STATE OF VERMONT
PUBLIC SERVICE BOARD

EEU-2013-02

Request by Champlain Water District for Review of Energy Savings Account Limitation on Qualified Expenses)

Order entered: 8/14/2013

ORDER RE REQUEST TO MODIFY MINIMUM 18-MONTH PAYBACK PERIOD

I. INTRODUCTION

As required by 30 V.S.A. § 209(d)(3)(B),[1] the Public Service Board ("Board") has established an option for certain business customers to self-administer energy efficiency through the use of an Energy Savings Account ("ESA").[2] The ESA program allows eligible customers to use a portion of the Energy Efficiency Charge ("EEC")[3] such customers pay into the Electric Efficiency Fund to support energy efficiency projects at their facilities.

On May 31, 2013, the Champlain Water District ("Champlain"), a participant in the ESA program, filed a letter with the Board asking the Board to reconsider one aspect of the ESA program. Specifically, Champlain asked the Board to review the ESA program's requirement that limits reimbursable project expenses to costs with an estimated payback of at least 18 months on the customer's investment.

In this Order, we determine that it is in the public interest to wait to consider whether the ESA program's minimum 18-month minimum payback period should be modified until we receive the results of the evaluation of the ESA program being conducted by the Vermont

1. Public Act No. 89 (2013 Vt. Bien. Sess.) renumbered this statutory provision. Previously it was numbered § 209(d)(4).

2. The ESA program is described in detail in Attachment A to the Board's January 28, 2011, Order Modifying the Option for Certain Business Customers to Self-Administer Energy Efficiency through the Use of an Energy Savings Account ("ESA Program Description"). The ESA Program Description is available on the Board's website at: http://psb.vermont.gov/sites/psb/files/orders/2011/Revised%20Attachment%20A%20ESA%20Option.pdf.

3. The EEC is a volumetric charge that is assessed on electric bills throughout Vermont. The funds collected via the EEC support cost-effective energy efficiency services delivered by Vermont's Energy Efficiency Utilities ("EEUs").

Department of Public Service ("DPS"). The DPS has agreed to file the evaluation results, along with its recommendations on all aspects of the program design, including issues related to the minimum payback period, by October 31, 2013.[4]

We also direct Vermont Energy Investment Corporation ("VEIC")[5] to file comments, on or before August 30, 2013, on the DPS's proposed extension of time for Champlain to use "Available Funds" (as defined in the ESA Program Description) from 24 months to 36 months. We require that such comments directly address whether approval of the proposal would affect Efficiency Vermont's ability to achieve its performance goals.

II. Procedural History

On May 31, 2013, Champlain filed a letter asking the Board to reconsider one aspect of the ESA program.[6] Specifically, Champlain asked the Board to review the ESA program's rule that limits reimbursable project expenses to costs with an estimated payback of at least 18 months on the customer's investment.

On June 11, 2013, the Clerk of the Board issued a memorandum providing deadlines for filing comments and reply comments on Champlain's request. The memorandum stated that comments should include what, if any, additional process is appropriate for responding to Champlain's request. On June 21, 2013, the Clerk of the Board issued a memorandum granting a request by the DPS to extend the deadlines established in the June 11 memorandum.

On July 5, 2013, the DPS and VEIC separately filed comments.[7]

No reply comments were filed.

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4. We note that if, as currently expected, the DPS's ESA program design recommendations address issues beyond the 18-month minimum payback period, we are likely to open a separate proceeding in which we will consider all of the recommendations.

5. VEIC serves as Vermont's statewide EEU, known as Efficiency Vermont, under an Order of Appointment issued by the Board on 12/20/10 in Docket 7466.

6. Letter from Bruce Bushey, Champlain Water District, to Clerk of the Board ("Clerk"), dated May 29, 2013 ("Champlain Letter").

7. Letter from Jeanne Elias, Special Counsel, and Brian Cotterill, Energy Programs Specialist, DPS, to Susan M. Hudson, Clerk, dated July 5, 2013 ("DPS Comments"); letter from Michael Wickenden, Director of Regulatory Affairs, VEIC, to Susan Hudson, Clerk, dated July 5, 2013 ("VEIC Comments").

