

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 8455

Overall Performance Assessment of Vermont Energy)
Investment Corporation as an energy efficiency utility in)
the State of Vermont)

Order entered: 2/12/2016

**ORDER RE: ORDER OF APPOINTMENT FOR VERMONT ENERGY INVESTMENT CORPORATION
AND PROCESS AND ADMINISTRATION DOCUMENT**

I. INTRODUCTION

The Vermont Public Service Board (“Board”) concluded in its October 16, 2015, Order¹ in this proceeding that it would grant an Order of Appointment to Vermont Energy Investment Corporation (“VEIC”) to serve as the statewide Energy Efficiency Utility (“EEU”) known as Efficiency Vermont.² The Board directed me to conduct further proceedings related to the development of a recommended Order of Appointment and related documents.

In this Proposal for Decision, I recommend that the Board issue the attached Order of Appointment to VEIC and the attached document entitled *Process and Administration of an Energy Efficiency Utility Order of Appointment* (“P&A Document”). These documents are similar, although not identical, to those filed by VEIC on December 14, 2015.

II. PROCEDURAL HISTORY

In the October 16th Order, the Board concluded that it would grant an Order of Appointment to VEIC for a new term of eleven years starting on January 1, 2016, to serve as the statewide electric and thermal and process fuels (“TEPF”) EEU, known as Efficiency Vermont, in all electric service territories except that of the City of Burlington Electric Department (“BED”). The Board appointed me to conduct additional proceedings to address the specific

1. *Order Re Overall Performance Assessment of Vermont Energy Investment Corporation as an Energy Efficiency Utility and Notice of Workshop*, Docket 8455, Order of 10/16/15 (“October 16th Order”).

2. VEIC is currently serving as the statewide EEU under an Order of Appointment. Docket 7466, Order of 12/10/10.

terms of an Order of Appointment and any corresponding changes to the P&A Document.³ In addition, the Board directed me to conduct additional proceedings regarding the memorandum of understanding (“MOU”) between VEIC and the Vermont Public Power Supply Authority (“VPPSA”) filed on August 7, 2015.⁴

On November 17, 2015, VEIC filed recommendations for an Order of Appointment document and corresponding revisions to the P&A Document.

On November 17, 2015, I conducted a workshop to discuss parties’ recommendations for the form of the Order of Appointment and any corresponding changes to the P&A document.

In a November 24, 2015, memorandum, I requested that the parties and the Vermont electric distribution utilities (none of whom were parties to this docket)⁵ provide comments on issues identified in the workshop regarding the compensation of distributed utility planning costs and the guidelines for customer-sited generation. I also proposed specific language changes to four sections of VEIC’s proposed Order of Appointment document and asked for comments on those changes.

On December 4, 2015, VEIC filed a second proposed Order of Appointment and a second updated P&A Document based on workshop discussions and incorporating the Hearing Officer’s proposed language changes.

On December 4, 2015, the Department filed a letter indicating that the Department and VEIC were continuing to work collaboratively to develop consensus documents.

On December 4, 2015, Green Mountain Power Corporation (“GMP”) filed comments addressing the compensation of distributed utility planning costs and the guidelines for customer-sited generation.

3. The Board approved the most recent version of the P&A Document in Docket 7676, Order of 4/17/15.

4. I am admitting into the evidentiary record of this proceeding this document as exhibit MOU-1. Any party objecting to its admission must file its objection and the reasons therefor within the time period allowed for a motion for reconsideration. The MOU is contained in an attachment to this Order.

5. The parties in this docket were VEIC, the Vermont Department of Public Service (“Department”), Associated Industries of Vermont, and VPPSA.

On December 14, 2015, VEIC filed a final proposed Order of Appointment and a final revised P&A Document.⁶ VEIC represented that these documents were consensus forms agreed to by VEIC and the Department.

On December 17, 2015, the Board approved modifications to the process for transferring funds among eligible EEU budget categories.⁷ The approved modifications required an amendment to VEIC's Order of Appointment. The December 17th Order required that any amendments needed to VEIC's Order of Appointment be made in this docket.

