Attachment A
Energy Savings Account
Order of 12/22/09

ENERGY SAVINGS ACCOUNT OPTION FOR CUSTOMER SELF-ADMINISTRATION OF ENERGY EFFICIENCY

Revised Proposal of November 30, 2009, modified by the Board

Introduction:

The Energy Savings Account (ESA) program recognizes that certain large business customers already may be committed to, and possess considerable expertise regarding energy efficiency. The ESA allows eligible business customers the option to self-administer their own energy efficiency efforts instead of participating in the statewide services and initiatives provided by the State's Energy Efficiency Utilities (EEUs).

Eligibility:

Customers are eligible for the ESA option if they have made payments to the Energy Efficiency Charge (EEC) of at least $5,000 in the 12 months preceding the customer's request to participate.

1. A single business (a single legal entity) with more than one electric account may combine the EEC amounts paid on multiple accounts to determine this eligibility.
2. Alternatively, a business may be deemed eligible if the preceding three-year average EEC amount paid preceding the customer's application is equal to or greater than $5,000.
3. A customer in a new building may be deemed eligible to participate if by mutual agreement of the Department of Public Service (DPS or Department) and the Energy Efficiency Utility the projected EEC payment will be equal to or greater than $5,000.

Program Design:

Customers that are approved by the Public Service Board ("Board") to self-administer energy efficiency projects using an ESA will be able to use funds collected through EEC payments for "Qualified Expenses" associated with energy efficiency projects provided that total "Qualified Expenses" in any period does not exceed 100% of "Available Funds" as defined below.

1. For **market-driven** projects, "Qualified Expenses" are defined as one hundred percent (100%) of the **incremental** costs associated with identifying, investigating, analyzing, designing, implementing, and/or installing societally cost-effective electric efficiency projects at facilities owned, operated, or controlled by the customer and where the ESA is in effect. These costs may include the customer's internal design and engineering labor, outside design, engineering and installation labor and equipment costs. However, costs other than actual incremental material and installation labor costs shall only be treated as "Qualified Expenses" for amounts up to 25% of the total project costs.

   For market-driven projects, incremental costs are defined as the difference between the actual cost of the equipment, installation labor, engineering, design, and commissioning and the cost of the equipment, installation labor, engineering, design, and commissioning that would meet the current design and construction standard practice (the "baseline cost").

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

3. For either a market-driven or a retrofit project, "Qualified Expenses" will be capped at the net present value of the project's electric avoided costs benefits, computed using the Public Service Board approved avoided costs and discount rates for such analysis as used for all EEU cost-effectiveness screening.

4. Consistent with current EEU practice, participants may choose to undertake projects in phases. Each element of a phased project must meet the requirements for project completion as defined in "Program Implementation", part 10, in order to qualify for reimbursement.

5. The final determination of whether the project represents a "market-driven" or "retrofit" project, the electric avoided cost benefits, assumptions regarding baseline design and construction standard practice, and the amount needed to result in an 18-month payback on retrofit projects shall be determined by the EEU that serves the customer, in consultation with the customer. In the event of a dispute between the customer and the EEU, the dispute resolution process identified below will be followed.

   Any party may propose to the Public Service Board a method of third-party certification of the above-described project elements if that method appears likely to provide benefits to ratepayers. The Public Service Board, after opportunity for comment, shall determine if any changes are warranted.

6. Customer projects that have received incentive payments from an EEU prior to the initiation of a customer's ESA shall not be projects that are eligible for reimbursement as a qualified expense.

   Projects that have received technical assistance prior to the initiation of a customer's ESA will remain eligible for reimbursement as a qualified expense, however the technical assistance costs incurred by any third-party contractor through an EEU shall be factored into cost-effective analysis as appropriate.

7. All customers completing projects through the ESA option must achieve an average net present value of electric benefits per dollar of "Available Funds" used that is greater than or equal to that of the analogous EEU initiative for the most recent rolling three-year average.[1] Failure to achieve this standard will be cause to discontinue customer's participation in the ESA option. Multiple projects may be aggregated within a three-year participation period in order to meet the net present value threshold. For these purposes, the EEU's average net present value of electric benefits per dollar of "Available Funds" used will be determined by the Department.

8. Upon receipt of a customer's request to self-administer through the ESA option, the customer's premises and accounts associated with the ESA will not be eligible for EEU electric efficiency incentives, technical assistance, products, or service offerings. The customer shall remain eligible for EEU incentives, technical assistance, products or service offerings for Unregulated Fuels that are funded through Forward Capacity Market and/or Regional Greenhouse Gas Initiative revenues.

[1] For example, projects completed by a customer in an existing building outside of Burlington Electric Department's service territory must achieve a net present value of electric benefits per dollar of "Available Funds" used that is greater than or equal to Efficiency Vermont's Business Existing Facilities initiative.

Available Funds:

"Available Funds" to a customer participating in an ESA are defined as seventy percent (70%) of the EEC that the customer has paid since its ESA start date, or is projected to pay to its distribution utility through the EEC, for a three-year maximum period, net of taxes.[2]

1. Available Funds, upon enrollment, shall include funds from the current calendar year and the next two calendar years.

2. Available Funds may include those from the preceding calendar year, the current calendar year, and the next calendar year, however, no funds will be available from prior to enrollment.

