STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 19-0302-INV

Investigation to establish an Energy Savings Account partnership pilot program, establish a methodology for evaluation, measurement, and verification of Self-Managed Energy Efficiency Program and Energy Savings Account projects, and review the Customer Credit Program	

Order entered: 05/16/2019

ORDER RE ENERGY SAVINGS ACCOUNT PILOT PROGRAM

In today's Order, the Vermont Public Utility Commission ("Commission") adopts, with clarifications and modifications, the conclusions and recommendations made in the Hearing Officer's proposal for decision.

The proposal for decision was circulated for comment. Comments were filed by several participants in this proceeding. The participants' comments and our determinations are addressed in the Commission discussion and conclusions section below.

PROPOSAL FOR DECISION

I. INTRODUCTION

Pursuant to Public Act 150 of the 2018 Vermont legislative session,[1] the Commission opened an investigation to establish an Energy Savings Account ("ESA") partnership pilot program and a methodology for evaluation, measurement, and verification of the Self-Managed Energy Efficiency Program ("SMEEP") and ESA pilot program projects. In addition, the Commission is reviewing the Customer Credit Program.

Pursuant to Act 150, the Commission must establish criteria for customer selection to the ESA pilot program in order to allow customer selection for the program to be completed on or before July 1, 2019.

In this proposal for decision, I provide several recommendations for Commission adoption with respect to the structural elements of the ESA pilot program and the criteria for customer selection.

[1] Public Act No. 150 (2018 Vt. Adj. Sess.).

II. Background

The Commission has established three types of programs that qualifying customers can use to manage their own energy efficiency projects: the SMEEP; the ESA program; and the Customer Credit Program. Pursuant to 30 V.S.A. § 209(j), the SMEEP allows certain eligible transmission and industrial electric customers to be exempt from the energy efficiency charge provided the customer commits to spending an annual average of no less than $1 million over a three-year period on energy efficiency investments and $3 million over three years.[2] Pursuant to 30 V.S.A. § 209(d)(3)(B), customers paying an average annual energy efficiency charge of at least $5,000 may apply to the Commission to self-administer energy efficiency through an ESA.[3] The Customer Credit Program allows commercial and industrial customers that meet certain eligibility standards to use most of their energy efficiency charge funds to implement energy-savings measures of their own as a substitute for participation in the system-wide programs of Efficiency Vermont.[4]

Act 150 requires that on or before July 1, 2019, the Commission must establish a three-year partnership pilot program as an expansion of the existing ESA option. The ESA pilot program will allow a participant, working with Efficiency Vermont, to place the participant's energy efficiency charge payments in an ESA and then use 100 percent of the funds on the participant's own energy efficiency projects. Act 150 requires that the total amount of customer energy efficiency charge funds available in the pilot program each year will not exceed $2 million.

Act 150 requires that the Commission establish by rule or order the criteria for customer selection to the ESA pilot program. On establishment of the selection criteria, Efficiency

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[2] The Commission established the SMEEP in 2009 and modified the program in 2010, 2011, and 2018. *See Order Establishing a Self-Managed Energy Efficiency Program*, Order of 12/28/09, *Order Clarifying Self-Managed Energy Efficiency Program*, Order of 4/7/10; *Order Modifying SMEEP*, Order of 8/10/11; and *Order Approving OMYA's Participation in the Self-Managed Energy Efficiency Program*, Case No. 18-3329-PET, Order of 10/24/18.

[3] The Commission established the ESA program in 2009 and modified the program in 2014. *See Order Establishing an Option for Certain Business Customers to Self-Administer Energy Efficiency through the Use of an Energy Savings Account*, Order of 12/22/09; *Order Approving Modifications to the Design of the Energy Savings Account Program*, Case No. EEU-2014-02, Order of 6/6/14.

[4] The Commission established the Customer Credit Program in 1999 and modified the program in 2007 and 2012. *See Investigation into Department of Public Service's Proposed Energy Efficiency Plan*, Docket 5980, Order of 9/30/99 at 28, 29, 75, A-112 through A-117; *Order re Petition of IBM to Amend EEU Customer Credit Program*, Order of 8/14/07; *Clarifying Order re Petition of IBM to Amend EEU Customer Credit Program*, Order of 10/11/07; *Order Re Proposed Modifications to C&I Customer Credit Program and Participation of OMYA, Inc.*, Case No. EEU-2012-01, Order of 8/24/12.

Vermont, the Vermont Department of Public Service ("Department"), and the Vermont Agency of Commerce and Community Development ("ACCD") are required to jointly issue a request for proposals from customers seeking to participate in the pilot program. Efficiency Vermont, the Department, and ACCD are required to jointly select customers to participate in the program from among the customers that submit responses to a request for proposals and notify the Commission of the selected customers. Customer selection is required to be completed before July 1, 2019.

Under the ESA pilot program, customers may use energy efficiency charge funds for one or more of the following: electric energy efficiency, thermal energy and process-fuel efficiency, energy productivity measures, demand management, and energy storage that provides benefits to the customer and its interconnecting utility. Act 150 requires that the Commission establish a methodology for evaluation, measurement, and verification of projects implemented under the pilot that is consistent with the requirements of 30 V.S.A. § 218c and that includes cost-effectiveness screening that values energy savings across the customer's energy portfolio and non-energy benefits such as economic development.

As required by Act 150, the Commission opened this investigation to establish an ESA pilot program and a methodology for evaluation, measurement, and verification of SMEEP and ESA pilot program projects. In addition, the Commission is reviewing the Customer Credit Program. The Commission is conducting this investigation in three tracks. Track one (the subject of today's proposal for decision) will establish the ESA pilot program, including the criteria for customer selection. Track two will address the evaluation, measurement, and verification of ESA and SMEEP measures and projects. Track three will include the review of the Customer Credit Program.

On March 14, 2019, Efficiency Vermont filed a letter recommending customer selection criteria that had been jointly developed by Efficiency Vermont, ACCD, and the Department.

On March 19, 2019, the Hearing Officer conducted a workshop to discuss the ESA pilot program, including the customer selection criteria.

On March 26, 2019, the Department, Efficiency Vermont, Vermont Gas Systems, Inc. ("VGS"), the Champlain Water District, the University of Vermont ("UVM"), WestRock, and Vermont Electric Cooperative, Inc. ("VEC") separately filed comments addressing the ESA pilot program and the customer section criteria.

III. Discussion

The participants' comments addressed several topic areas concerning the ESA pilot program, including establishing the criteria for customer selection under the request for proposals. Participants agreed that the structural elements of the ESA pilot program established under Act 150 need to be reviewed and addressed by the Commission before a request for proposals is issued. In this proposal for decision, I address these structural elements along with the customer selection criteria.

My recommendations are addressed separately below by the following topic areas:

- Eligibility for ESA pilot program participation;
- Total funds available for pilot program;
- ESA pilot program start and end date;
- Customer energy efficiency charge funds;
- Eligibility for other Energy Efficiency Utility ("EEU") services;
- Eligibility for certain natural gas customers;
- Scope of allowed activities and program design;
- Evaluation, measurement, and verification;
- Energy Management Plans;
- Program accounting and invoicing;
- Customer selection criteria;
- Annual reporting requirements; and
- Program evaluation and recommendations.

A. Eligibility for ESA Pilot Program Participation

Efficiency Vermont and the Department requested that the Commission reiterate, for clarity purposes, the eligibility requirements for the ESA pilot program defined under Section 2(a)(3) of Act 150 and 30 V.S.A. § 209(d)(3)(B).

UVM requested that program eligibility be clarified, including whether customers of the City of Burlington Electric Department ("BED") are eligible for the ESA pilot program or whether a separate duplicate program with the same terms and conditions could be created for Burlington residents. UVM also requested the Commission clarify program eligibility for customers with more than one electric account.

Champlain Water District asked the Commission to clarify whether a participant in the ESA pilot program may return or enroll in the existing ESA program at the end of the pilot program. Champlain Water District also requested the opportunity to submit a proposal that allows it to maintain its participation in the existing ESA program, but participate under the rules of the pilot program.