III. FINDINGS

Pursuant to 30 V.S.A. § 8(c), and based on the record and evidence before me, I present the following findings of fact and conclusions of law to the Board.

A. Proposed Order of Appointment

1. The proposed Order of Appointment was developed by amending VEIC's Order of Appointment issued on December 10, 2010, to reflect lessons learned, changes to programs, and new policy initiatives. Exh. VEIC-2.

2. The proposed Order of Appointment sets forth the terms of VEIC's appointment as an EEU, including the effective date, the length of the appointment, VEIC's responsibilities as an EEU, and the terms governing VEIC's compensation. Exh. VEIC-2 at 3-13.

3. Under the proposed Order of Appointment, VEIC has responsibility for providing services and initiatives that address cost-effective opportunities associated with electric and thermal-energy-and-process-fuels ("TEPF") efficiency. Exh. VEIC-2 at 3-9.

4. Under the proposed Order of Appointment, VEIC's performance compensation will be paid based on attainment of quantifiable performance indicator ("QPI") targets established by the Board. Exh. VEIC-2 at 10-13.

6. I am admitting into the evidentiary record of this proceeding these documents as exhibits VEIC-2 and VEIC-3. Any party opposed to their admission must file its objection and the reasons therefor within the time period allowed for a motion for reconsideration.

7. *Order Re: Process to Amend EEU Orders of Appointment*, EEU-2015-01, Order of 12/17/15 ("December 17th Order").

5. The proposed Order of Appointment includes guidelines for customer-sited generation (“CSG”), including combined-heat-and-power (“CHP”) projects, that VEIC must follow when responding to lost-opportunity, customer-initiated, or vendor-initiated projects where CSG is being considered. Exh. VEIC-2 at 18-19.

6. The proposed Order of Appointment includes guidelines for VEIC's responsibilities regarding demand response. Exh. VEIC-2 at 20.

Parties' Positions

VEIC filed a proposed Order of Appointment representing a consensus form agreed upon by the Department and VEIC. The proposed Order of Appointment was developed by amending VEIC's existing Order of Appointment to reflect program changes, lessons learned, and new policy initiatives. The amendments also include changes in terminology and clarifications to existing language.

With regard to changes in terminology, VEIC is proposing two amendments. First, the term “heating and process fuels” is changed to thermal energy and process fuels (“TEPF”), consistent with changes made to this terminology in 30 V.S.A. § 209. Second, VEIC is proposing to change the term non-resource acquisition (“NRA”) to development and support services (“DSS”). VEIC contends that the use of DSS better describes the purpose of NRA activities and the role they play in efficiency efforts.

With regard to program changes, the proposed Order of Appointment removes the requirements associated with the transition period. Under the terms of VEIC's Order of Appointment issued in 2010, the appointment included a transition period between the date of the appointment and January 1, 2012. During the transition period, VEIC's budgets, performance requirements, potential performance award, and operations fees reflected those in affect under the contract between the Board and VEIC at the time of the appointment.

The proposed Order of Appointment also amends the requirements for VEIC's participation in the Forward Capacity Market (“FCM”) administered by ISO New England, Inc. (“ISO-NE”) contained in Section II: Responsibilities. The proposed amendments address ISO-NE operational changes to the FCM that effect VEIC's participation and the recovery of costs.

With regard to lessons learned, VEIC is proposing two amendments to Section III: Compensation of the existing Order of Appointment. One amendment provides that VEIC's performance goals include a requirement addressing performance-period spending. This performance requirement recognizes that the Board has established a performance requirement addressing spending for both the 2012-2014 and 2015-2017 performance periods.

