

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6777

Hearing at
Montpelier, Vermont
November 20, 2002

Investigation Into the Department of Public)
Service's Request to Reduce the Amount to be)
Collected Via the Energy Efficiency Charge in)
the Year 2003)

Order entered: 12/30/2002

PRESENT: Michael H. Dworkin, Board Chairman
David C. Coen, Board Member
John D. Burke, Board Member

APPEARANCES: Aaron Adler, Esq.
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William Driscoll
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David O'Brien
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I. INTRODUCTION AND OVERVIEW

This Order approves a request by the Vermont Department of Public Service ("DPS" or "Department") to reduce the amount to be collected via the Energy Efficiency Charge for year 2003 – to \$14 million (approximately a 13 percent reduction). Under 30 V.S.A. § 209(d)(3), the Public Service Board ("Board") is authorized to establish a volumetric charge to customers for the support of energy efficiency programs delivered in multiple service territories. This charge, known as the Energy Efficiency Charge ("EEC"), will be paid by customers of all of the state's electric utilities.

The Board had previously issued a memorandum of August 1, 2002 ("Memorandum") in which, pursuant to the terms of a Memorandum of Understanding in Docket 5980, the Board set the amount to be collected via the EEC for years 2003, 2004, and 2005. The Board's Memorandum set the amount to be collected via the EEC as follows: (1) year 2003 – \$16,172,252; (2) year 2004 – \$16,321,795; and (3) year 2005 – \$17,500,000. These amounts had been recommended by the Department in a report it filed with the Board on May 29, 2002, ("Report"), and were not objected to by any party.¹ However, on October 31, 2002, the Department filed an amendment ("Amendment") to that Report, recommending that the Board reduce the amount to be raised by the EEC for the year 2003. This Order approves the Department's recommendation requested in the Amendment. Thus the amount to be collected via the EEC in year 2003 shall be set at \$14,000,000.

The year 2003 Energy Efficiency Charge rates, for ratepayers of each electric utility in the state, were set pursuant to the Board's October 31, 2002, Order in Docket 6741. However, the EEC rates set in that Order were based upon the higher dollar amount of \$16 million to be collected for year 2003. The same methodology used in Docket 6741 will be applied using the lower level of \$14 million to calculate the new EEC for each utility for the year 2003.

1. Exh. DPS-1.

II. BACKGROUND AND PROCEDURAL HISTORY

In 1990, the Board issued its landmark Order in Docket 5270 in which it determined that there was a large potential for implementation of cost-effective energy efficiency measures that could reduce electricity consumption in Vermont.² In 1991, the Legislature passed a statute, 30 V.S.A. § 218c, that required utilities to prepare a least-cost plan for the provision of electric service to customers.³ In 1999, the Vermont Legislature rewrote 30 V.S.A. § 209(d) and added ¶ (e) which empowered the Board to authorize one or more entities to develop and implement energy efficiency and conservation programs in place of utility-specific programs currently underway at the time. The legislation authorized the entity or entities to be funded via a volumetric charge on customers' bills. The legislation specifically stated that the programs offered by this entity would satisfy a utility's corresponding obligation under 30 V.S.A. § 218c and any prior orders of the Board.

In September, 1999, in Docket 5980, the Board approved a Memorandum of Understanding ("MOU") signed by most of the parties to that Docket. The parties to the MOU supported the creation of an energy efficiency utility ("EEU"), as one way of satisfying the option provided for under 30 V.S.A. § 209 to provide energy efficiency services in lieu of utility-sponsored programs, and established the amount to be collected via the EEC for energy efficiency utility services in year 2003 at \$15,945,344 and \$16,548,503 in year 2004.⁴ Except for the Vermont Association of Regional Development Directors, all parties to the current proceeding (Docket 6777) were also parties in Docket 5980. None of those parties contested the Board's Order approving the MOU and establishing the EEU, nor did they oppose the budget amounts to fund the EEU in years 2003 and 2004.⁵

2. Docket 5270, Order of 4/16/90, vol. IV.

3. A least-cost integrated plan is defined as "a plan for meeting the public's need for energy services, after safety concerns are addressed, at the lowest present value life cycle cost, including environmental and economic costs, through a strategy combining investments and expenditures on energy supply, transmission and distribution capacity, transmission and distribution efficiency, and comprehensive energy efficiency programs." 30 V.S.A. § 218c (a) (1).

4. Docket 5980, Order of 9/30/99 at 12.

5. Vermont Public Interest Research Group, the City of Burlington Electric Department, and Vermont Natural Resources Council were signatories to the MOU in Docket 5980. Associated Industries of Vermont and Vermont

The MOU also included a process by which the amount to be collected for energy efficiency utility services in 2003 and 2004 could be adjusted at a later date (referred to herein as the "Paragraph 18 Process").⁶ The Board followed the Paragraph 18 Process in the summer of 2002. In that process, the DPS, in its Report, recommended that the Board adjust the amount to be collected for energy efficiency utility services in 2003 and 2004, to hold the total equal, but change the 2003 amount to \$16,172,252 (a change of just over 2 percent) and reduce the 2004 amount to \$16,321,795. The DPS Report also recommended that the funding level for 2005 be set at the statutory maximum of \$17,500,000.⁷ All parties to Docket 5980 were invited to comment upon the DPS recommendation and the Board received written and oral comments upon the DPS Report.⁸ On July 2, 2002, the Board held a workshop to discuss issues raised in the DPS Report. No party objected to the Department's recommendation.