Discussion

Section 2(a)(3) of Act 150 and 30 V.S.A. § 209(d)(3)(B) define the eligibility requirements for the ESA pilot program.

Under Section 2(a)(3) of Act 150, a customer is defined as "a commercial or industrial electric customer that is located in a service territory in which Efficiency Vermont delivers energy efficiency programs and measures and that does not qualify for SMEEP." Section 2(a)(10) of Act 150 defines energy savings accounts as those meeting the requirements under 30 V.S.A. § 209(d)(3)(B). Section 209(d)(3)(B) specifies that a customer must pay an average annual energy efficiency charge of at least $5,000 to "apply to the Commission to self-administer energy efficiency through the use of an energy savings account."

Therefore, as defined by Act 150 and statute, I recommend that a commercial or industrial electric customer who meets the following criteria is eligible to participate in the ESA pilot program: (1) the customer is located in Efficiency Vermont's service territory;[5] and (2) the customer must pay an average annual energy efficiency charge of at least $5,000 in the 12 months preceding the customer's request to participate in the program. Customers in BED's service are not eligible for the ESA pilot program.

In addition, I recommend that the Commission adopt the eligibility requirements under the existing ESA program concerning customers with more than one electric account.[6] Thus, a single business (a single legal entity) with more than one electric account may combine the energy efficiency charge amounts paid on multiple accounts to determine eligibility.

In response to the concerns raised by UVM about participation of BED customers, I note that BED customers meeting the eligibility requirements under Section 209(d)(3)(B) may participate in the existing ESA program established by the Commission.[7] The existing ESA program will remain in place during the three-year pilot program. In addition, BED customers who are natural gas users may participate in efficiency programs offered by VGS.

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[5] Vermont Energy Investment Cooperation ("VEIC") serves as Efficiency Vermont, which provides energy efficiency services throughout the state except for BED's service territory, under an Order of Appointment issued by the Commission on February 12, 2016, in Docket 8455.

[6] *See* Case No. EEU-2014-02, Order of 6/6/14 at Attachment A.

[7] *See* Case No. EEU-2014-02, Order of 6/6/14.

With respect to Champlain Water District's concerns about eligibility once the ESA pilot program ends, I conclude that Act 150 allows customers, once the ESA pilot program is complete, to return or enroll in the existing ESA program.

With respect to Champlain Water District's request to participate in the existing ESA program under the rules of the pilot program, I recommend the Commission deny this request. Act 150 contains no provisions that allows the Commission to expand the pilot program to existing ESA customers. Further, allowing existing ESA program customers to participate under the rules of the ESA pilot program would be inconsistent with the requirements of 30 V.S.A. § 209(d)(3)(B), which limits the existing ESA program to electric efficiency services.

B. Total Funds Available for ESA Pilot Program

Efficiency Vermont and the Department noted that that Section 2(b) of Act 150 limits the total amount of customer energy efficiency charge funds available in the pilot program each year to $2 million. Efficiency Vermont stated that the annual cap is likely to be reached in response to the request for proposals. Efficiency Vermont further noted that the annual budget cap could be reached with as little as four or five large businesses or with a dozen or more small-to-medium sized businesses.

<u>Discussion</u>

Section 2(b) of Act 150 requires that, on or before July 1, 2019, the Commission "by rule or order" establish a three-year pilot program for customers to self-direct the use of their energy efficiency charge funds, working with Efficiency Vermont. The total amount of customer energy efficiency charge funds "available in the pilot program each year shall not exceed $2 million."

Therefore, I recommend that the annual budget for the ESA pilot program not exceed $2 million. As discussed further below, customers will be selected through a request for proposals process. The number of customers selected in the request for proposals will depend on the average annual energy efficiency charge amounts billed to each customer. In order to determine the number of customers that may be selected in the request for proposals, I recommend that the annual energy efficiency charge amount billed to each customer be determined by using the 12 months of available charges that precede the request for proposals issue date. As noted by

Efficiency Vermont, the ESA pilot program has the potential to be fully subscribed with a few large customers or a larger mix of small-to-medium sized businesses customers.

C. ESA Pilot Program Start and End Date

Efficiency Vermont suggested the start date for the ESA pilot program could be either July 1, 2019, January 1, 2020, or retroactive to January 1, 2019. Efficiency Vermont requested that once a starting date is determined that a reasonable process be established for incorporating each customer's energy projects and goals into Efficiency Vermont's budget and performance goals.

The Department argued that the definition for customer energy efficiency charge funds under Section 2(a)(4) of Act 150 prohibits a program start other than July 1, 2019. The Department did not object to the program and payments starting on July 1, 2019 and projects being undertaken January 1, 2020 or later to allow the customers' energy efficiency charge payments to build to an amount that would allow for a particular project to be completed.

Champlain Water District noted that if a January 1, 2020, start date is chosen, it may be difficult for the Commission or a third-party consultant to complete an evaluation of the pilot program and provide a report to the General Assembly by January 15, 2023, as required by Section 2(j) of Act 150.

Discussion

Section 2(b) of Act 150 requires that, on or before July 1, 2019, the Commission establish a three-year ESA pilot program. In addition, Section 2(d)(5) requires that the customer selection under the program also be completed by July 1, 2019. Further, Section 2(a) defines customer energy efficiency charge funds to mean a customer's payments during the period of the ESA pilot program.

Based on my review of these statutory requirements, I recommend that the ESA pilot program begin on July 1, 2019, and end on June 30, 2022. This is consistent with the Section 2(b) requirement that the Commission establish an ESA pilot program by July 1, 2019, and with the Section 2(a) definition of energy efficiency funds available under the program.

The July 1, 2019, start date should provide sufficient time for customers to plan and implement projects during a three-year program. I conclude that Section 2 of Act 150 does not prohibit payments under the program starting on July 1, 2019 and projects being started at a later date to allow the customers' energy efficiency charge payments to accumulate before a pilot program project is started or completed. Further, Section 2(b)(2) of Act 150 allows customers to receive payments in advance of project completion based on the Energy Management Plan required under the program. However, under Section 2(b)(2), a customer cannot receive advance payments that exceed the amount of energy efficiency charge the customer has already paid.

Finally, an end date of June 30, 2022, allows the Commission to complete an evaluation of the ESA pilot program and provide a report to the General Assembly by January 15, 2023, as required by Section 2(j) of Act 150.

D. Customer Energy Efficiency Charge Funds

The Department maintained that Section 2(a)(4) of Act 150 requires that the energy efficiency charge payments made by a customer during the period of the ESA pilot program be the source of funding under the program and that only these funds may be used for the costs of eligible projects under the pilot program. The Department further maintained that a customer participating in the existing ESA program cannot transfer its existing ESA funds into the new ESA pilot program.

Efficiency Vermont pointed out that the amount of energy efficiency charge funds available for each customer includes a portion that would pay for technical assistance and other services from Efficiency Vermont and for evaluation, measurement, and verification activities, as required by Section 2(b)(1) of Act 150. Efficiency Vermont noted that on average evaluation, measurement, and verification costs represent approximately 5% of total program costs, but actual costs vary significantly from project to project.

WestRock asked for clarity on the disposition of existing funds that ESA pilot program customers have made to their energy efficiency charge for the first half of 2019 and the status of ongoing projects that are tied to existing EEU programs. WestRock recommended that customers be given the option of rolling energy efficiency charge funds from the first half of 2019 into the pilot program. In the alternative, WestRock recommended that the Commission allow energy efficiency charges paid in the first half of 2019 to be available for use under the existing rules until the end of 2019 when the ESA pilot program becomes fully implemented. WestRock also requested that the expected costs for evaluation, measurement, and verification activities be identified.

VEC argued that projects already in process with Efficiency Vermont should be allowed to continue during the ESA pilot program, and energy efficiency charge payments made prior to pilot participation should be allowed to be allocated toward the pilot.