The second amendment under the compensation section adds provisions to establish a rate for services provided by VEIC when a Vermont distribution utility requests VEIC to assist in its Distributed Utility Planning ("DUP") processes. The provisions allow VEIC to be compensated for the actual incurred costs plus operations and/or performance fees. VEIC contends that the proposed added language confirms the existing practice employed when such services are requested by a distribution utility. VEIC maintains that the proposed language will allow distribution utilities to understand the terms for delivery of the requested services and will result in the delivery of such services at a reasonable rate that is fair to the requesting utility. GMP, the only distribution utility providing comment on this issue, indicates that it supports a cost-plus-overhead rate that is consistent with how the EEU's currently invoice services to the EEU Fiscal Agent.

With regard to new policy initiatives, the proposed Order of Appointment includes three significant additions to VEIC's responsibilities as an EEU. The first addition to VEIC's responsibilities requires VEIC to coordinate with the natural gas EEU⁸ in the development, implementation, and monitoring of energy efficiency services. The second addition allows VEIC to work with distribution utilities to evaluate dynamic pricing and rate designs enabled through advanced metering infrastructure ("AMI") to determine their impact on EEU services and to develop complementary programs and services to further facilitate customer energy management. The third addition allows VEIC to collaborate with distribution utilities to design and implement energy transformation projects that are applicable under the Renewable Energy Standard ("RES") established pursuant to 30 V.S.A. §§ 8004 and 8005.

8. The Board has appointed Vermont Gas Systems, Inc. to provide natural gas EEU services within its service territory. Docket 7676, Order of 4/17/15.

VEIC's proposed changes to the guidelines for CHP projects (Appendix A of the proposed Order of Appointment) reflect both lessons learned and new policy initiatives. VEIC proposes to amend the existing CHP guidelines to provide assistance, general information, and financing for renewable CSG along with services already provided for CHP projects. The proposed amended guidelines reflect VEIC's new participation in the Energy Efficiency Loan Program sponsored by the United States Department of Agriculture Rural Utilities Service ("RUS").⁹ The proposed guidelines also have been amended to be consistent with the definitions for a CHP project used in 30 V.S.A. §§ 219a(a)(6)(D)(ii) (net metering) and 8015(b)(2) (Vermont Clean Energy Development Fund). In addition, the proposed guidelines are amended to include technology-specific performance criteria for CHP projects. VEIC and the Department note that these guidelines may require future updates for Board approval following the full implementation of the RES program. GMP supports the proposed changes to the CHP guidelines.

Discussion

The proposed Order of Appointment amends the existing Order of Appointment and builds on the existing administrative framework established by the Board in 2010. The proposed document incorporates the lessons learned by VEIC and the Department in the administration of VEIC's Order of Appointment. The proposed document appropriately incorporates program changes that have occurred since 2010. In addition, the proposed document appropriately addresses new policy initiatives, including the establishment of an Energy Efficiency Loan Program and the implementation of the RES program. The proposed Order of Appointment provides a comprehensive administrative framework for VEIC to serve as the statewide EEU for the next eleven-year term. I recommend that the Board adopt the proposed amendments for inclusion in the issued Order of Appointment.

Further, I recommend that the proposed Order of Appointment be amended to reflect the Board-approved modifications to the process for transferring funds among eligible DSS budget categories contained in the December 17th Order. VEIC and the Department agree that the Order

9. See *Order Approving Stipulation*, Docket 8486, Order of 11/9/15.

of Appointment should include the Board-approved modifications addressing the transfers of DSS funds, and the proposed Order of Appointment contained placeholder language in anticipation of the December 17th Order.

I recommend that the Board adopt editorial changes I have made to the proposed Order of Appointment. These editorial changes include minor language clarifications and non-substantive typographical and punctuation changes. I also recommend that the proposed Order of Appointment be changed to move the two Appendices into new sections in the body of the document. Accordingly, the Order of Appointment would contain a section addressing the guidelines for CSG and a section addressing the guidelines for demand response.

Finally, I recommend that the Board issue the Order of Appointment contained in the attachment to this Order. The Order of Appointment includes the amendments proposed by VEIC and the Department, amendments addressing the transfer of funds among eligible DSS budget categories, and the additional editorial changes proposed by the Hearing Officer.