3. For purposes of ESA future "Available Funds" estimates, a customer's future energy and demand consumption (kWh and kW) will be assumed to be equal to that of the latest full calendar year, unless the customer and the EEU mutually agree on a different projection. For new construction projects or major renovations that qualify as new construction projects, projected energy and demand consumption will be determined by mutual agreement between the customer and the EEU. Disputes shall be settled by the dispute resolution processes outlined below.

4. If a customer participating in the ESA option does not use Available Funds within twenty-four months of the date they have been allocated into the customer's ESA, those funds shall be forfeited by the customer and they shall be available for use by the EEU for other purposes authorized by the Board.
    a. Under extraordinary circumstances beyond the control of the participant, a customer may apply for a waiver from the Board to extend the time period before which Available Funds will be forfeited. The request shall:
        i. Be made as soon as extraordinary circumstances become known to the participant and at least 45 days prior to any forfeiture of Available Funds,
        ii. Describe the extraordinary circumstances that will prevent the participant from using the Available Funds,
        iii. Describe other future projects planned under the ESA option.
    b. The Board will solicit comments from the Department and the EEU before making a determination.
    c. The Board will notify the participant, the Department, and the EEU whether the request was granted.
    d. In making its determination, the Board shall take into account whether approval of a waiver request would impact the ability of an EEU to achieve its

[2] The EEC includes a one percent tax comprised of the gross revenue tax (30 V.S.A. § 22) and the fuel gross receipts, or "weatherization", tax (30 V.S.A. § 2503). Thus, the maximum that a customer may receive is 70% of 99% of its total monthly contribution to the EEC, or 69.3% of that contribution.

performance goals. An EEU shall not be adversely affected in regard to its performance goals by an approved waiver.

   e. Any disputes shall be settled by the dispute resolution processes outlined below.

5. Following the successful completion and verification of at least four (4) projects and at least two (2) three-year ESA periods, a customer may apply to the Board to increase the percentage of the EEC that may be considered Available Funds. In reviewing any such application, the Board shall consider the customer's completed ESA projects, the EEU and DPS costs associated with the customer's ESA participation, and other information as it deems prudent.

Program Implementation:

The process by which customers may choose to self-administer energy efficiency through the Energy Savings Account option is defined below:

1. Eligible customers who desire to participate in the ESA option must submit a written request to the Public Service Board, DPS, and the EEU. This request may be made at any time. Failure to submit such a request will preclude the customer from receiving ESA funds. In its written request, the customer must:
   a. Provide documentation of the EEC paid that demonstrates eligibility for the ESA option.
   b. Identify the premises and electric utility accounts that will be subject of the ESA.
   c. Describe the general strategy for acquiring energy efficiency resources in the customer's facility or facilities.
   d. Agree to the policies and procedures of the ESA option as specified herein and in any other PSB Order or Rule.

2. A customer must renew its demonstration of compliance with eligibility criteria every three years.

3. Within 60 days of receipt of a customer's written request to utilize the ESA option, the Department will verify that the customer meets the eligibility criteria and recommend to the Public Service Board to certify a start date as appropriate. The Public Service Board shall inform the customer, the affected EEU, the DPS, the customer's Distribution Utility, and the Fiscal Agent of the start date if the application is approved.

4. Following receipt of written request and certification of eligibility the start date determined by the Public Service Board shall be the first customer bill on or after either the beginning of the 2nd calendar quarter (April 1st) or the 4th calendar quarter (October 1st), whichever is first.

5. ESA participants will continue to pay 100% of the billed EEC, with ESA Amounts ("Available Funds") held by the Fiscal Agent and accounted for separately.
    a. The customer must provide monthly documentation of its EEC to the EEU, and the Department.
    b. Distribution Utilities shall provide the EEU and Department with confirmation of customer bills and payment.

6. At any time following proper notification to the EEU of its intent to participate in the ESA option, a customer may submit a description of a cost-effective energy efficiency project to the EEU, including all necessary data needed to review assumptions and estimates including, but not limited to: work papers, drawings, contractor estimates, operating data, and equipment specifications. The project description shall include a statement of whether the project is market-driven or retrofit, a list of Qualified Expenses associated with the project along with supported documentation, an estimate of energy and non-energy savings associated with the project, the projects' expected lifetime, and a description of the "baseline" if a market-driven project.

7. All efficiency measures under the ESA option must pass the same cost-effectiveness screening requirements set by the Public Service Board for the EEU and Vermont utilities.

8. The EEU will review the project information submitted by customers and screen projects for societal cost-effectiveness using the statewide screening tool and avoided costs, and notify the customer in writing within 60 days if: the project meets the cost-effectiveness screening criteria and is an eligible project; the EEU needs additional data to screen or review the project; the EEU agrees or disagrees with any or all of the customer's assumptions and estimates; the EEU needs additional time to review the submission; and the amount of Qualified Expenses. The EEU may request additional information on projects as may be reasonably required to (a) carry out assessment of cost-effectiveness, and (b) report on costs and savings of proposed projects.