III. Background

Under the current ESA program, ESA participants are able to use funds collected through EEC payments for "Qualified Expenses" associated with energy efficiency projects (provided that total Qualified Expenses in any period do not exceed 100% of "Available Funds" as defined in the ESA program description). The ESA program defines Qualified Expenses differently depending on whether the project is classified as Market-driven or Retrofit. For a Retrofit project:

> "Qualified Expenses" are defined as costs associated with identifying, investigating, analyzing, designing, implementing, and/or installing societally cost-effective electric efficiency retrofit projects at facilities owned, operated or controlled by the customer and where the ESA is in effect. These costs may include the customer's internal design and engineering labor, outside design, engineering and installation labor, and equipment costs. However, costs other than actual incremental material and installation labor costs shall only be treated as "Qualified Expenses" for amounts up to 25% of the total project costs. Furthermore, for retrofit projects, "Qualified Expenses" shall be capped at an amount equal to the contribution to total project costs that would result in an estimated 18-month simple payback on the customer's project investment. Payback shall be calculated based on anticipated energy and non-energy benefits, including, but not limited to, reductions in operating and maintenance costs, fossil fuel savings, electricity savings, environmental compliance cost savings, labor savings, and savings from avoidance of future equipment replacements.[8]

The ESA program also caps Qualified Expenses at "the net present value of the project's electric avoided-cost benefits, computed using the Public Service Board-approved avoided costs and discount rates for such analysis as used for all EEU cost-effectiveness screening."[9]

The ESA program does not provide for the payment of incentives for smaller "prescriptive"[10] energy efficiency measures with payback periods of less than 18 months.

8. ESA Program Description at 2. The 18-month minimum payback period is not included in the definition of Qualified Expenses for Market-driven projects. ESA Program Description at 2.

9. ESA Program Description at 2.

10. "Prescriptive" measures are those for which an EEU offers a standard rebate. Such measures are screened for cost-effectiveness once by an EEU on a generic (not a project-specific) basis before the standard rebate is offered. This contrasts with "custom" measures which are screened for cost-effectiveness on a project-specific basis, with any incentives offered determined on a project-specific basis.

IV. Participants' Positions

Champlain

Champlain would like the Board to review the ESA program's rule that limits reimbursable project expenses to costs with an estimated payback period of at least 18 months on the customer's investment. Champlain states that its last energy efficiency project was determined not to meet the eligibility requirements for reimbursement because the project's payback period was only 0.3 years. However, Champlain notes that the minimum 18-month payback period does not apply to ratepayers who are not ESA participants. Instead, Efficiency Vermont has a standard rebate form for this type of energy savings project, which is what Champlain submitted to Efficiency Vermont for the project.[11]

VEIC

VEIC recommends adding a third category of projects to the ESA program – a Prescriptive category. Under VEIC's proposal, the reimbursement limit for the Prescriptive category would be defined by the specific prescriptive offer and not the Retrofit or Market opportunity guidelines. According to VEIC, the addition of this category would promote Efficiency Vermont's administrative efficiency by eliminating the need for Efficiency Vermont to rescreen each prescriptive measure using the ESA participant's unique inputs. It would also "advance ESA program simplicity and transparency which will enhance customer satisfaction and promote future participation."[12] VEIC maintains that the addition of this category would promote customer equity by ensuring that the same offer is available to all customers of the same business type.

VEIC further anticipates that no material harm would occur to its statewide programs or its overall EEU responsibilities if the Board were to approve this ESA program modification; VEIC expects that the additional category of projects would have a relatively small overall financial impact and not create any substantive adverse effects on its ability to reach its Quantifiable Performance Indicators.

11. Champlain Letter at 1.
12. VEIC Letter at 1.

DPS

The DPS explains that the reason for a minimum time limit for reimbursable project expenses is to prevent use of the ESA program for energy efficiency projects that a customer would have implemented anyway given the investment's short payback period. According to the DPS, requiring a minimum 18-month payback both encourages and facilitates capitalization of participant investments in Retrofit projects. In addition, the DPS maintains that the restriction is intended to encourage a comprehensive approach to identifying and completing savings (for example, bundling of less costly individual measures within larger, more complex, projects).

The DPS suggests it may be appropriate for prescriptive measure incentives currently offered by Efficiency Vermont to serve as a not-to-exceed limit for reimbursing ESA participant investments for these same types of measures. According to the DPS, such a change would require modifying the current ESA program design, and the DPS is planning to evaluate ESA program participant performance and assess the overall program design to identify potential program improvements and to address barriers to entry. The DPS expects to make recommendations to the Board no later than October 31, 2013, on all aspects of the program design, including issues related to the 18-month payback period and prescriptive measures.

The DPS does not anticipate that Champlain would need to forfeit any funds if the Board were to adopt its proposed schedule for ESA program evaluation. However, in order to provide Champlain with an opportunity to take advantage of any change to the program (which the DPS asserts would not occur until after the conclusion of any Board process resulting from its recommendations), the DPS supports an extension of the time limitation on the use of "Available Funds" as identified in the ESA Program Description from 24 months to 36 months.