B. Process and Administration Document

7. The existing P&A Document, issued on April 17, 2015, was revised to reflect the corresponding amendments to VEIC's existing Order of Appointment. Exh. VEIC-3, *generally*.

8. The P&A Document is a comprehensive document that describes the entire EEU program structure. It sets forth the procedural and administrative framework for all EEU Orders of Appointment. Exh. VEIC-3 at 3.

9. The P&A Document is intended to be a "living document" that would be revised in the future if the Board made further changes to the EEU program. The P&A Document provides that it could be amended by the Board as appropriate after due notice. Exh. VEIC-3 at 3.

10. The P&A Document describes:

- the Order of Appointment legal mechanism, the Energy Efficiency Charge ("EEC") and other funding sources, and the role of the EEU Fiscal Agent;
- the content of the Demand Resources Plan ("DRP") and the process to be used to develop the DRP;
- ongoing EEU monitoring, savings verification, and evaluation activities, including the statutorily required independent third-party audit;

- the processes for evaluating an EEU's performance, conducting a competitive solicitation for a new EEU, and re-issuing, modifying, revoking or terminating an EEU's appointment;
- compensation and payment terms and processes;
- various administrative matters with which an EEU must comply; and
- an EEU's reporting requirements.

Exh. VEIC-3, *generally*.

Parties' Positions

VEIC filed a revised P&A Document to reflect the corresponding amendments to its proposed Order of Appointment. The revised P&A Document also includes several language clarifications to allow the P&A Document to more accurately reflect the current EEU program administration. The revised P&A Document represents a consensus form agreed upon by the Department and VEIC.

VEIC and the Department propose that the P&A Document be revised to reflect three new policy initiatives. The first revision changes Section II.1.A(f) to allow EEU budgets determined in the DRP process to include funds for the Statewide Information Clearinghouse established pursuant to 30 V.S.A. § 209(g)(2). The second revision changes Section V.10.B to reflect that VEIC shall coordinate with RUS in recognition of VEIC's new participation in the Energy Efficiency Loan Program sponsored by RUS. The third revision changes Section V.10.B and Section V.10.D to reflect that VEIC may collaborate with distribution utilities to design and implement energy transformation projects that are applicable under RES. The existing P&A Document already reflected VEIC's coordination with the natural gas EEU.

In addition, consistent with the changes in terminology in the proposed Order of Appointment, VEIC is proposing to change the term NRA to DSS. The existing P&A Document already included the use of the term TEPF.

With regard to language clarifications, VEIC and the Department are proposing four significant revisions to the existing P&A Document. The first revision clarifies Section I.1.G by defining the term "management audit" and identifies that the results of such audit will be provided to an EEU. The second revision clarifies Section II.1.D by adding two activities that

the Department currently undertakes in the DRP process, conducting efficiency potential studies and rate and bill analysis. The third revision clarifies Section II.1.G(c) by identifying the criteria under which an EEU's QPI targets can be adjusted. The fourth revision clarifies Section IV.3.G by more accurately defining the incremental costs of an EEU's participation in the FCM. VEIC and the Department also proposed some minor language clarifications throughout the P&A Document.

Discussion

VEIC and the Department propose revisions to the existing P&A Document to reflect the corresponding amendments to the proposed Order of Appointment. The proposed revisions are consistent with VEIC's responsibilities under its Order of Appointment and are consistent with the procedural and administrative framework established by the P&A Document. In addition, the language clarifications proposed by VEIC and the Department allow the P&A Document to more accurately reflect the current EEU program administration. All the proposed revisions recognize that the P&A Document is a "living document" intended to reflect all Board decisions regarding the EEU program. Accordingly, I recommend that the Board adopt the proposed revisions for inclusion in a new issue of the P&A Document.

I recommend that the Board adopt editorial changes I have made to the revised P&A Document. These editorial changes include minor language clarifications and non-substantive typographical and punctuation changes.