Discussion

Section 2(b)(1) of Act 150 allows for the following energy efficiency funds to be available for each ESA pilot program customer:

> Notwithstanding any contrary provision of 30 V.S.A. § 209(d)(3)(B), the customer shall continue to pay its [energy efficiency charge] and be able to receive an amount equal to 100 percent of its ESA account balance to pay for the full cost of projects that are eligible under subdivision (3) of this subsection; for technical assistance and other services from Efficiency Vermont; and for evaluation, measurement, and verification activity conducted by the Department or [Efficiency Vermont].

Therefore, I recommend that a customer in the ESA pilot program be able to receive funds that match its energy efficiency charge payments made during the three-year program period. This payment includes a portion that would pay for technical assistance and other services from Efficiency Vermont, and for evaluation, measurement, and verification activities by the Department and Efficiency Vermont. The costs for technical assistance and evaluation, measurement, and verification will vary depending on the particular efficiency projects implemented by the program customer. As discussed below, I recommend that an estimate of these costs be provided during the development of the Energy Management Plans required under Section 2(e) of Act 150.

Section 2(a)(4) of Act 150 requires that the energy efficiency charge payments made by a customer during the period of the ESA pilot program be the source of funding under the program. I conclude that only these funds may be used for the costs of eligible projects under the ESA pilot program. I also conclude that Section 2(a)(4) prohibits a customer in the existing ESA program from transferring its existing ESA funds into the new ESA pilot program. However, I conclude that Act 150 does not prohibit a customer selected for the ESA pilot program from participating in the existing ESA pilot program through the first half of 2019, before the ESA pilot program starts. This participation includes completing projects after the first half of 2019, as long as the project funds were available and committed in the first half of 2019. This participation will avoid the loss of opportunity to participate in energy efficiency investments during the first half of 2019.

Finally, Section 2(h) of Act 150 requires that at the end of the ESA pilot program, any customer energy efficiency charge funds that have not been expended or committed under the pilot program revert to use for systemwide energy efficiency programs and measures.

E. Eligibility for Other EEU Services

The Department and Efficiency Vermont asked that the Commission provide additional clarity concerning Section 2(f) of Act 150, which requires that a customer that participates in the ESA pilot program not be eligible for other EEU services, except for the services provided by the natural gas EEU. The Department and Efficiency Vermont maintained that this provision prohibits participants from receiving new or additional EEU services while participating in the ESA pilot program but agreed that it is appropriate for Efficiency Vermont to honor agreements with customers for incentives or payments that are in place prior the start of the program. The Department recommended, given the amount of lead time needed for some large and complex projects to be completed, that as long as there is a signed agreement between the customer and Efficiency Vermont prior to their selection into the ESA pilot program, the customer should be allowed to complete that project and receive the incentive, services, or any payments put forth in the agreement. Efficiency Vermont suggested that the customer should have the ability to choose whether existing agreements are pursued or withdraw from the commitment after being selected for the ESA pilot program – thereby freeing up the project to participate under the terms of the ESA pilot program.

WestRock also recommended that projects funded by the energy efficiency charge that may be ongoing when the ESA pilot program begins should be allowed to be completed during the ESA pilot program.

<u>Discussion</u>

Section 2(f) of Act 150 requires that a customer who participates in the ESA pilot program "not be eligible for other EEU services, except for an EEU appointed to deliver natural gas efficiency programs and measures."

Thus, Section 2(f) prohibits a customer who is enrolled in the ESA pilot program from participating in other EEU services, except those offered by VGS.[8] However, I conclude that

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[8] VGS provides natural gas energy efficiency services in its service territory, under an Order of Appointment issued by the Commission on June 13, 2016, in Docket 8694.

this provision does not limit ESA pilot program customers from carrying out commitments for EEU services made prior to their selection in the program. I conclude that it is appropriate for Efficiency Vermont to honor signed agreements with customers for incentives or payments that are in place prior to the start of the ESA pilot program, even if the projects may be completed after the start of the program. This allowance of additional time to complete projects recognizes that some large and complex projects may need a significant time to plan and complete. In addition, this will avoid the loss of opportunity to participate in energy efficiency investments during the first half of 2019.

Efficiency Vermont also proposed that the customer should have the ability to choose whether existing signed agreements for uncompleted projects are pursued or withdrawn after being selected for the ESA pilot program. I recommend the Commission adopt this proposal. The proposal provides the customer with additional flexibility and allows the customer to pursue efficiency services that best meet the customer's needs.

Further, Section 2(g) of Act 150 allows a customer that participates in the ESA pilot program to "receive funding from an energy program administered by a government or other person that is not the participant, including an EEU appointed to deliver natural gas efficiency services, but shall not count such funds as part of the investment commitment" of the ESA pilot program. This provision allows the customer in the ESA pilot program to pursue funding for energy efficiency services from VGS and other entities not designated as an EEU. Therefore, I recommend that these funding sources not be counted toward the customer's commitments under the ESA pilot program.

F. Eligibility for Certain Natural Gas Customers

The Department and Efficiency Vermont noted that Section 2(b)(3) of Act 150 allows customers in the ESA pilot program who are manufacturers and who purchased over 600,000 MCF of regulated fuel to use energy efficiency charge funds for thermal-energy-and-process-fuel efficiency for regulated fuels. Efficiency Vermont further noted that Section 2(b)(3) requires that any natural gas savings attributable to the ESA pilot program be counted towards Efficiency Vermont's performance goals. Efficiency Vermont stated that it will coordinate with VGS on any qualifying customer who seeks to pursue such thermal-energy-and-process-fuel efficiency projects. Efficiency Vermont recommended that coordination of the ESA pilot program projects and natural gas EEU projects should be addressed in the customer's Energy Management Plan, and the plan should delineate the funding streams for all projects to reasonably avoid duplication of efforts and effect.

VGS stated that it will coordinate with Efficiency Vermont on thermal-energy-and-process-fuel projects that are located in VGS's service territory. VGS requested that the Commission clarify how the incentive structure and savings claims for ESA pilot program projects would be divided between Efficiency Vermont and VGS.

WestRock maintained that for customers eligible to participate in the thermal portion of the ESA pilot program, the energy efficiency charge funds should be eligible for use as matching funds against programs administered by VGS. WestRock recommended that claims towards performance goals for Efficiency Vermont and VGS should be granted in proportion to the funds contributed by each EEU against the overall amount of funds provided for a project.

Discussion

Section 2(f) of Act 150 allows a customer that participates in the ESA pilot program to be eligible for EEU services provided by the natural gas EEU. In addition, Section 2(b)(3) of Act 150 allows that a customer who is a manufacturer and whose purchases of a regulated fuel exceeded 600,000 MCF in 2017 may use energy efficiency charge funds for thermal-energy-and-process-fuel efficiency for "regulated fuels." Under 30 V.S.A. § 209(e)(3)(E), regulated fuels are defined as electricity and natural gas delivered by a regulated utility, and under Section 209(e)(3)(F), unregulated fuels are defined as fuels other than electricity and natural gas delivered by a regulated utility.

Thus, I recommend that customers in the ESA pilot program located in VGS's territory be eligible for EEU services provided by VGS. In addition, I recommend that certain customers under the ESA pilot program, manufacturers that purchase over 600,000 MCF of natural gas, be also eligible for thermal-energy-and-process-fuel efficiency services using the energy efficiency charge funds contributed under the program. This eligibility for manufacturers using natural gas is unique under the ESA pilot program because Section 2(f) of Act 150 provides only thermal-energy-and-process-fuel efficiency services for unregulated fuels for the remaining customers in the program.

Further, Section 2(b)(3) of Act 150 provides that any regulated fuel savings attributable to the investment of energy efficiency charge funds through the ESA pilot program (i.e. the savings by certain customers who are manufacturers and are VGS customers) be counted towards Efficiency Vermont's performance goals.[9] Section 2(b)(3) allows Efficiency Vermont to allocate the cost of the ESA pilot program across regulated and unregulated fuel funding sources in a manner that avoids or reduces the need to adjust savings goals approved by the Commission.