V. Discussion

When the Board first approved the ESA program, we anticipated the need for minor adjustments to the program design in the future, and stated that:

> We expect that those changes can be addressed by the Board more informally, such as in memoranda to the EEU [(Energy Efficiency Utility)] e-mail service list,

> unless a party requests a more formal procedure and the Board deems it necessary.[13]

We asked participants in this proceeding to address in their comments what, if any, process beyond comments and reply comments is appropriate for addressing Champlain's request. VEIC was the only participant to address this issue; it supported using the informal process described in the Board's December 22, 2009, Order. After reviewing participants' comments, we determine that this informal process is sufficient to address the issues under consideration in this proceeding, and more formal procedures (similar to those we would use in a contested case) are not necessary.

A. 18-Month Minimum Payback Period

Champlain's request can be interpreted in both a narrow and a broad manner. The narrow interpretation is that Champlain would like the Board to reconsider whether the 18-month minimum payback period should apply to measures for which an EEU offers a standard incentive when those measures are installed by ESA participants. The broad interpretation is that Champlain would like the Board to reconsider whether the 18-month minimum payback period should apply to any measures installed by ESA participants. We address both of these questions below.

Vermont's EEUs offer standard incentives for prescriptive energy efficiency measures. As a result of how prescriptive measures are screened,[14] it is expected that the cost-effectiveness of a particular prescriptive measure will differ from customer to customer. Similarly, it is expected that the payback period for a particular prescriptive measure will vary depending on the individual customer's specific circumstances.

Champlain questions why it is appropriate to allow most Vermont ratepayers to receive standard incentives for prescriptive measures, regardless of the actual payback period for those individual ratepayers, but to restrict ESA participants to a minimum 18-month payback period for the same measures. As the DPS explains, the ESA program's 18-month minimum payback

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13. Order of 12/22/09 Establishing an Option for Certain Business Customers to Self-Administer Energy Efficiency through the Use of an Energy Savings Account at 16.

14. *See*, footnote 10, above, for more information regarding how prescriptive measures are screened.

period has two purposes: (1) to prevent use of the program for projects that a customer would have implemented anyway; and (2) to encourage a comprehensive approach to identifying and completing projects. However, the Board has not previously ruled on the equity issue raised by Champlain.

Participants in this proceeding have identified two possible options for addressing the minimum payback period for prescriptive measures: (1) add a new Prescriptive category of measures for ESA customers now so that those customers could receive the same standard incentives for prescriptive measures as other Vermont ratepayers (instead of using the ESA program's market or retrofit guidelines to establish the reimbursement limit for prescriptive measures); or (2) consider the appropriateness of an 18-month minimum payback period for prescriptive measures in the context of a broader evaluation of the ESA program's design that is intended to identify potential program improvements and barriers to entry.

After reviewing participants' comments, we determine that, at the present time, the second of these options is preferable. It is in the public interest to periodically review energy efficiency program designs. The ESA program has been in place since December 2009 and is currently being evaluated by the DPS. Because this evaluation is expected to be completed in three months, we would prefer to wait for the evaluation results before ruling on specific proposed changes to the ESA program design. This will enable us to more fully understand the possible ramifications of possible program changes. It will also be more administratively efficient since, if we ultimately determine the ESA program should be modified, explanatory materials for participants and potential participants would only need to be revised once.

In reaching this decision, we are not concluding that it would be inappropriate to add a new Prescriptive category of measures for ESA customers. Rather, we are declining to rule on VEIC's proposal until we receive the ESA program evaluation results. We recognize that VEIC anticipates that Board acceptance of its proposal would not cause any material harm to Efficiency Vermont's statewide programs and would have a relatively small overall financial impact. Nevertheless, reviewing this proposed program design change in the context of the overall program evaluation results would give us greater comfort regarding VEIC's expectations. In addition, while VEIC's proposal would address the equity issue raised by Champlain, there may be other policy considerations that need to be balanced against this concern. It is our hope that the comprehensive evaluation of the ESA program will highlight any such policy considerations.

Finally, while the question of whether the 18-month minimum payback period should be modified for prescriptive measures can be separated from the question of whether the minimum payback period should be modified for other measures, it will be useful for us to consider the policy ramifications of both issues at the same time. Since the DPS has agreed to look at both issues in its evaluation of the ESA program design, the logical time for the Board to consider their policy ramifications would be after receiving the results of the ESA program evaluation.