Finally, I recommend that the Board issue the revised P&A Document contained in the attachment to this Order. The revised P&A Document includes the revisions proposed by VEIC and the Department and the additional editorial changes proposed by the Hearing Officer.

C. MOU Between VEIC and VPPSA

11. The structure of the relationships among VPPSA, VEIC, and VPPSA's member utilities makes it vital that there be regular and effective communication and coordination among the respective organizations in order to maximize efficiency measures as well as load forecasting and

power-supply procurements for the benefit of ratepayers of VPPSA's member systems. Exh. MOU-1 at 1.

12. Regular and effective communications will help ensure that ratepayers of VPPSA's member systems receive the benefits of efficiency charges paid to VEIC to the fullest extent consistent with state energy goals and mandates. Exh. MOU-1 at 1.

13. Formal embodiment of practices and protocols relative to VPPSA's and VEIC's working relationship will also assist VPPSA, VEIC, and VPPSA's member systems in assessing and meeting the challenges inherent in reconciling a sales-revenue-based utility regulatory model while striving to achieve the statutorily mandated acquisition of all cost-effective energy efficiency, and in evaluating prospective modifications to that model. Exh. MOU-1 at 1.

14. Pursuant to the MOU, VPPSA and VEIC will establish and maintain a working group consisting of no fewer than three individuals, including at least one senior officer or executive from each entity, for the purposes of collaboration and coordination surrounding the issues set forth in the recitals above, and such other issues as the parties deem it appropriate to explore. The working group will meet in person not less than three times per year, and each party will make the results of the working group's efforts known to its employees and staff in such manner as will facilitate progress toward the goals and objectives of the working group. Exh. MOU-1 at 2.

15. Pursuant to the MOU, VPPSA and VEIC will continue their current efforts to ensure that VPPSA and its member systems are aware of efficiency measures being undertaken by consumers within the service territories of the member systems. VPPSA and VEIC will continue to cooperate to ensure timely exchange of data and other pertinent information in this regard. Exh. MOU-1 at 2.

16. VPPSA and VEIC recognize that the nature of the electric grid, and the nature of the services provided by both electric utilities and efficiency providers, may evolve in ways that cannot currently be foreseen. Pursuant to the MOU and subject to the adjustments needed to accommodate these changes, VPPSA and VEIC will have primary and shared responsibilities in the course of their collaborative efforts. Exh. MOU-1 at 2.

17. Pursuant to the MOU, VPPSA and its member systems are responsible for the following: (a) traditional electric service; (b) establishment of electric rates and rate design and pricing; (c) net metering services; (d) utility-scale distributed generation and other utility-scale generation; and (e) other services, including those that may be provided through the establishment of direct utility control/dispatch of consumer energy technologies and services. Exh. MOU-1 at 2.

18. Pursuant to the MOU, VEIC is responsible for the following: (a) comprehensive approaches to reducing customer energy requirements through conservation and efficiency, including energy efficiency, transportation, biomass heating, and renewable energy; (b) consumer outreach, education, and awareness regarding conservation and efficiency, including support for energy codes and standards, and energy efficiency auditing and counseling; (c) partnerships with trade allies to improve market capability and infrastructure; (d) energy efficiency potential studies and demand resources planning; (e) support for and implementation of innovative financing strategies, including financing for under-served markets; (f) rebate and incentive programs; (g) services aimed at ensuring cost-effective acquisition of demand-side resources, as well as reduction of fossil-fuel usage; and (h) the provision of TEPF and electric energy efficiency utility services throughout Vermont, consistent with Efficiency Vermont's regulatory obligations. Exh. MOU-1 at 2.

19. Pursuant to the MOU, VPPSA and VEIC will coordinate and collaborate on identifying, assessing, and deploying cost-effective electric technologies, energy storage, and load management measures and on the provision and promotion of data and analytics services to their shared customers in VPPSA's member utility service territories. At any point based on the needs of customers and the opportunities available, VPPSA and VEIC may through mutual agreement assign lead status to the other party. Exh. MOU-1 at 3.