On August 1, 2002, the Board issued its Memorandum which, among other things, approved the DPS's recommendation and set a new budget level for funding the EEU at \$16,172,252 for 2003, \$16,321,795 for 2004, and \$17,500,000 for 2005.⁹ Also on August 1, 2002, the Board opened an investigation for the sole purpose of establishing the methodology to be used to set the Energy Efficiency Charge for the year 2003. Using the amount to be collected via the EEC for the state as a whole (as set out in the Memorandum), the Board set the EEC for

Ski Areas Association were granted party status in Docket 5980, but did not sign the MOU.

6. Under the Paragraph 18 Process, the DPS conducted an evaluation and filed a report with the Board that included its recommendations for change, including recommendations for revisions to the amounts to be collected via the EEC in 2003 and 2004. The Board provided all parties in Docket 5980 (and any other person or entity that qualified for intervention under Board Rule 2.209) an opportunity to submit comments and request a technical workshop before acting on the DPS's report.

7. Exh. DPS-1 at 16.

8. The Board received written comments on the report from the City of Burlington Electric Department, Central Vermont Public Service Corporation, Green Mountain Power Corporation, International Business Machines Corporation, Washington Electric Cooperative, Inc., and 14 of the state's municipal utilities. The DPS filed two responses to those comments. Independently of the DPS Report, the Energy Efficiency Utility's Advisory Committee also filed recommendations for the next contract cycle.

9. Docket 5980, Memorandum Re: "Public Service Board's Decision in re: Report of the Department of Public Service to the Board on Vermont's Energy Efficiency Utility," dated August 1, 2002, at 2.

each of the state's electric utilities for the year 2003 in an Order in Docket 6741 issued on October 31, 2002.

In Docket 6741, the Department changed its proposed methodology for calculating the EEC in response to concerns from the business community and other members of the public. The Department had originally proposed a calculation methodology for 2003 based on kwh usage. This was a change from the 2002 calculation methodology that was based on revenues, and as a result, would have significantly increased the proportion of the total amount collected via the EEC in 2003 paid by businesses and other non-residential customers compared to 2002. After hearing comments from the public, including a number of industrial ratepayers, the Department changed its proposal. The Department's new proposal used revenues to determine the proportion of the total amount collected via the EEC in 2003 to be paid by business and non-residential customers. This change meant that, like in 2002, residential customers would pay 44 percent of the total amount collected via the EEC (even though they use 38 percent of Vermont's electricity), while business and non-residential customers would pay approximately 56 percent of the total EEC charges (even though they use 62 percent of Vermont's electricity).¹⁰

Also on October 31, 2002, the Board received a filing from the Department that amended the Report it filed on May 29, 2002, as part of the Paragraph 18 Process. In the Amendment, the Department recommended that the Board reduce the amount to be collected via the EEC for energy efficiency utility services in 2003 from \$16,172,252 to \$14,000,000 (downwards by over 13 percent).¹¹ On November 8, 2002, the Board sent a memorandum to parties in Docket 5980 (and to parties and commenters in Docket 6741) providing an opportunity for them to comment on the DPS's request and to request a Technical (evidentiary) Hearing. In response to this invitation, the Board received written comments from six parties:

- (1) Associated Industries of Vermont ("AIV");
- (2) City of Burlington Electric Department ("BED");

10. Docket 6741, Order of 10/31/02 at 33-34.

11. As explained in findings 1-3 of the Board's October 31, 2002, Order in Docket 6741, the total amount to be collected via the EEC includes certain taxes and other adjustments in addition to the amount to be spent on energy efficiency utility services in 2003.

- (3) Vermont Association of Regional Development Directors ("VARDD");
- (4) Vermont Natural Resources Council ("VNRC");
- (5) Vermont Public Interest Research Group ("VPIRG"); and
- (6) Vermont Ski Areas Association ("VSAA").

Several of these parties requested a Technical Hearing. The Board opened an investigation into the Department's amended Report on November 11, 2002, in this Docket and held a Technical Hearing on November 20, 2002. Appearing at the hearing were Aaron Adler, Esq., for the Department, David Kelley, Esq., for VSAA, William Driscoll for AIV, David O'Brien for VARDD, Curt McCormack for VPIRG, William Ellis, Esq., for BED, and Patrick Berry for VNRC.

In addition, a Public Hearing was held via Vermont Interactive Television ("VIT") at eight locations around the state on Friday, December 6, 2002.¹²

III. POSITIONS OF THE PARTIES AND THE PUBLIC

The Department states that its recommendation, to lower the amount to be collected via the EEC in year 2003, was made after consultation with the parties to the Docket 5980 MOU. The Department concludes that it is in the best interest of the state to implement a more gradual phase-in of the budget to fund the EEU and offers its modification to the budget for 2003, with reluctance, during a time of intense economic pressure. VSAA fully supports the Department's recommendation and asks the Board to adopt it.¹³ International Business Machines ("IBM"), Vermont's largest employer, while not a party to this Docket, appeared as a witness at the

12. The Board received many comments from the public and from parties to this Docket both before and after the close of the technical hearing. The Board reviewed those comments and has made every effort to give serious consideration to the views of members of the public. However, we have relied upon the evidentiary record when reaching our decision. Any comments or written materials that were not entered into the evidentiary record at the technical hearing, or were received after the close of the evidentiary record, cannot be relied upon as a basis for the Board's decision.

13. Exh. VSAA-1; tr. at 167 (Kelley).

technical hearing for VSAA. IBM also supports the Department's request to fund the EEU at \$14,000,000 in 2003.¹⁴

Some parties support reductions in EEU funding for 2003 below that recommended by the Department. VARDD requests that the Board level fund the budget for 2003, in light of the changed economic environment.¹⁵ AIV takes the position that, "at the very least, there should be no increase in the EEC for 2003 over 2002".¹⁶ AIV also cites its concerns about the level of administrative costs for the EEU.¹⁷

Some parties support a higher funding level than that recommended by the Department. VNRC opposes the Department's recommendation to lower the EEC by \$2 million in 2003.¹⁸ VPIRG takes the position that the Department's recommendation is unwarranted and it opposes any reduction in the budget to fund the EEU.¹⁹

BED does not take a position on the Department's recommendation but provides general support for continued investment in cost-effective energy efficiency.²⁰ There is clearly no consensus among the parties to this Docket and the parties' positions range from a "level-funded" amount (AIV) to an increase in the budget above \$16 million (VPIRG).