B. Waiver of Expiration of "Available Funds"

Our decision today to wait to consider modifications to the ESA program until we receive the ESA program evaluation results could have financial consequences for Champlain. This is because the ESA Program Description provides that:

> If a customer participating in the ESA option does not use Available Funds within twenty-four months of the date they have been allocated into the customer's ESA, those funds shall be forfeited by the customer . . .[15]

The DPS does not believe that Champlain would need to forfeit any funds if the Board adopts the DPS's proposed schedule for considering modifications to the ESA program. Nevertheless, if the Board adopts that proposed schedule, the DPS supports extending the time limitation on the use of "Available Funds" as identified in the ESA Program Description from 24 to 36 months. According to the DPS, this would provide Champlain with an opportunity to take advantage of any changes to the ESA program that are approved by the Board after it considers the program evaluation results.

The effect of granting such an extension of time would be similar to the granting of a request from an ESA participant for a waiver of the time limit. While in the present instance the initiator of the request was the DPS rather than an ESA participant, we nevertheless find it helpful to examine the process set forth in the ESA Program Description for considering an extension request by an ESA participant.

15. ESA Program Description at 4.

The ESA Program Description provides that "under extraordinary circumstances beyond the control of the participant, a customer may apply for a waiver from the Board to extend the time period before which Available Funds will be forfeited."[16] The ESA Program Description further provides that the Board will solicit comments from the DPS and the affected EEU prior to ruling on the participant's request. In addition, the ESA Program Description states that, when the Board makes its determination on a waiver request, it "shall take into account whether approval of a waiver request would impact the ability of an EEU to achieve its performance goals. An EEU shall not be adversely affected in regard to its performance goals by an approved waiver."[17]

Granting the waiver proposed by the DPS may be appropriate. However, we have not yet provided VEIC, the operator of the affected EEU, with an opportunity to comment on the DPS's proposal, and we do not have any information about the effect granting such a waiver would have on Efficiency Vermont's ability to achieve its performance goals. Therefore, we direct VEIC to file comments on or before August 30, 2013, on the DPS's proposed extension of time for using Available Funds from 24 months to 36 months. Such comments should expressly address whether approval of the proposal would impact Efficiency Vermont's ability to achieve its performance goals.

VI. Conclusion

In this Order, we determine that it is in the public interest to wait to consider whether the ESA program's minimum 18-month minimum payback period should be modified until we receive the results of the evaluation of the ESA program being conducted by the DPS. The DPS has agreed to file the evaluation results, along with its recommendations on all aspects of the program design, including issues related to the minimum payback period, by October 31, 2013.

We also direct VEIC to file comments, on or before August 30, 2013, on the DPS's proposed extension of time for Champlain to use Available Funds (as defined in the ESA Program Description) from 24 months to 36 months. We require that such comments directly

16. ESA Program Description at 4.
17. ESA Program Description at 4.

address whether approval of the proposal would impact Efficiency Vermont's ability to achieve its performance goals.

VII. Order

It Is Hereby Ordered, Adjudged and Decreed by the Public Service Board of the State of Vermont that:

1. On or before August 30, 2013, Vermont Energy Investment Corporation ("VEIC") shall file comments on the Vermont Department of Public Service's ("DPS") proposed extension of time for the Champlain Water District to use "Available Funds" (as defined in Attachment A to the Board's January 28, 2011, Order Modifying the Option for Certain Business Customers to Self-Administer Energy Efficiency through the Use of an Energy Savings Account) from 24 months to 36 months. VEIC's comments shall address whether approval of the proposal would impact Efficiency Vermont's ability to achieve its performance goals.

2. On or before October 31, 2013, the DPS shall file the results of its evaluation of the Energy Savings Account ("ESA") program and recommendations on all aspects of the ESA program design including:

- Whether a Prescriptive category of measures should be added to the ESA program;
- Whether prescriptive measure incentives currently offered by an ESA participant's EEU should serve as a not-to-exceed limit for reimbursing participant investments in these same measures;
- The appropriateness of relaxing or waiving the 18-month minimum payback period requirement for these prescriptive measures;
- Whether the 18-month minimum payback period should be modified for other measures; and
- Other program design modifications as deemed necessary.

Dated at Montpelier, Vermont, this 14th day of August, 2013.

s/ James Volz	)	
	)	PUBLIC SERVICE
	)	
s/ David C. Coen	)	BOARD
	)	
	)	OF VERMONT
s/ John D. Burke	)	

OFFICE OF THE CLERK

FILED: August 14, 2013

ATTEST: s/Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Board within thirty days. Appeal will not stay the effect of this Order, absent further order by this Board or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Board within ten days of the date of this decision and Order.