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STATE OF VERMONT
SENATE COMMITTEE ON NATURAL RESOURCES AND ENERGY

TO: Anthony Roisman, Chair, Vermont Public Utility Commission
Margaret Cheney, PUC Commissioner
Riley Allen, PUC Commissioner

FROM: Christopher Bray, Chair, Senate Committee on Natural Resources and Energy

RE: CASE No 22-02954-PET

DATE: 17 OCT 23

I write to you regarding current proceedings (Case No 22-02954-PET) evaluating the programs currently being conducted under Act 151 of 2020, as continued by Act 44 of 2023.

I understand that this case is being considered within the context of the DRPs proposed by each EEU. I won't attempt to knit together all the elements under your review in this docket and related dockets (such as Case No 19-3272-PET), but I do want to share a concern and offer, as you endeavor to implement legislative intent, the legislative perspective of the lead sponsor of both Acts 151 and 44.

My chief concern is that the procedure now being considered for evaluating the strategies of EEUs, including Burlington Electric and Efficiency Vermont, to implement Acts 151 and 44 may cause programmatic harm if the review process itself were to disrupt the programs and efforts already underway, causing them to be paused or even canceled until the Commission's full review of all relevant dockets is completed next year.

The key perspectives I wish to share here are:

1. **Continuity:** Act 44 of the past session is an explicit effort to continue the programmatic initiatives authorized by Act 151 of 2020. Any procedural choice to implement this law in a manner that causes any disruption in the work authorized by Act 151 (innovative pilot projects to address emissions in the transportation and thermal sectors) would be contrary to legislative intent.

2. **Economic Impacts of Disruption:** As you know, every program has start-up costs, and these are made acceptable through operations that achieve gains sufficient to justify the required investment. The initial investment is distributed across projects over time, reducing the overhead cost per project delivered and to achieve acceptable performance and cost effectiveness. If the PUC causes programs to cease operation—temporarily or permanently—additional start-up costs will be incurred in the case of a restart, or lost in the case of cancellation, and in both instances the economic performance of the program will be negatively impacted, i.e. made more expensive. In addition, such disruptions can have serious negative impacts on the personnel implementing the programs paused. Further, for interested citizens and businesses seeking to use the pilot programs, they will be frustrated by the withdrawal of offers/programs previously announced, some of which currently have waiting lists.
3. **Urgency:** I ask the PUC to honor the General Assembly’s sense of urgency—expressed in Acts 151 and 44— for gaining experience in addressing GHG reductions in the thermal and transportation sectors. A pause in the programming authorized by Acts 151 and 44 would be antithetical to the General Assembly’s goal of making limited progress even though we were unable to enact and implement comprehensive legislation to address GHGs originating in transportation and thermal.
4. **Prior PUC Analysis:** The PUC itself clearly articulated the need to make progress of the sort provided for by Acts 151 and 44 in its own report, [Act 62: Preliminary Report on All-Fuels Energy Efficiency](#).¹ The commission wrote:

“Vermont lawmakers have adopted ambitious environmental goals on aggressive timelines. The Governor has also committed Vermont to meeting the goals of the Paris Climate Agreement. Vermont entities have successfully implemented legislated renewable energy and energy efficiency programs. However, these programs cover only a small percentage of the Vermont economy. *The evidence is clear and unrebuted that without additional funding sources and a simultaneous, parallel approach to those sectors not already covered by comprehensive programs –most importantly the transportation and heating sectors –Vermont will fall short of its goals and commitments* [emphasis added].”

¹ Issued 15 Jan 2020; https://puc.vermont.gov/sites/psbnew/files/doc_library/23-0640-inv-2023-act-151-report-final.pdf

In short, both the Commission and the General Assembly have recognized the need for a comprehensive program addressing both thermal and transportation emissions—yet to be fully realized. ²

Given this lack of a comprehensive programmatic progress, the work conducted under Acts 151 and 44 becomes all the more essential, as these pilot programs enable us to learn what does and does not work in the thermal and transportation sectors. Acts 151 and 44 are functioning as active research “laboratories” that will help us identify and design the cost-effective comprehensive programs envisioned by both the Commission and the General Assembly.

5. **Compelling language:** The General Assembly’s desire for rapid implementation of the provisions of Acts 151 and 44 is reflected in the compulsory and urgent language used in the two bills, both of which use “shall” rather than “may” to define the PUC’s role in the implementation of the acts. E.g.

ACT 151. An act relating to energy efficiency entities and programs to reduce greenhouse gas emissions in the thermal energy and transportation sectors. (2020)³

(b) Notwithstanding any provision of law or order of the Public Utility Commission (PUC) to the contrary, **the PUC shall authorize an entity pursuant to subsection (a) of this section** to spend a portion of its electric resource acquisition budget, in an amount to be determined by the PUC but not to exceed \$2,000,000.00 per year, on programs, measures, and services that reduce greenhouse gas emissions in the thermal energy or transportation sectors. Programs, measures, and services authorized pursuant to subsection (a) of this section shall: [five criteria are named].

ACT 44. An act relating to energy efficiency modernization.⁴

(b) Notwithstanding any provision of law or order of the Public Utility Commission (PUC) to the contrary, **the PUC shall authorize an entity pursuant to subsection (a) of this section** to spend a portion of its electric resource acquisition budget, in an amount to be determined by the PUC but not to exceed \$2,000,000.00 per year, on programs, measures, and services that reduce greenhouse gas emissions in the thermal energy or transportation

² In fact, the PUC and Legislature are currently engaged in the design of a comprehensive program to address thermal sector emissions, but the earliest implementation date for this design, not yet implemented by law, is approximately four years off, thus making the operations of the Acts 151 and 44 pilot programs all the more essential during the intervening years.

³ <https://legislature.vermont.gov/Documents/2020/Docs/ACTS/ACT151/ACT151 As Enacted.pdf>

⁴ <https://legislature.vermont.gov/Documents/2024/Docs/ACTS/ACT044/ACT044 As Enacted.pdf>

sectors. Programs, measures, and services authorized pursuant to subsection (a) of this section shall: [five criteria are named].

For these reasons and more, I urge the Commission to continue uninterrupted the programming currently supported by Act 151 and envisioned to be furthered through Act 44. Of course, the General Assembly supports the Commission's analysis of every program's efficacy while also urging you, as our regulatory partners, to advance these programs expeditiously.

Thank you for your time and consideration,



Christopher Bray

Chair, Senate Committee on Natural Resources and Energy