The Board also received numerous letters and e-mails from members of the public and held a public hearing linking eight interactive television sites from around the state. The public comments generally fall into two categories – (1) those who support, at a minimum, a reduction in the EEU funding amount for 2003 to at least the level recommended by the Department, and (2) those who support the higher budget level of \$16 million for year 2003 or even higher. Generally speaking, the first category of comments were endorsed by the large, industrial

14. Tr. at 154 (Aldrich).

15. Exh. VARDD-1; tr. at 96 (O'Brien).

16. Exh. AIV-1; tr. at 52 (Driscoll).

17. Tr. at 54, 58-62 (Driscoll).

18. Exh. VNRC-1; tr. at 43 (Berry).

19. Exh. VPIRG-1; tr. at 122-134 (McCormack).

20. Exh. BED-1; tr. at 80 (Buckley).

customers and the second category of comments were endorsed by the small commercial and residential customers.

IV. FINDINGS OF FACT

A. Energy and Efficiency Costs

1. Vermont state policy and statutes require the regulated utilities in the state to provide electric service at least cost.²¹
2. Energy efficiency funds, to support the Energy Efficiency Utility, take the place of utility-specific demand-side programs. The cost of those utility-specific programs were included in Vermont electric rates.²²
3. Vermont utility energy efficiency programs were in place from 1990 to 1999. Utility expenditures on those programs peaked at \$19 million in 1993.²³
4. In 1999, although annual spending on utility-specific energy efficiency programs had decreased from 1999 levels, there was still over \$19 million of energy efficiency-related costs included in Vermont electric rates.²⁴
5. Prior to the implementation of the EEU, the \$19 million dollars in energy efficiency costs embedded in electric rates was not stated as a separate charge on customer's bills. As opposed to the non-specific charge for energy efficiency previously included in rates (see findings 3 and 4 above), the parties to Docket 5980 who signed the Memorandum of Understanding (which was later approved by the Board) agreed that the EEU should be funded by an energy efficiency charge that is clearly identified as a separate charge on customer's bills.²⁵

21. Tr. at 20 (Welch).

22. Tr. at 20-22 (Welch).

23. Tr. at 20 (Welch).

24. Exh. DPS-2 at 3.

25. Tr. at 22 (Welch); exh. DPS-2 at 3.

6. Vermont utilities have four areas from which to obtain energy: (1) purchased power such as long-term contracts; (2) the New England wholesale spot market; (3) power plants owned by utilities; and (4) energy efficiency.²⁶

7. In 2001, energy efficiency was obtained by the EEU at a cost of 2.6 cents per kilowatt-hour ("kWh") using total costs for the EEU for that year, including participant and third-party investments in the cost of the measures installed, of \$14,014,124.²⁷

8. The average delivered cost of purchased power for Vermont utilities in 2001 was 7.3 cents per kWh. This includes an average cost of purchased power of 6.1 cents per kWh and an average cost of delivering that power (inclusive of transmission and distribution charges) of 1.2 cents per kWh.²⁸

9. The inclusion of owned units or purchase power contracts would not significantly affect the value of the 7.3 cents per kWh estimated cost of delivered power for Vermont utilities.²⁹

10. The average cost of power purchased in the New England wholesale spot market and delivered to Vermont in 2001 was 6.3 cents per kWh. This includes an average cost in the spot market of 5.1 cents per kWh (inclusive of ancillary services and losses) with the addition of an average 1.2 cents per kWh cost for delivering that power to Vermont.³⁰

11. The difference between the 6.3 cents per hour wholesale cost and the 7.3 cents per hour average cost to Vermont utilities represents above-market costs associated with some Vermont utilities' past power purchases.³¹

12. In 2001, the average retail rate (as computed from retail sales and revenue data) charged by Vermont electric utilities for delivered power was 10.6 cents per kWh.³²

26. Tr. at 36-37 (Foley).

27. Exh. DPS-2 at 2; exh. DPS-6 at 7; tr. at 19 (Welch).

28. Exh. DPS-3.

29. Tr. at 38-39 (Foley).

30. Tr. at 38-39 (Foley).

31. Tr. at 38 (Foley).

32. Exh. DPS-3; tr. at 34-35 (Foley).

13. Retail electric revenues totaled \$607,954,000 in 2001.³³

B. Benefits of Efficiency and the EEU

14. Energy efficiency is currently Vermont's cheapest source of energy.³⁴

15. The EEU is an important strategy in keeping long-term electric rates stable.³⁵

16. Investments in energy efficiency lower pollution, provide a hedge against future electric price volatility, and represent a long-term contract at a fixed price involving no fuel costs and low operating and maintenance costs.³⁶

17. When Vermont purchases power from outside the state it does not generate as much employment as the EEU which is labor-intensive. Studies by the American Council for an Energy-Efficient Economy show that for every million dollars in efficiency spending, somewhere in the order of 10-30 jobs are created.³⁷

18. IBM is the largest business in Vermont. It is an active participant in EEU programs. IBM recognizes that energy efficiency investments lower its overall costs of doing business in the long term.³⁸

19. BED's experience over the last decade indicates that a \$17 million investment in energy efficiency has returned \$5 million in savings per year (calculated as current electricity costs times kWh saved). This equates to a 30 percent annual return on investment providing a 3.5 year payback period.³⁹

33. Vermont utility Annual Reports, 2001. Pursuant to 3 V.S.A. § 810 (4), the Board takes official notice of this information. Any party that objects to the Board taking official notice shall file that objection within ten days of this Order.