For customers eligible for thermal-energy-and-process-fuel efficiency services for regulated fuels, I conclude that Section 2(b)(3) of Act 150 does not prohibit the implementation of projects that might use both natural gas and pilot program energy efficiency charge funds. Further, Efficiency Vermont and VGS agreed to coordinate the implementation of such projects. With respect to the division of incentives and savings claims, I recommend that claims towards performance goals for Efficiency Vermont and VGS should be granted in proportion to the funds contributed by each EEU against the overall amount of funds provided for an ESA pilot program project. Further, I recommend that the coordination of the ESA pilot program projects and natural gas EEU projects should be addressed in the customer's Energy Management Plan. The Energy Management Plan would identify any overlapping funding streams on ESA pilot program projects and specifically identify how the incentive structure and savings claims would be divided between Efficiency Vermont and VGS.

G. Scope of Allowed Activities and Program Design

The Department and Efficiency Vermont both agreed that the scope of activities under the ESA pilot program include the completion of one or more projects meeting the criteria identified in Section 2(b)(3) of Act 150.

UVM asked the Commission to clarify how the energy efficiency charge funds under the ESA pilot program can be used, including whether the funds can be used for internal staffing costs, managing the preparation of project proposals, studies, designs, construction, validation, and measurement.

WestRock contended that customers should be given significant discretion to plan and manage projects. WestRock further maintained that customers should be able to select from a variety of vendors and contractors for project consulting, and engineering, and those costs should be eligible for recovery using pilot program funds. WestRock argued that where customers are

[9] I note that customers in the ESA pilot program who are also VGS customers continue to pay the natural gas energy efficiency charge and are eligible for EEU services provided by VGS.

required to use a single vendor, the Commission should require that vendor to charge a prevailing market rate.

Discussion

Section 2(b)(3) of Act 150 allows, notwithstanding any contrary provision of 30 V.S.A. § 209, energy efficiency charge payments by a customer in the ESA pilot program to be "used for one or more of the following: electric energy efficiency, thermal-energy-and-process-fuel efficiency for unregulated fuels, energy productivity measures, demand management, and energy storage that provides benefits to the customer and its interconnecting utility." In addition, as discussed above, for a customer who is a manufacturer and whose purchases of regulated fuel exceeded 600,000 MCF, the energy efficiency charge funds may be used for thermal-energy-and-process-fuel efficiency for regulated fuels.

Further, Section 2(a)(9) of Act 150 defines energy productivity measures as "investments that reduce the amount of energy required to produce a unit of product below baseline energy use." Section 2(a)(9) requires that the baseline energy use "be calculated as the average amount of energy required to make one unit of the same product in the two years preceding implementation of the program or measure."

Thus, I conclude that customers in the ESA pilot program can use energy efficiency charge funds to complete one or more projects meeting the criteria identified in Section 2(b)(3). These self-administered energy efficiency efforts differ from the existing ESA program, where projects can involve only electric efficiency measures.

With respect to expenses eligible for reimbursement under the ESA pilot program, I recommend that the Commission adopt the program design approach developed for electric energy efficiency efforts under the existing ESA pilot program.[10] Under the existing ESA program, customers self-administer their own electric energy efficiency efforts with technical assistance provided by Efficiency Vermont. Customers use funds collected through the electric energy efficiency charge for qualified expenses associated with four project categories: market driven, retrofit, planning, and prescriptive.

In summary, under the existing ESA program, for **market-driven** projects, qualified expenses are defined as the incremental costs associated with identifying, investigating,

[10] *See* Case No. EEU-2014-02, Order of 6/6/14 at Attachment A.

analyzing, designing, implementing, and/or installing societally cost-effective efficiency projects at facilities owned, operated, or controlled by the participating customer. For **retrofit** projects, qualified expenses are defined as costs associated with identifying, investigating, analyzing, designing, implementing, and\or installing societally cost-effective efficiency retrofit projects at facilities owned, operated, or controlled by the customer and where the ESA is in effect. For **planning** projects, qualified expenses may include costs associated with development of an energy efficiency investment plan and cost for a customer's internal or external project design and engineering expenses associated with a market-driven or retrofit project. For **prescriptive** projects, defined as electric projects or measures where a prescriptive rebate offer is available from the EEU to non-ESA customers, qualified expenses are defined as the level of EEU prescriptive rebate available to non-ESA customers.[11]

For all eligible measures under the ESA pilot program (electric energy efficiency, thermal-energy-and-process-fuel efficiency for unregulated fuels, energy productivity measures, demand management, and energy storage), I recommend that the Commission adopt the above described approach for program design and qualified expenses that is used in the existing ESA program. Because the above described approach for program design and qualified expenses addresses electric efficiency measures only, the approach for other measures may need to be tailored more specifically to these other measures. Therefore, I further recommend that the specific details for program design and qualified expenses be developed for each ESA pilot program customer in its Energy Management Plan.

Under the recommended program design approach, consistent with the existing ESA program and other EEU program, I recommend that customers be given discretion to plan and manage projects. Thus, customers will be able to select their own vendors and contractors for project consulting and engineering, and those expenses will be eligible for recovery using ESA pilot program funds as identified above.

H. Evaluation, Measurement, and Verification

Efficiency Vermont requested that the Commission reiterate, for clarity purposes, that Section 2(c) of Act 150 establishes requirements for the evaluation, measurement, and verification projects under the ESA pilot program.

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[11] Further details on program design and qualified expenses are found in the Commission's Order implementing the existing ESA program. *See* Case No. EEU-2014-02, Order of 6/6/14 at Attachment A.

WestRock requested that potential customers be provided with some general information on the level of evaluation, measurement, and verification that will be required under the ESA pilot program. WestRock recommended that evaluation, measurement, and verification standards be linked to industry-standard key performance indicators. WestRock contended that customers should be allowed to conduct measurement and verification in an independent fashion, subject to a series of pre-determined parameters. WestRock further maintained that customers should be able to select from a variety of vendors and contractors to conduct evaluation, measurement, and verification.

Discussion

Section 2(c) of Act 150 requires that the Commission shall establish a methodology for evaluation, measurement, and verification of projects implemented under the ESA pilot program "that is consistent with the requirements of 30 V.S.A. § 218c and that includes cost-effectiveness screening that values energy savings across the customer's energy portfolio and non-energy benefits such as economic development." Economic development includes "job creation, job retention, and capital investment."

Section 2(c)(1) of Act 150 states that the evaluation, measurement, and verification methodology established by the Commission "may be considered for future establishment of performance criteria under 30 V.S.A. § 209(d)."

Section 2(c)(2) of Act 150 requires that Efficiency Vermont and the Department evaluate and verify the electricity savings of each project funded under the ESA pilot program "with no less rigor than is required by ISO-New England for its Forward Capacity Market (FCM) program."

The Commission has established a methodology for the cost-effectiveness screening of electric and thermal-energy-and-process-fuel efficiency measures.[12] The Commission has long required energy efficiency providers over which it has jurisdiction to make decisions regarding which energy efficiency programs and measures to implement based on the societal cost-effectiveness test.[13] The Department developed cost-effectiveness screening tools based on decisions made by the Commission in the context of electric, thermal-energy-and-process-fuel,

[12] *See Order Re: EEU Avoided Costs, Externality Adjustments, and Other Screening Components for 2017-2018 Time Period*, Case No. EEU-2015-04; Order of 10/20/2017.

[13] *See* Docket 5270, Orders of 4/16/90 and 6/6/90; Docket 5980, Order of 9/30/99 at 58.

and natural gas energy efficiency programs. The Commission has required EEUs to use these screening tools since the EEU program's inception. Therefore, I recommend these screening tools be used under the ESA pilot program.

Under track two of this proceeding, the Commission will establish a methodology for cost-effectiveness screening for new measures not currently offered by Efficiency Vermont (i.e., energy productivity measures, demand management, and energy storage). I recommend that this methodology be consistent with the societal cost-effectiveness screening used for existing EEU measures and the requirements of 30 V.S.A. § 218c. In addition, I recommend the Commission consider methodologies proposed by participants, including the proposal by WestRock to use key performance indicators.