20. VEIC and VPPSA member systems will work together to anticipate and evaluate the individual and cumulative effects of efficiency load reductions on consumer rates and will mitigate those impacts to the extent possible. Exh. MOU-1 at 3.

21. VPPSA and VEIC will collaborate to advance the energy policy of Vermont in a way that maximizes benefits for Vermont energy customers and minimizes the negative

environmental and economic impacts of energy use across all fuels. The MOU is intended to outline a flexible framework for the relationship, roles, and structure under which VPPSA and VEIC will advance an effort to optimize efficient energy use across all fuels in Vermont. Exh. MOU-1 at 3.

22. VPPSA and VEIC will collaboratively direct and coordinate their collective resources to create a new paradigm of low-cost, low-carbon energy use that benefits all of Vermont's customer classes and segments by helping customers to reduce the economic and environmental impacts and improve the reliability, stability, and load factor of their energy use across all fuels. These efforts will deliver measurable progress towards achieving Vermont's energy goals. Exh. MOU-1 at 3.

Parties' Positions

VPPSA and VEIC filed an MOU providing for regular and effective communication and coordination among VEIC, VPPSA, and VPPSA's members. The MOU establishes a working group to meet on a regular basis to facilitate collaboration and coordination. VPPSA and VEIC request that the Board's decision regarding VEIC's Order of Appointment include approval for the MOU reached by and between VEIC and VPPSA.

Discussion

The MOU provides a framework for regular and effective coordination among VEIC, VPPSA, and VPPSA's members.¹⁰ The MOU is consistent with the responsibilities identified in VEIC's Order of Appointment and consistent with the EEU procedural and administrative framework established in the P&A Document. Accordingly, I recommend that the Board approve the terms of the MOU, as specified in Findings 11 through 22.

10. The MOU has been signed by VEIC, and not Efficiency Vermont, which VEIC operates subject to the terms of its Order of Appointment.

IV. CONCLUSION

In this Proposal for Decision, I recommend that the Board issue the attached Order of Appointment to VEIC and the attached revised P&A Document. I also recommend the Board approve the terms of the MOU between VEIC and VPPSA.

The parties have not waived their rights under 3 V.S.A. § 811 to review and comment upon a Proposal for Decision, or to present oral argument. However, the attached Order of Appointment and P&A Document are consistent with consensus documents filed by VEIC and the Department, except for amendments addressing the transfer of funds among eligible DSS budget categories. No other parties in this docket filed comments or voiced objections to the consensus documents. In addition, the December 17th Order required that any amendments regarding the transfer of funds to VEIC's Order of Appointment be made in this docket, and the parties in this docket were aware of this requirement. Given the consistency with the consensus documents and the requirement in the December 17th Order and because the proposed decision is not adverse to any party, I am not circulating this Proposal for Decision to the parties for review and comment.

Dated at Montpelier, Vermont, this 12th day of February, 2016.

s/Mary Jo Krolewski

Mary Jo Krolewski
Hearing Officer

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board ("Board") of the State of Vermont that:

1. The findings and conclusions of the Hearing Officer are adopted.
2. The attached Order of Appointment shall be issued to Vermont Energy Investment Corporation ("VEIC"). The term of the Appointment shall be from the date of this Order through December 31, 2026.
3. The attached document titled *Process and Administration of an Energy Efficiency Utility Order of Appointment*, which has been modified to be consistent with this Order, is approved.
4. The terms of the memorandum of understanding between the Vermont Public Power Supply Authority and VEIC, as contained herein and attached to this Order, are approved.

Dated at Montpelier, Vermont, this 12th day of February, 2016.

s/James Volz)	PUBLIC SERVICE
)	
)	
s/Margaret Cheney)	BOARD
)	
)	OF VERMONT
s/Sarah Hofmann)	

OFFICE OF THE CLERK

FILED: February 12, 2016

ATTEST: s/Judith C. Whitney
Acting 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@vermont.gov)

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.