34. Exh. DPS-2 at 2.

35. Tr. at 80 (Buckley).

36. Exh. DPS-2 at 2; tr. at 45 (Berry).

37. Exh. VPIRG-1.

38. Tr. at 56 (Driscoll); tr. at 155 (Aldrich).

39. Tr. at 84-85 (Buckley).

20. Energy efficiency is an enhancement to the services offered to electric customers and can reduce the long-term costs of doing business. Businesses in BED's service territory have been enthusiastic about the ability to become more energy efficient and thus lower their bills.⁴⁰

21. The demand for EEU services is growing. The business community is beginning to embrace Efficiency Vermont.⁴¹

C. Proposed Changes to the EEU Budget

22. In Docket 5980, the Board approved a budget to fund the EEU for year 2002 of approximately \$13.5 million (\$13,519,809) and for year 2003 of approximately \$16 million (\$15,945,344).⁴²

23. In its Report, the Department recommended a change to the budget for year 2003 to \$16,172,252. Pursuant to the Paragraph 18 process, the Board approved the Department's recommendation for a 2003 funding level of \$16,172,252 via a Memorandum issued on August 1, 2002.⁴³

24. In the Amendment to its Report filed on October 31, 2002, the Department recommended a reduction of the EEU funding level for 2003 of \$2,172,252, bringing the 2003 funding level down to \$14 million. This change would reduce the statewide average increase in customers' total electric bills from 1 percent to .3 percent.⁴⁴

25. The recommended funding level for the EEU for 2003 of \$14 million is the minimum required to permit the EEU to keep developing its capacity to deliver comprehensive efficiency services and improve its offerings.⁴⁵

40. Tr. at 83-84 (Buckley).

41. Tr. at 48 (McCormack); tr. at 161 (Kelley).

42. Exh. DPS-4 at 12.

43. Exh. DPS-2 at Attachment 1; Board Memorandum of August 1, 2002.

44. Exh. DPS-2 at 1; tr. at 16-17 (Welch).

45. Exh. DPS-2 at 3.

26. The Amendment to the Report also recommends a reduction in the DPS evaluation budget for 2003 from \$533,684 to \$462,000. The difference of \$71,684 (\$533,684 - \$462,000) lowers the impact on the reduction of the funding level on the EEU itself, leaving a remaining budget reduction for the EEU in 2003 of \$2,100,568 (\$2,172,252 - \$71,684).⁴⁶

27. If the Department's recommendation in its Amendment to the Report is approved by the Board, the budgets for BED's EEC-funded activities will change for two budget categories: (1) support of core program evaluation efforts; and (2) contributions to statewide Emerging Markets activities. This is because these two items are calculated as a fixed percentage of the overall EEU budget.⁴⁷

28. The economically achievable potential of energy efficiency in the state continues to far exceed any level of savings that could be secured by the activity of the EEU at the budget levels proposed in the Report.⁴⁸

29. Vermont needs to spend three to four times as much money as is currently devoted to the EEU budget to achieve the potential energy efficiency savings shown in the DPS Report.⁴⁹

D. The EEU's Achievements

30. The Department has explicit responsibility for verification of the claims of energy savings made by the EEU. As required under 30 V.S.A. §209(e)(12), the Board has also engaged an independent auditor to verify the EEU's claims of energy savings.⁵⁰

31. The EEU achieved energy savings for the state's electric consumers of 22,794 megawatt-hours ("MWh") in 2000 and 36,894 MWh in 2001. Thus, for the first 22 months of the operation

46. Exh. DPS-2 at Attachment 1; tr. at 28-29 (Welch).

47. Exh. BED-1; tr. at 31 (Welch); tr. at 81 (Buckley).

48. Exh. DPS-1 at 4; tr. at 30 (Welch).

49. Tr. at 133 (McCormack).

50. Tr. at 193 (Hamilton).

of the EEU (March 1, 2000, through December 31, 2001), the EEU has achieved 59,688 MWh in total energy savings. This level of savings has been verified by the Department.⁵¹

32. Installed efficiency measures continue to generate energy savings over the lifetime of the measures. On average, efficiency measures have a savings life of 15 years.⁵²

33. The costs of providing energy efficiency in the year 2001 were: \$8.5 million in direct EEU expenditures and \$5.5 million in participant and third-party costs for a total cost of \$14.0 million.⁵³

34. For the year 2001, the 36,894 MWh of annual electricity savings will result in long-term total savings (over the lifetime of the measures installed) of 531,042 MWh.⁵⁴

35. The benefit from the achievement of 36,894 MWh of energy savings in year 2001 in avoided costs (the cost of purchasing alternative sources of power to replace the 36,894 MWh saved) would be \$21.4 million (present value) over the lifetime of the measures. This yields *net* savings in electricity costs to Vermont from EEU activity in year 2001 alone of \$7.4 million (\$21.4 in benefits less \$14.0 million in EEU total costs).⁵⁵

36. One in five Vermont electric ratepayers have participated in EEU programs and received incentives directly from the EEU.⁵⁶

37. The EEU worked with 330 businesses in 2001.⁵⁷ Those businesses made investments in energy efficiency as a result of working with the EEU. Those efficiency investments will produce on average, for those businesses, an internal rate of return of 71 percent. Those