In addition, track two will include defining how energy productivity programs and measures will qualify under the SMEEP and the ESA pilot program. Track two will also establish a methodology for cost-effectiveness screening that values energy savings across the customer's energy portfolio and non-energy benefits such as economic development.

Consistent with the requirements of Section 2(c)(2) of Act 150, I recommend that Efficiency Vermont and the Department be responsible for evaluation, measurement, and verification under the ESA pilot program. This responsibility is also consistent with the requirements under Section 2(b)(3) of Act 150 that savings from thermal-energy-and-process-fuel efficiency for regulated fuels be counted towards Efficiency Vermont's performance goals. In addition, this provision is consistent with the existing ESA program and other EEU programs administered by Efficiency Vermont. Finally, I recommend that the Commission require that customers under the ESA pilot program work with Efficiency Vermont and the Department to conduct evaluation, measurement, and verification activities, even though Efficiency Vermont and the Department, not customers, are ultimately responsible for these activities.

I. Energy Management Plans

Efficiency Vermont requested that the Commission reiterate, for clarity purposes, that Section 2(e) of Act 150 requires development of an Energy Management Plan.

WestRock requested that the Commission provide more information on the requirements for the Energy Management Plan.

Discussion

Section 2(e) of Act 150 requires that each customer selected for the ESA pilot program, working with Efficiency Vermont, "develop an energy management plan for the three-year period of the pilot with projects to be implemented, energy savings targets, and a timeline for projects and investments." Section 2(e) also requires that a copy of each plan shall be submitted to the Commission, the Department, and ACCD.

I recommend that the Energy Management Plan identify the specific projects that will be implemented over the three-year period and the expected annual budgets for the three-year pilot period. The budgets should include an estimate of the costs for technical assistance by Efficiency Vermont and the evaluation, measurement, and verification by Efficiency Vermont or the Department (as identified in Section (b)(1) of Act 150). Customers should work with Efficiency Vermont and the Department to develop a budget estimate of technical assistance cost and evaluation, measurement, and verification costs.

In addition, as discussed above, I recommend that the Energy Management Plan include the specific details for program design and qualified expenses for eligible measures under the ESA pilot program (electric energy efficiency, thermal-energy-and-process-fuel efficiency for unregulated fuels, energy productivity measures, demand management, and energy storage).

Further, for customers eligible for thermal-energy-and-process-fuel efficiency services for regulated fuels, I recommend that the Energy Management Plan identify any overlapping funding streams for ESA pilot program projects and identify how the incentive structure and savings claims would be divided between Efficiency Vermont and VGS.

J. Program Accounting and Invoicing

Efficiency Vermont provided background on the accounting and invoicing system used under the existing ESA program. Under the existing ESA program, customers report their energy efficiency contributions each month to Efficiency Vermont, and Efficiency Vermont tracks the balance of those ESA funds. When an ESA customer creates an invoice for a qualified expense, Efficiency Vermont reviews and issues the payment directly to the customer. Under the terms of the Order of Appointment, these payments are assessed a corporate indirect billing rate, which is charged against the existing EEU electric budget and billed in the monthly EEU invoice.

Efficiency Vermont recommended that for the ESA pilot program, with a potential spending budget of up to $2 million per year, that the indirect billing rate not be charged when customer payments are processed. Instead, Efficiency Vermont recommended that an ESA pilot program customer be paid directly out of the Electric Efficiency Fund. Efficiency Vermont noted that for the same reason of avoiding the expense of a corporate indirect rate, a similar process was established to pay the invoices under the Customer Credit Program.[14]

Champlain Water District, WestRock, and UVM requested that the Commission clarify the process for accounting and invoicing. Champlain Water District and WestRock supported direct invoicing for customer reimbursement of project expenses.

Discussion

I recommend that the Commission adopt the procedure for accounting and invoicing recommended by Efficiency Vermont. Thus, ESA pilot program customers will be paid directly by the Fiscal Agent out of the Electric Efficiency Fund for eligible reimbursable expenses incurred or incentives provided under the program. Customers will file their monthly invoices for reimbursable expenses with the Department and Efficiency Vermont for review. When the review is completed, the Department will direct the Fiscal Agent to make payment to the customer.

Once the customers are selected under the ESA pilot program, I recommend that the Commission, working with the Department, establish a process with the Fiscal Agent for payment of customers' invoices.

K. Customer Selection Criteria

Efficiency Vermont, the Department, and ACCD recommended the following customer selection criteria be included in the request for proposals soliciting applications from customers who might participate in the ESA pilot program:

- Geographic equity, considering both the county and electric utility service territory in which the customer is located;
- Diverse pool of industries and business types (e.g., manufacturers, institutions, breweries);
- Priority given to the following:
    - Key employers that serve as anchor companies (large employers that are recognized as key to a region's economic vitality) in rural areas;

[14] *See* Case No. EEU-2016-03, Order of 11/9/17.

    - Large energy users;
    - Companies with demonstrated experience in energy management including employing staff who promote and implement energy management and completion of past energy management projects; and
    - Demonstrated ability to quantify energy, energy productivity, and non-energy benefits of participation, as described by the selected customer.
- Non-energy benefits that include demonstrated job growth or job retention due to participation in the pilot; and
- Applicants must include a proposed workplan to be evaluated by the selection committee. The workplan must include the following data, at a minimum:
    - Organizational goal;
    - Proposed measures or projects to meet goal; and
    - Timelines and budgets.

Efficiency Vermont added that customers selected for the ESA pilot program should be located throughout the state, and not be limited to one geographic area. For example, it would be reasonable to limit participation to no more than two customers in any one county.

Efficiency Vermont maintained that responses to the request for proposals should include a workplan that articulates how the energy efficiency charge funds will be used for proposed projects. Efficiency Vermont recommended that the workplan consist of organizational goals, proposed measures, timelines, and estimated budgets. Efficiency Vermont also recommended that the workplan identify the category of projects that will be pursued under the program: electric energy efficiency, thermal-energy-and-process-fuel efficiency for unregulated fuels, energy productivity measures, demand management, and energy storage. Efficiency Vermont clarified that budget and project costs in the workplan do not need to include estimates of leveraged funds, or projections of capital budgets and financing that will supplement funds available through the ESA pilot program.

VEC maintained that requests for timelines and budgets in the request for proposals must be reasonable and allow for the needed planning processes for large organizations. VEC further maintained that customers should not be required to leverage additional capital to participate in the program, nor should customers be given a preference for offering to do so as a part of the response to the request for proposals. VEC recommended that at least one customer be chosen who implements thermal projects, in order to access these opportunities under the ESA pilot program.

WestRock stated that it generally agreed with the proposed selection criteria. In addition, WestRock recommended that priority be given to applicants who have demonstrated that they have reached the boundaries of the current EEU program and are no longer able to use them for significant benefit. WestRock maintained that the ESA pilot program should include at least one customer who will use energy efficiency charge funds for thermal projects. WestRock also maintained that any timeline and budgeting requested during the request for proposals should be viewed as tentative in nature, and once selected, customers should have the ability to modify timelines and budgets. WestRock argued that participation in the ESA pilot program should not be predicated upon a participant committing additional funds above and beyond those available through the program.

WestRock recommended that the request for proposals should clearly state the level of detail expected in the responses. WestRock also recommended that the request for proposals process allow an adequate period of time for questions to be submitted to the issuing body, including contact information for someone who can answer those questions, and allow the answers to be distributed to all anticipated participants in the request for proposals.

Discussion

Section 2(d) of Act 150 requires that customers apply to participate in the ESA pilot program through a competitive solicitation process conducted jointly by Efficiency Vermont, the Department, and ACCD. Section 2(d)(1) of Act 150 requires that after the Commission's rule or order, Efficiency Vermont, the Department, and ACCD establish "criteria for customer selection that are consistent with that rule or order and that take into account energy efficiency and economic development." Section 2(d)(2) of Act 150 requires that on establishment of the selection criteria, Efficiency Vermont, the Department, and ACCD jointly issue a request for proposals from customers seeking to participate in the ESA pilot program.