9. In the event that any disagreements arise between the EEU and the customer, parties will work in good faith to resolve the disagreements. If the customer disputes an EEU determination, the dispute resolution process involving the Department and the Board, stated below, will be employed.

10. Once an approved project installation is complete:
    a. The customer shall notify the EEU of completion.

b. The EEU may inspect to assure that the project has been installed as specified.
c. The customer shall provide the EEU with dated, project-specific cost documentation. Lack of such documentation from the customer may result in denial of reimbursement for those costs.
d. Based on review of final installation and cost information, the EEU will inform the Board and the DPS that the EEU Fiscal Agent may be authorized to release the funds associated with the Qualified Expenses of the project. Funds shall be released from the Available Funds in the customer's ESA held by the Fiscal Agent.

11. Reimbursement to the customer will be in an amount not to exceed that which is currently available in the customer's ESA. If the ESA balance is less than Qualified Expenses at the time of reimbursement, the customer may receive a monthly credit that will be issued by the Fiscal Agent as ESA funds become available, up to the amount allowed for the project. 1The monthly credit would be applied only up to the amount of the customer's Available Funds for the three-year period.

12. Any interest earned on ESA funds will remain in the Electric Efficiency Fund and be available for use as determined by the Board.

13. The EEU and the ESA program participant must document projects, to the extent possible, following the guidance by the Department of Public Service for purposes of project savings verification.

14. The EEU will report, in a format agreed upon by the DPS and the EEU, all costs incurred and savings achieved by the ESA projects.

Dispute Resolution Procedures:

1. In the event the customer disputes any EEU determination, the customer may make an appeal to the Department, who shall seek to resolve the complaint through negotiation. If no such resolution occurs within thirty (30) days, the Department shall refer the complaint to the Public Service Board.

2. In the event the customer disputes any DPS determination, the customer may make an appeal directly to the Public Service Board. The Department and the customer shall seek to resolve any differences through negotiation.

Program Discontinuation:

The following provides guidance on termination of customer participation in the ESA program.

1. Once a customer is enrolled under the ESA option, the customer will continue to be enrolled until customer notifies, in writing, the Public Service Board, the Department of Public Service, and the EEU of its desire to discontinue participation.

2. The Department may recommend to the Public Service Board that a customer's ESA be discontinued if:
   a. A customer does not meet the eligibility criteria upon renewal request.
   b. A customer has forfeited any Available Funds.
   c. A customer should no longer participate in the ESA program for cause.

3. A recommendation from the Department to discontinue a customer's ESA may be appealed by the customer to the Board.

4. In case of termination of customer participation in the ESA program, any unspent "Available Funds", as determined by the DPS and approved by the Board, would then return to the EEU fund for general use. If a customer had used forecasted "Available Funds" for a project, termination would occur following the satisfaction of project obligations.

Customer Confidentiality:

For program administration purposes, the Board will not consider the names of ESA participants to be confidential.

The EEU and the DPS will be obligated to maintain customer confidentiality under the same terms as are established for customer information provided by distribution utilities to the EEU. At the request of a customer, the EEU may execute a separate confidentiality agreement, upon terms mutually acceptable to the customer and the EEU, covering any aspect of a proposal submitted to the EEU for which the customer seeks special confidentiality treatment.

DPS Verification:

Customers choosing to self-administer through an ESA will be required to agree to allow the Department of Public Service and/or its consultants, subject to appropriate confidentiality agreements, the right to review all project data, and to perform onsite inspections and/or metering, as necessary, to verify measure installation and performance, operating parameters, and cost documentation.

Energy & Capacity Savings:

1. For the 2009-2011 EEU performance period, results (annualized energy savings, summer and winter coincident peak reductions, Total Resource Benefits, etc.) from completed ESA projects will count toward EEU contractual performance goals.

If the total estimated non-BED service territory ESA funding (expended and available) for the 2010-2011 time period exceeds one percent of the 2011 EEU budget as approved by the Board, the EEU Contractor and the Board will agree to examine the possible effects on the Contractor's Performance Goals and adjust the Contract goals if necessary.

2. As part of the EEU budget and goal setting for subsequent performance periods, the DPS and the EEUs will review participation and performance to date in the ESA option and recommend to the Board whether savings shall continue count toward EEU contractual or other performance goals. If savings continue to count toward EEU performance goals, parties shall determine whether the process to adjust savings and goals as outlined above is reasonable.

3. An EEU will hold the sole rights to any electric system capacity credits and/or environmental credits associated with an ESA efficiency project. These credits will be used for the benefit of Vermont ratepayers, as directed by the Public Service Board and/or the Vermont General Assembly.

Program Evaluation:

1. No later than three years after initial Board approval of the ESA option, and every three years thereafter or at any time by request or its own initiative, the Board shall initiate a process to review program performance to date and consider any changes that may be proposed by interested parties. Evaluation of the ESA option shall include, but not be limited to consideration of:
   a. Participation and experience with the ESA option.
   b. Re-consideration of any third-party certification processes that may provide benefits to ratepayers.
   c. Savings and capacity credit allocations.