51. Exh. DPS-6 at Table 2.3.1.

52. Exh. DPS-6 at 1.

53. Exh. DPS-6 at 7-8.

54. Exh. DPS-6 at 7.

55. Exh. DPS-6 at 7.

56. Tr. at 190 (Hamilton).

57. This is a small fraction of the total number of businesses in Vermont. The record in this Docket does not include information regarding what portion of Vermont's total energy usage these 330 businesses represent.

businesses will save an average of 71 percent of the initial total net investment each year thereafter, for the life of the measure, in the form of savings on their electric bills.⁵⁸

38. EEU assistance to Vermont dairy farmers from March 2000 through December 2001 resulted in annual total electricity savings of \$235,830 for a net investment (after including incentives provided by the EEU) by participating farmers of \$379,438. This is an average annual rate of return of 62 percent with an average simple payback of 1.6 years.⁵⁹

39. VSAA members, owners of skiing operations in Vermont, are some of the most significant and involved clients of the EEU. These efficiency projects have produced net benefits to VSAA members. EEU assistance to Vermont ski area owners from March 2000 through November 2002 resulted in annual customer savings of \$1,030,650 for a net investment (after including incentives provided by the EEU) by participating ski areas of \$1,480,926. This yields an average annual rate of return of 67 percent with an average simple payback of 1.4 years.⁶⁰

40. To date, the EEU has acquired energy savings at a lower cost per annualized MWh than originally anticipated under its contract with the Board.⁶¹

E. The EEU's Contractual Obligations and Implications of a Reduced 2003 Budget

41. The EEU's contract with the Board is a performance-based contract. Attachment K of that contract sets out the performance incentive mechanisms for the years 2003-2005. The three-year contractual target for achievement of energy savings by the EEU is 120,000 MWh.⁶²

42. The Board's contract with the EEU (for the period January 1, 2003, through December 31, 2005) includes a provision by which the contractual target for energy savings will be adjusted to reflect any change in EEU funding. Specifically, the electricity savings target for

58. Exh. VPIRG-1; exh. VNRC-1.

59. Exh. DPS-8; tr. at 175-176 (Hamilton).

60. Tr. at 159-166 (Kelley); exh. DPS-8; tr. at 177 (Hamilton).

61. Exh. DPS-1 at 12.

62. Exh. Board-1.

the three-year period will be adjusted by 2.96 MWh per \$1,000 of increase or decrease in EEU funding.⁶³

43. The Board's contract with the EEU includes a hold-back provision under which, within a specified range, if the target for energy savings are not achieved and verified, funds will be withheld and not paid as part of the performance incentive for which the EEU is eligible.⁶⁴

44. A reduction of \$2.1 million in EEU funding in year 2003 will result in a decrease in the EEU's contractual three-year savings target of 6,216 MWh.⁶⁵

45. If the estimated cost of replacing that power for Vermont utilities in 2003 at the spot market price in the New England wholesale market is the same as the cost actually was in 2001 (6.3 cents per kWh), this loss of savings will cost state ratepayers \$391,608 in 2003 alone.⁶⁶

46. If the cost of replacing that power remains constant at 6.3 cents per kWh over the 15-year lifetime of the efficiency measures, the loss of savings will result in \$5.9 million⁶⁷ in increased costs over the measures. Using a 10 percent discount rate, this lost opportunity will cost Vermont ratepayers about \$3.0 million (\$2,978,602) in net present value over 15 years. Thus the *net* loss from a \$2.1 million reduction in the EEU budget over the 15-year lifetime of the measures is approximately \$900,000.⁶⁸

F. Current Business Climate in Vermont

47. This past year has been a period of intense economic pressure for Vermont industry and business.⁶⁹

63. Exh. Board-1 at K-4.

64. Exh. Board-1.

65. Tr. at 196-197 (Hamilton); $6,216 \text{ MWh} = \$2.1 \text{ million} / 1,000 \times 2.96 \text{ MWh}$.

66. Findings 10, 44; $\$391,608 = 6,216 \text{ MWh} \times 1000 \times \0.063 .

67. $\$5.9 \text{ million} = \$391,608 \times 15 \text{ years}$.

68. Findings 10, 32, 44, 45; tr. at 197-198 (Hamilton).

69. Exh. DPS-2 at 3; tr. at 23 (Welch); tr. at 52 (Driscoll).

48. Vermont has lost approximately 2,850 manufacturing jobs during the past year (a drop from 47,000 manufacturing jobs in October 2001 to 44,150 manufacturing jobs in October 2002). Manufacturing employment has only been lower in two of the past twenty years.⁷⁰

49. Since the O'Neal report (a survey on the business climate in Vermont) was completed in February 2001, the issues of concern to the business community have changed and are now focused heavily on the cost of doing business in the state.⁷¹

50. The high cost of electricity is a major factor that is discouraging business from staying, expanding, or moving into Vermont.⁷²

51. In Docket 6741, the Board approved a stipulation, filed by the Department, which results in residential customers paying approximately 44 percent of the total amount collected via the EEC, while business and non-residential customers would pay approximately 56 percent of the total EEC charges. This is the same allocation as that in effect for the year 2002 EEC. No party opposed the stipulation.⁷³

52. Payment of the energy efficiency charge requires taking money out of IBM's operating budget today and, while the benefits return to IBM over time, the payback is spread over many years.⁷⁴

G. Barriers to Energy Efficiency and Misunderstandings About the EEU

53. From 1990 to 1999, Vermont utilities delivered energy efficiency programs directly. The cost of providing those energy efficiency services was included in electric utility rates.

70. Vermont Department of Employment and Training, *Current Employment Statistics Monthly Survey, October 2002 and November 2002*. U.S. Bureau of Labor Statistics, *State and Area Employment, Hours, and Earnings*. This data is for the period October 2001 as compared to October 2002 and for the period from October 1981 through October 2002. Pursuant to 3 V.S.A. § 810 (4), the Board takes official notice of this information. Any party that objects to the Board taking official notice shall file that objection within ten days of this Order.