Section 2(d)(3) of Act 150 requires Efficiency Vermont, the Department, and ACCD to jointly select customers to participate in the pilot program from among the customers that timely submit proposals in response to the request for proposals and notify the Commission of the selected customers. Section 2(d)(4) of Act 150 requires that if Efficiency Vermont, the Department, and ACCD are unable to resolve an issue arising during the request for proposals process, they would bring the issue to the Commission for resolution. Finally, Section 2(d)(5) of Act 150 requires that the customer selection be completed before July 1, 2019.

I recommend that the Commission adopt the customer selection criteria for use in the request for proposals soliciting applications from customers that were proposed by Efficiency

Vermont, the Department, and ACCD. Participants in this proceeding generally agreed with the proposed selection criteria. VEC and WestRock recommended that priority be also given to customers implementing thermal energy projects. I recommend that the Commission also adopt this proposal.

The criteria, including the proposal to give priority to customers implementing thermal energy projects, are intended to encourage a diverse set of responses to the request for proposals. The proposed criteria will also enable the selection committee to identify customers who would have opportunities to benefit from participation in the ESA pilot program while serving as examples and case studies to inform future program development and evaluations.

WestRock also recommended that the selection criteria include a priority for applicants who have demonstrated that they have reached the boundaries of the current EEU program. The selection criterion giving priority to companies with demonstrated experience in energy management, including employing staff who promote and implement energy management and completion of past energy management projects, appears to address WestRock's concerns. Therefore, I recommend that the Commission not adopt any further selection criteria to address the concern raised by WestRock.

Efficiency Vermont proposed that request for proposals responses should include a work plan that articulates how the energy efficiency charge funds will be used for proposed projects. The workplan would identify proposed measures, timelines, estimated budgets, and the category of projects that will be pursued under the program. As supported by other participants in the proceeding, the workplan would not require estimates of leveraged funds, or projections of capital budgets and financing that will supplement funds available through the ESA pilot program. By articulating the goals customers have for participation in the ESA pilot program, the workplan will also aid Efficiency Vermont, the Department, and ACCD in the customer selection process. Therefore, I recommend the Commission adopt the requirement for the workplan.

Finally, I recommend that the Commission adopt the recommendations made by WestRock concerning the request for proposals document and process. Therefore, the request for proposals should contain background detail on the ESA pilot program and should clearly state the level of detail expected in the responses to the request for proposals. The process should include a deadline for questions on the request for proposals and deadline for responses to the questions. Questions and responses on the request for proposals should be provided to all potential responders (e.g., posted on the same website on which the request for proposals is posted).

L. Annual Reporting Requirements

Efficiency Vermont requested that the Commission reiterate, for clarity purposes, that Section 2(i) of Act 150 requires the submission of annual reports.

Discussion

Section 2(i) of Act 150 requires that on or before each November 1 from 2020 through 2022, Efficiency Vermont and the customers in the program jointly submit written progress reports to the Commission, the Department, and the standing committees of jurisdiction that include projects under the ESA pilot program and their associated energy and cost savings.

Section 2(i) also requires that a customer's projects under the ESA pilot program and the associated data and results be made public through the annual reports. However, a customer may request that the Commission order customer-specific data to be used in preparing a report under this subsection be kept confidential if the data would qualify for exemption from disclosure under 1 V.S.A. § 317. If the Commission issues such an order, the data subject to the order will be disclosed only in accordance with a protective agreement approved by the Commission and signed by the recipient of the data, unless a court directs otherwise.

M. Program Evaluation and Recommendations

Efficiency Vermont requested that the Commission reiterate, for clarity purposes, that Section 2(j) of Act 150 requires the Commission to evaluate the ESA pilot program upon the program's completion.

Discussion

Section 2(j) of Act 150 requires that, upon completion of the three-year ESA pilot program, the Commission conduct or have a third party conduct an independent evaluation of the program. Section 2(j)(1) of Act 150 requires that the evaluation:

> analyze and compare, among pilot participants and companies of similar size outside the pilot: job creation and retention, energy savings, total energy cost reductions, energy productivity measures, amount of capital applied and leveraged, greenhouse gas reductions, and other criteria as defined by the

Commission. The evaluation shall also study the effects of the pilot on other ratepayers.

Section 2(j)(2) of Act 150 requires that the evaluation provide electric system results for the ESA pilot program and compare them to the electric system results that would have been obtained had the customer energy efficiency charge been expended pursuant to the electric energy efficiency programs otherwise authorized under 30 V.S.A. § 209(d). For purposes of this provision, electric system results are defined as "total electric energy savings, total avoided cost of purchasing power, total avoided costs of transmission and distribution improvements, and resulting FCM program revenues."

Finally, Section 2(j)(3) of Act 150 requires that after considering the results of the evaluation, the Commission submit a written recommendation to the standing committees of jurisdiction on whether to continue the ESA pilot program and, if so, under what recommended conditions and revisions, if any. In addition, the Commission is required to submit this recommendation to the General Assembly on or before January 15, 2023.

IV. CONCLUSION

Based on the consideration of the participants' comments and requirements under Act 150, I recommend that the Commission adopt the above proposal with respect to the structural elements of the ESA pilot program and the criteria for customer selection.

This proposal for decision is being circulated to the participants for their review and comment in accordance with 3 V.S.A. § 811.

Dated at Montpelier, Vermont this 22nd day of April, 2019.

Mary Jo Krolewski

Mary Jo Krolewski
Hearing Officer

V. Commission Discussion and Conclusions

The Department, ACCD, Efficiency Vermont, Associated Industries of Vermont ("AIV"), GlobalFoundries, Omya, WestRock, VGS, and VEC filed comments on the proposal for decision. Efficiency Vermont supported the proposal for decision. The Department, GlobalFoundries, Omya, WestRock, and VGS requested some clarifications with respect to the structural elements of the ESA pilot program. In addition, the Department, ACCD, AIV, WestRock, and VEC recommended some modifications to the Hearing Officer's recommendations.[15]

Based on our review of the proposal for decision and the participants' comments, we adopt, with clarifications and modifications, the conclusions and recommendations of the Hearing Officer. The participants' comments and our determinations are addressed separately below by topic area.

ESA Pilot Program Start and End Date

Participants' Comments

The Department stated that it does not object to the Hearing Officer's recommendation that the program begin on July 1, 2019, and agreed that the end date of June 30, 2022, would better allow the Commission to complete an evaluation of the ESA pilot program and provide a report to the General Assembly by January 15, 2023. However, the Department clarified that it does not believe Act 150 prohibits a program start other than July 1, 2019, nor does it interpret any language in Act 150 to require a July 1, 2019, program start date.

VGS stated that it is not concerned about when the ESA pilot program begins, but rather recommends that outstanding questions and underlying issues be resolved prior to the start of the ESA pilot program. In terms of timing of actual projects, VGS stated that it would appreciate involvement in the front end of natural-gas-related projects to allow time to identify any effects the projects may have on VGS's budgets and performance goals.

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[15] In the cover letter to its comments, WestRock requested oral argument before the Commission. In its comments, WestRock offered to expand in "verbal comments" on the concerns detailed in its written comments. We respond to all the concerns raised in WestRock's comments and believe no further process is required to understand WestRock's concerns.

Discussion and Conclusions

No participant objected to an ESA pilot program start date of July 1, 2019. We therefore make no changes to the Hearing Officer's recommendations in this regard.

With respect to VGS's concern, we expect that if any VGS customers are selected to participate in the ESA pilot program that the Department, Efficiency Vermont, and ACCD will notify VGS that such customer has been selected. This notification should allow VGS to work with the customer and Efficiency Vermont on any natural gas efficiency projects that might occur during the program. This coordination should allow VGS to identify any effects the projects may have on VGS's budgets and performance goals.

