the proceeding included an updated potential study covering the remaining 17 years of the previously approved DRPs.

PUC Case No. 22-2954-PET - SERVICE LIST

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