71. Exh. VARDD-2; tr. at 93-94 (O'Brien).

72. Exh. AIV-1; tr. at 51-52 (Driscoll).

73. Docket 6741, Order of 10/31/02 at 4-5, and 9.

74. Tr. at 155 (Aldrich).

Today the cost of energy efficiency services provided by the EEU is stated as a separate charge on customers' bills.⁷⁵

54. Since the EEU is a statewide initiative that is funded via a separately stated charge on customers' bills, it is perceived by the business community as a state program and the EEC is viewed as a tax. People are more aware of these energy efficiency activities now than when they were being implemented by the utilities and rolled into rates.⁷⁶

V. DISCUSSION

The evidence in this Docket clearly shows that energy efficiency is a resource that is currently being obtained at a lower cost than any other power source available to a Vermont utility, with the possible exception of a few small sources. For each marginal kilowatt-hour that is not saved through energy efficiency activities, Vermont utilities will have to purchase and deliver power at prices that have been shown to exceed the cost of saving those same kilowatt-hours through the implementation of energy efficiency measures. Those higher costs of purchasing power, rather than saving power, ultimately will be passed through to customers in rates. Many of the conclusions that flow from the record in this Docket reinforce prior conclusions of the Public Service Board (e.g., such as in Docket Nos. 5980, 5270 *et. al.*). This Board has consistently found that the provision of energy efficiency services to the state's electric ratepayers is a cost-effective way of reducing Vermont's power costs below what they otherwise would be, thus tempering increases in customers' electric bills. The Board's contract with the EEU is written to implement and fulfill the general goals of the Board's past orders as well as to conform with state statutes. The evidence in this record shows that:

- Energy efficiency services provided by the EEU are cost-effective;
- The EEU is purchasing power for Vermont at least-cost;
- Energy efficiency measures installed by the EEU are reducing electricity costs below what they otherwise would be;

75. Tr. at 22 (Welch).

76. Tr. at 105-107, 114-116 (O'Brien).

- Energy efficiency services provided by the EEU help keep Vermont electric rates stable, provide a hedge against price volatility, and lower pollution;
- Energy efficiency services provided by the EEU provide significant benefits to the business community;
- Energy efficiency services create jobs within Vermont; and
- The potential to achieve cost-effective energy efficiency savings in the state is not close to being met.

However, there are two additional factors that inform our judgment in this case, both of which we take very seriously. The first is that there clearly is a debate within the business community about the effectiveness and economic benefits of statewide energy efficiency programs. We pledge to work with the Department, the business community, and other consumers to try to build a consensus as to the benefits of the services provided by the EEU today to all sectors.

Second, and most importantly, we have heard evidence that Vermont's economic situation has changed considerably in the past year and certainly is not what was anticipated when the Memorandum of Understanding in Docket 5980 was signed. Our state is currently experiencing a significant economic downturn and the next year will prove to be a difficult economic climate for doing business. The economic downturn is putting serious stress on the Vermont business community, and we have heard its concerns about how any increase in short-term costs will make the economic environment even more difficult for the business community over the next year. During tough economic times, businesses will have great difficulty making investments on their own even if those investments (such as installing efficiency measures) may save money in the long-term. However, it is hard to appreciate the value of long-term investments when today's bills cannot be paid. In recognition of these concerns, the Department, which is the state's statutorily-designated public advocate, has proposed a reduction in the funding of the EEU.

The least-cost provision of 30 V.S.A. § 218c does not require that the Board always choose the option that has the lowest total life-cycle cost. It requires a reasonable balancing of all factors including the magnitude of the initial investment and the timing of these investments, to achieve the optimum long-term benefits to Vermont ratepayers without short-term costs that are unacceptable. The Board has always faced the dilemma of how to balance spending on

energy efficiency programs against what we know to be the very large potential for accomplishing energy savings. We have repeatedly approved utilities' DSM programs and EEU expenditures that fell short of acquiring all cost-effective DSM resources, but instead took into account reasonable expenditure levels and rate impacts. As we previously stated:

As a general rule, it is inappropriate to arbitrarily set DSM spending levels; rather, a company should develop a plan to acquire all available, cost-effective efficiency resources (by which I mean those whose value exceeds their cost). In practice, this requires consideration of a host of factors that will affect the efficacy of the resource acquisition strategy, such as incremental labor costs, marketing, financial transaction costs, and near-term rate impacts, among others. Careful budgeting, consistent with reasonable expectations of achievements in the year, is a part of this process.⁷⁷

We have made the same trade-off between optimal acquisition of energy efficiency resources and broader policy considerations within the programs offered by the EEU. For example, the CEO Market Opportunities Program acquires resources at lower cost than does the Low Income Single Family Program. Yet we have directed the EEU to implement both programs. This result demonstrates that when there are conflicting policy objectives, success at one must occasionally come at the expense of another. That does not diminish the importance of either objective, but simply reflects the need to balance both goals to arrive at the best overall solution. Our decision to accept the Department's proposed \$14 million budget for 2003 reflects the same balance.

We believe it is important to apply our judgment and discretion in this case and grant a reduction, to \$14 million, in the EEU's 2003 budget, in recognition of the difficulties facing Vermont and its businesses over the next year. Any reduction below the level of \$14 million in 2003 could significantly affect the work of the EEU. We are convinced that such an outcome would only increase ultimate energy costs to Vermont consumers over time. Furthermore, even though some sectors of the business community took positions in support of a funding level *below* the level recommended by the Department, IBM and VSAA (who together account for a significant portion of the electric usage of the commercial and industrial class of ratepayers)

77. Dockets 5270-CV-1/5270-CV-3/5686, Order of 9/4/96 at 27.

supported the Department's recommendation that the funding level be set at \$14 million.