<u>Customer Energy Efficiency Charge Funds</u>

Participants' Comments

VGS requested clarification on how savings will be shared between Efficiency Vermont and VGS. VGS provides the example of an ESA pilot program customer that completes a natural gas efficiency project in the second half of 2019 that was started using VGS efficiency funds in the first half of 2019.

WestRock requested a clarification regarding the timeframe of availability of energy efficiency charge funds. Specifically, WestRock asked whether it is the intent of the ESA pilot program that the funds paid into the program be available for the three-year duration of the program.

Discussion and Conclusions

With respect to VGS's concern, we clarify that VGS is eligible to claim the entire savings from projects that are implemented through its natural gas efficiency services. Act 150 does not prohibit a customer selected for the ESA pilot program from participating in a natural gas efficiency program through the first half of 2019, before the ESA pilot program starts. This participation includes completing projects after the first half of 2019, as long as the project funds were available and committed in the first half of 2019. We also add that while these projects can be completed in the second half of 2019, the project funds must come from the natural gas efficiency program and ESA pilot program funds cannot be used to complete these projects. For any projects started in the first half of 2019, VGS would be eligible to claim the entire savings towards its performance goals.

With respect to WestRock's concerns, we clarify that the ESA pilot program is a three-year program and that funds paid into the program will be available for use for the entire three years. Consistent with Section 2(a)(4) of Act 150, the energy efficiency charge payments made by a customer during the period of the ESA pilot program will be the source of funding for the program, and consistent with Section 2(b), those payments will be eligible for use by the customer for the entire three years of the program. Further, we clarify that projects under the ESA pilot program may be completed after the July 1, 2022, program end date, as long as the project funds have been committed before the program end date.

Eligibility for Certain Natural Gas Customers

Participants' Comments

VGS requested that when savings are pro-rated between VGS and Efficiency Vermont on shared projects, the investments VGS made in the past that affected the project will be considered in the savings calculation. Should this not occur, VGS requested that its performance goals be adjusted to reflect any reduced savings.

Discussion and Conclusions

As addressed in the proposal for decision, Section 2(b)(3) of Act 150 allows certain customers to be eligible for thermal-energy-and-process-fuel efficiency services for regulated fuels and allows the implementation of projects that might use both natural gas and ESA pilot program energy efficiency charge funds. With respect to the division of incentives and savings claims, the claims towards performance goals for Efficiency Vermont and VGS will be granted in proportion to the funds contributed by each EEU against the overall amount of funds provided for an ESA pilot program project.

For thermal-energy-and-process-fuel efficiency projects under the ESA pilot program that build upon past investments made by VGS, these past investments are considered part of the baseline from which future savings are calculated. Thus, only the new savings that are incremental to this baseline can be claimed as savings. This is consistent with current EEU program practice for calculating new savings claims. Therefore, VGS's performance goals will not need to be adjusted for these types of projects.

Scope of Allowed Activities and Program Design

Participants' Comments

ACCD recommended that the Commission allow for additional flexibility to encourage businesses to make more energy efficiency investments that lead to additional job creation and capital investment. ACCD recommended that this flexibility allow the total cost of an energy efficiency project as eligible for reimbursement – not only the incremental costs. ACCD provided the example of an ESA pilot program customer installing a piece of equipment that allowed it to make widgets 50 percent more efficiently – the customer should be reimbursed for the total cost of the equipment, not 50 percent of the cost. ACCD maintained that this flexibility will facilitate the legislation's directive that the evaluation, measurement, and verification include cost-effectiveness screening that values energy savings across the customer's energy portfolio and non-energy benefits such as economic development.

AIV recommended that the Commission ensure that customers are able to avail themselves of the widest possible range of qualifying projects, maximum cost recovery, and control over their Energy Management Plans as allowed and directed under Act 150. AIV maintained that this will best allow the ESA pilot program to demonstrate benefits for customers that are not available under the existing program, as well as broader benefits such as job creation, job retention, and capital investment.

WestRock contended that reliance on the structure of the existing ESA program may limit the effectiveness of the ESA pilot program by hampering the customer's ability to fully recover 100 percent of its energy efficiency charge payments. WestRock contended that the program design recommended by the Hearing Officer will not allow customers to recover "an amount equal to 100 percent of its ESA account balance to pay for the full cost of projects" as required by Section 2(b)(1) of Act 150.

VEC suggested changing the approach for program design and expense reimbursement recommended by the Hearing Officer. VEC maintained that the approach will be overly restrictive and not allow participants the full range of types of projects under Section 2(b)(3) of Act 150. VEC contended that customers should be allowed to recover 100 percent of their energy efficiency charge funds under the ESA pilot program and that the recommended approach may not facilitate this recovery.

Discussion and Conclusions

Based on our review of participants' comments and Section 2(b)(1) of Act 150, we do not adopt the Hearing Officer's recommendations with respect to program design and qualified expenses. Section 2(b)(1) of Act 150 allows a customer to use its available energy efficiency charge funds "to pay for the full cost of projects that are eligible" for implementation under the program. The Hearing Officer's recommendation to limit project reimbursement to incremental costs is not consistent with the plain reading of Section 2(b)(1), which allows "the full cost of projects."

Therefore, we determine that customers under the ESA pilot program may use energy efficiency charge funds to recover the full of cost of projects eligible under the program. This determination is consistent with the requirements of Section 2(b)(1) of Act 150. In addition, we recognize that the ESA pilot program was created to provide customers with additional flexibility over the existing ESA program. This additional flexibility will encourage customers to make energy efficiency investments that meet the non-energy benefit program goals of job creation, job retention, and capital investment identified in Section 2(c) of Act 150.

Under the ESA pilot program, qualified expenses may include up to 100 percent of the costs associated with implementing an eligible project. Qualified expenses are defined as the full costs associated with identifying, investigating, analyzing, designing, implementing, and/or installing cost-effective efficiency projects at facilities owned, operated, or controlled by the participating customer. Qualified expenses may include planning costs associated with development of an Energy Management Plan and costs for a customer's internal or external project design and engineering expenses associated with an eligible project. The specific details for qualified expenses will be developed for each ESA pilot program customer in its Energy Management Plan.

Further, we note that eligible projects under the ESA pilot program include those identified in Section 2(b)(3) of Act 150 such as electric energy efficiency, thermal-energy-and-process-fuel efficiency for unregulated fuels, energy productivity measures, demand management, and energy storage that provides benefits to the customer and its interconnecting utility. In addition, we note that eligible projects must meet the cost-effectiveness screening requirements identified in Section 2(c) of Act 150.

Evaluation, Measurement, and Verification

Participants' Comments

The Department stated that it agrees with the recommendation to use the societal cost-effectiveness screening test in the ESA pilot program. The Department noted that the tool itself is not necessarily intuitive in its application for all users. The Department suggested that track two not only establish a methodology for screening new measures, but also clarify whose responsibility it is to screen measures for cost-effectiveness. The Department maintained that if this responsibility rests with the customers, then the Commission should also consider whether there is a user-friendly mechanism that exists or can be created to facilitate screening.

WestRock requested that the Commission clarify what, if any, adjustments to the proposed cost-effectiveness screening tools need to be made to allow project selection based on the customer's energy portfolio. WestRock also asserted that the societal cost-effectiveness screening test is not appropriate for use in the ESA pilot program because the ESA pilot program should focus on maximizing efficiency returns for individual customers.

VGS requested clarification on how projects that use both natural gas and energy efficiency charge funds should be evaluated, measured, and verified. Specifically, VGS asked whether Efficiency Vermont will be handling the entire evaluation, measurement, and verification process for these specific projects or whether VGS will be responsible for its portion of the projects and savings.

GlobalFoundries and Omya noted that track two of the proceeding will define how energy productivity programs and measures will be determined under both the ESA pilot program and SMEEP. Omya further notes that track two will address items specific to the SMEEP, including determining whether energy savings projects should be submitted into the ISO-NE Forward Capacity Market and determining how SMEEP participants can use external non-participant funds toward their required annual monetary commitments. GlobalFoundries and Omya requested to be participants in any process or decisions used to create SMEEP measurement standards and that any decision with regard to SMEEP measurement standards take into consideration methodologies proposed by SMEEP customers and other participants in the process.

Discussion and Conclusions

We make no changes to the Hearing Officer's recommendation that the societal cost-effectiveness test be used to screen projects under the ESA pilot program. The societal cost-effectiveness screening test meets the requirements of Section 2(c) of Act 150, which requires that cost-effectiveness screening be consistent with the requirements of 30 V.S.A. § 218c. Further, the societal cost-effectiveness test is consistent with the existing EEU program where it is currently used to screen electric and thermal-and-process-fuel efficiency measures under the existing EEU program.

The societal cost-effectiveness test assesses the costs and benefits of a project to determine its net energy efficiency savings value. Under the test, the costs include the costs to purchase and install the energy efficiency project, and the benefits include the avoided cost of energy, capacity, distribution, and transmission. In addition, the benefit side of the test includes avoided environmental impacts, including greenhouse gas emissions and water use. Further, the test includes a non-energy benefit adder of 15 percent that accounts for additional non-energy benefits that cannot be explicitly monetized. Taken together, the societal cost-effectiveness test allows more projects to screen, relative to a simple participant cost-benefit test.

As identified by the Hearing Officer, track two of this proceeding will address the adaptation of the existing EEU cost-effectiveness screening tools to reflect for the requirements under Section 2(c) of Act 150 that cost-effectiveness screening accounts for energy savings across a customer's energy portfolio and non-energy benefits such as economic development. Given that the existing cost-effectiveness screening tools include a non-energy benefit adder, we anticipate that incorporating these additional benefits should not result in a large change to the framework of the existing cost-effectiveness screening tools.

Track two will also include the determination of cost-effectiveness screening for energy productivity measures as defined under Section 2(a)(9) of Act 150. These measures may be implemented by customers under SMEEP and the ESA pilot program. We expect that SMEEP and ESA pilot program customers will be participating in track two of the proceeding.

Our decisions in track two will occur after the selection of ESA pilot program customers. While we have tried to provide some general guidelines in today's order on cost-effectiveness screening under the ESA pilot program, we recognize that our decisions in track two may affect customers' choice of projects under the program. Customers selected into the ESA pilot program will have the opportunity to adapt their decisions on projects and participation in the ESA pilot program based on our decisions in track two.

With respect to VGS's concerns, we clarify that for customers who are VGS natural gas customers and will be implementing natural gas efficiency projects under the ESA pilot program, Efficiency Vermont, VGS, and the Department will be responsible for evaluation, measurement, and verification under the program. This shared responsibility recognizes that VGS will be claiming a portion of the project savings towards its performance goals.

With respect to the Department's concerns about the responsibility for screening measures for cost-effectiveness under the ESA pilot program, we expect that the customer will work with Efficiency Vermont and VGS to determine projects that screen under the program. Under this approach, Efficiency Vermont and VGS will only provide technical assistance to determine whether projects are cost-effective and the customer will be responsible for selecting projects that are implemented. Only projects that are cost-effective will be eligible for reimbursement under the program. This is consistent with existing EEU program implementation. In an effort to make the cost-effectiveness screening tools more user friendly, track two of this proceeding will also include the identification of mechanisms that facilitate the process for project screening.

Energy Management Plans

Participants' Comments

WestRock requested that the Commission outline in detail the role Efficiency Vermont will have in the development of the customer's Energy Management Plan. WestRock also asked whether Efficiency Vermont will have a role in deciding which customer projects will go forward under the ESA pilot program.

Discussion and Conclusions

We clarify that customers in the ESA pilot program will decide which projects will be implemented under the program. As discussed above, only projects that are cost-effective will be eligible for reimbursement under the program, and Efficiency Vermont and VGS will only provide technical assistance to determine whether projects are cost-effective. This is consistent with current EEU program practice, in which customers select their own energy efficiency projects to implement. This project selection process is also consistent with the Hearing Officer's recommendations regarding program design, under which customers will be given discretion to plan and manage projects and select their own vendors and contractors for project consulting and engineering.

Efficiency Vermont will provide technical assistance in the development of the Energy Management Plan. Section 2(e) of Act 150 requires that each customer selected for the ESA pilot program, working with Efficiency Vermont, "develop an energy management plan for the three-year period of the pilot with projects to be implemented, energy savings targets, and a timeline for projects and investments." As recommended by the Hearing Officer, we expect that customers will work with Efficiency Vermont and the Department to develop a budget estimate of technical assistance cost and evaluation, measurement, and verification costs (as identified in Section (b)(1) of Act 150). In addition, while Efficiency Vermont will not select customer projects, we expect that Efficiency Vermont will serve as a resource in helping customers to select projects that meet the cost-effectiveness requirements under the ESA pilot program (as identified in Section 2(c) of Act 150).

Program Accounting and Invoicing

Participants' Comments

The Department requested clarification on the invoice approval process. The Department recommended that the Commission require customers to file their monthly invoices for reimbursable expenses with Efficiency Vermont for Efficiency Vermont review and approval of the expenses, and that Efficiency Vermont then forward the approved expenses to the Department. As recommended by the Hearing Officer, the Department can then direct the Fiscal Agent to make payments to the customer. The Department contended that its recommended process will avoid duplication in review efforts.

Discussion and Conclusions

We accept the Department's recommendation with respect to the review process for the approval of expenses under the ESA pilot program. We agree that the recommended process will avoid duplication in review efforts. Therefore, customers will file their monthly invoices for reimbursable expenses with Efficiency Vermont for Efficiency Vermont review and approval. Because Efficiency Vermont is providing technical assistance to customers in the ESA pilot program, it is efficient for Efficiency Vermont to provide the detailed review of reimbursable expenses. Under the Order of Appointment structure of the EEU program, only the Commission and the Department may authorize the Fiscal Agent to make payments from the energy efficiency utility fund. Thus, Efficiency Vermont will forward the approved expenses to the Department, which can then direct the Fiscal Agent to make payments to the customer.

Customer Selection Criteria

Participants' Comments

The Department stated that it did not support the selection criteria recommended by the

Hearing Officer to prioritize customers implementing thermal energy projects. The Department maintained that a request for proposals that prioritizes thermal projects over others will encourage respondents to do just that in order to gain selection in the ESA pilot program. Instead, the Department recommended adding a criterion–diverse pool of project types. The Department contended that this criterion should ensure that at least some thermal projects are selected, but also that not only thermal projects are selected.

Discussion and Conclusions

We accept the Department's recommendation with respect to the customer selection criteria. Therefore, the selection criteria will include an additional category—diverse pool of project types. This additional category replaces the Hearing Officer's recommendation that priority be given to customers implementing thermal energy projects.

The addition of this selection criterion should result in the selection of at least one customer implementing thermal energy projects. Section 2(b)(3) of Act 150 enables a diversity of projects to be eligible under the ESA pilot program, including electric energy efficiency, thermal-energy-and-process-fuel efficiency for unregulated fuels, energy productivity measures, demand management, and energy storage that provides benefits to the customer and its interconnecting utility. The selection criteria, including the category requiring a diverse pool of project types, should result in the request for proposals process selecting a diverse group of customers and projects as identified in Section 2(b)(3). The criteria will also enable the selection committee to identify customers that would have opportunities to benefit from participation in the ESA pilot program while serving as examples and case studies to inform the Commission's evaluation and recommendations for the future of the program as required by Section 2(j)(3) of Act 150.

VI. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Utility Commission ("Commission") of the State of Vermont that the conclusions and recommendations of the Hearing Officer are adopted with the modifications discussed above.

Dated at Montpelier, Vermont this 16th day of May, 2019

Anthony Z. Roisman	)	PUBLIC UTILITY
Margaret Cheney	)	COMMISSION
Sarah Hofmann	)	OF VERMONT

OFFICE OF THE CLERK

Filed: May 16, 2019

Attest: Judith C. Whitney
Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Commission within 30 days. Appeal will not stay the effect of this Order, absent further order by this Commission or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Commission within 28 days of the date of this decision and Order.

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