Although comments were made and testimony was given seeking a lower level of funding, no motion for modification was offered by any party other than the Department.

The state's public advocate recognized the need to balance the achievement of long-term benefits from energy efficiency with the short-term economic difficulties facing Vermont. As a result, the Department recommended a compromise funding level of \$14 million for the EEU in 2003. This is both a decrease in the \$16 million funding level previously established for 2003, and an increase over the \$13 million 2002 funding level. As such, we believe that it represents a reasonable balance of conflicting objectives.

We acknowledge that economic times are different from when the EEU was created three years ago. The reduction in funds that we approve today will give the EEU and the business community an opportunity to work together to better inform one another of: (1) the short and long-term benefits that the EEU can and should provide to the business sector; and (2) the system savings that can be obtained by the EEU and how those savings benefit all Vermonters. Notwithstanding our decision for the next year, the testimony in this Docket confirms, once again, that our long-term policy objective must be the achievement of all potential energy efficiency resources because they have been clearly shown to provide long-term cost-effective benefits to the state.

VI. ORDER

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

1. The Energy Efficiency Charge ("EEC") for the year 2003 shall be set so as to collect \$14,000,000 from ratepayers for energy efficiency services in that year.
2. The budget for two of the City of Burlington Electric Department's EEC-funded activities – (1) support of core program evaluation efforts and (2) contributions to statewide Emerging Markets activities – will change proportionally since they are calculated as a percent of the overall EEC-funded budget. The City of Burlington Electric Department shall make a compliance filing with the recalculated amounts for these two budget categories by January 8,

2003. If BED's filing includes a spreadsheet, such spreadsheet shall be filed electronically, followed by a paper copy.

3. The Department of Public Service evaluation budget for 2003 shall be reduced from \$533,684 to \$462,000.

4. The Department of Public Service shall make a compliance filing by January 13, 2003, that shall use the methodology approved in Docket 6741 to calculate the new level of the Energy Efficiency Charge for year 2003 for each of the state's electric utilities. If the Department's filing includes a spreadsheet, such spreadsheet shall be filed electronically, followed by a paper copy.

Dated at Montpelier, Vermont, this 30th day of December, 2002.

_____)	
)	PUBLIC SERVICE
)	
<u>s/David C. Coen</u>)	BOARD
)	
)	OF VERMONT
<u>s/John D. Burke</u>)	

OFFICE OF THE CLERK

FILED: December 30, 2002

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

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

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

VII. DISSENTING OPINION

I commend and endorse my colleagues' commitment to long-term ongoing energy efficiency programs. However, I must respectfully dissent from the decision of the majority to reduce the funding for the EEU for 2003. The benefits of this year's investments in energy efficiency will last for years (an average of 15 years); thus, the long-term costs of a reduction in the EEU budget, even for just a year, will harm Vermont ratepayers. The amount at stake has a net present value of less than a million dollars, so the harm will not be grievous – at least not on the scale of Vermont's \$600 million per year of electric power costs. I also have high respect for my colleagues, who see reasonable reasons to reduce expenditures in the coming year. Yet, on balance, this reduction in the 2003 budget for Efficiency Vermont will lead to increased power costs for all Vermonters for more than a decade to come and will create a small impediment to our common efforts to improve Vermont's economic climate. Accordingly, I would leave the efficiency utility's budget for 2003 at the level set three years ago. However, I emphasize that this difference from the majority is actually rather small, and that I write largely to address in greater detail several of the issues raised by some parties in this docket.

The financial facts are clear: this one-time 'saving' of \$2.1 million dollars will cost Vermonters almost \$400,000 in increased power costs next year — and for each of the 14 years that follow. Thus, over 15 years, the increase in power that Vermont utilities will have to purchase will cost almost \$6 million dollars, or almost \$4 million more than the price of avoiding those costs by investing in energy efficiency. The net present value of those 15 years of increased costs is about \$900,000, after recognizing the savings achieved by reducing the efficiency utility's 2003 budget.

This estimate is solid since incentive payments will be 'held-back' and paid to Efficiency Vermont only if the efficiency savings are achieved and independently verified. Indeed, the monetary savings are probably understated since they are based on the assumption that future power costs do not increase. In fact, any increase in the cost of electricity production and

delivery over the cost of the next 15 years will increase the value of today's efficiency investments.⁷⁸

These increased power costs will be real, Vermont utilities will have to pay for them, and they will be among the costs that those utilities can recover from Vermont's ratepayers. Thus, they will make more difficult the struggle in which we are all engaged: the effort to reduce the cost of living, working, and doing business in Vermont in years to come. Indeed, Vermont's two largest utilities will, in just four months, file reports on the rate-significance of their reduced costs for purchasing power from the Vermont Yankee nuclear power plant. If extra power costs preclude rate decreases that might have been made, or lead to rate requests that might have been foregone, no one will be pleased with that result.

Yet, although these adverse consequences are clear from the record, it is *also* clear that many large business customers in Vermont seek lower budgets for Efficiency Vermont.⁷⁹ A useful and instructive question is to ask why that concern exists. This cannot be dismissed with a mere conclusion that large users' needs are in conflict with the general good — this case is not like our routine need to judge which of several competing interests are most consistent with the public good. Rather, in this case, there is a tension between the record (which demonstrates that the efficiency investments are good for all Vermonters, including large businesses) and the fact that many businesses do not see why that is so. Thus, there is great value to the majority's suggestion that much of the next year be spent on creating a broader understanding of the issues now before us.

That process may be aided by briefly reviewing some of the questions that have been raised in this Docket. For example, *are the predicted monetary savings real?* The record clearly demonstrates that the savings are real. This is because reduced efficiency investments will lead

78. Vermont has, for more than a decade, also recognized: (1) a 'comparative risk adjustment' to reflect the fact that investments in energy efficiency have fewer cost over-runs, less unplanned 'down-time' and better scalability to match demand than investments in electric power plants and (2) small adjustments to reflect the unpriced environmental damage caused by unnecessary power generation. *See, e.g.,* Docket 5270, Order of 4/19/90 and 30 V.S.A. § 218(c), requiring consideration of both environmental and economic costs.

79. Many Vermont citizens and businesses also believe that we should maintain or increase Efficiency Vermont's budget, as both formal testimony and hundreds of public comments indicated. We, of course, base our findings on a formal record, subject to the 'testing' provided by the Rule of Evidence, and consider public comments in terms of how to exercise the discretion that those formal findings allow.

to increased power costs which, according to the 2001 power costs presented by the Department, are likely to cost a minimum of about \$400,000 per year for almost 15 years.

Why should one customer have to pay for programs that (only) benefit others? The answer is that they should not have to; and they do not have to. However, several public commenters erroneously believed that paying for an energy efficiency utility meant doing just that. This question deserves some detailed discussion because it is fundamental, it seems to underlie much of the opposition to the EEU, and it is based upon a misunderstanding that pervades far too much of the debate upon this topic. At bottom, it reflects a failure to recognize that *Efficiency Vermont's programs benefit every Vermont electric user, whether or not they are a participant in Efficiency Vermont's programs.* For example, one large user filed public comments saying that it had paid \$75,000 towards the costs of the EEU, yet had received less than \$5,000 in benefits. Clearly, that calculation of benefits did not recognize the 'system benefits' that the customer received from measures installed *at other customers' locations.*

These benefits are widespread and inherent in the integrated, interwoven nature of our electric supply grid. To name but a few examples, they include the benefit of reduced power purchases that its utility would otherwise have had to make, a portion of which would have been charged to the commenter.⁸⁰ They include the reduced reserve margins that benefit all customers whenever any customer is more efficient.⁸¹ They include the reduced ancillary service charges that Vermont utilities avoid by making smaller purchases from wholesale markets.⁸² They include the lower costs of hedging against volatility as a result of the stability aided by efficiency programs. As a fundamental matter of electrical engineering, they include the benefits of

80. In the relevant range of power purchases (i.e., at the margin) each purchase of additional power costs more on the than the previous purchase; thus additional demand to serve one customer increase the average costs for all customers. Since all customers purchase at the same time, there is no way to isolate and 'blame', or assign cost to, a specific marginal customer. Thus, all customers pay the average, higher, cost. The inverse is also true; average power supply costs for all customers are reduced when other customers use their power more efficiently.

81. Because reliability for *all* customers is so important, electric power pools require their members (including Vermont utilities) to demonstrate that they can provide 15% to 25% more power generation than they expect to actually need. The costs of these 'reserve margins' are based on customer usage levels and recovered from *all* customers. Thus, higher usage by any single customer increases the reserve margin required for all customers and, conversely, more efficient use by any customer produces savings for all other customers.

82. See, e.g., Docket 6545, Order of June 13, 2002, at 52-53, discussing a similar misunderstanding of wholesale power markets by opponents of the Vermont Yankee sale and power agreement.

reduced transmission line losses⁸³ when transmission lines are less heavily loaded. And they include the deferred need for distribution system upgrades as a result of efficiency.

None of these elements is clearly identified on an individual customer's electric bill; thus, it is not surprising that several users might not recognize them. Yet each of them plays an important part in determining what that customer will ultimately pay. And, when they are appropriately considered, the financial truth is clear: Efficiency Vermont's programs benefit not only the customers that participate in its programs, but the "non-participants" as well.

Vermont is not alone in facing this issue. The New York Public Service Commission addressed exactly this point when it recently increased its budget for state-wide efficiency programs from \$78 million per year to \$150 million per year, saying:⁸⁴

This Commission has often demonstrated its commitment to keeping rates as low as possible, but, in this instance, those who oppose the increase have not taken proper account of the significant price benefits these programs will provide, *not only to customers taking advantage of the programs but to all the customers in the energy marketplace.*⁸⁵

I agree with the majority in hoping that, in the year to come, an informed debate upon the relevant questions will help both in continuing a never-ending effort to improve Vermont's efficiency measures and in reaching a better understanding that helps customers take what New York has called "proper account of the significant price benefits these programs will provide," even to those who do not participate in specific programs.⁸⁶

Is this investment too expensive to make, even if desirable in the long run? Obviously, in the real world, we all see times when we cannot afford to make profitable investments. Companies (including electric utilities) make rational judgments about deferring investments or bonuses or salary increases, controlling dividends or making vehicle fleets last longer. But,

83. Ohm's law is a cruel reality in this field. It reminds us that line losses increase exponentially as transmission loads increase linearly. Thus, line losses for *all* customers increase whenever demand is higher for *any* customer. The inverse of this is also true: line losses for *all* customers decrease whenever *any* customer's demand is reduced by more efficiency. This is but one of many examples of the interlinked nature of the electric supply system, in which neither benefits nor costs can readily be untangled from joint and common system tasks and functions.

84. New York's efficiency budgets include both local utility efforts and, also, statewide programs. One public commenter stated that customers of Niagara Mohawk (a large New York utility) pay far less in energy efficiency charges than do Vermonters. That comment appears to have been based on incomplete information: looking at the budget of Niagara Mohawk alone, without consideration of New York's additional, far larger, state-wide programs.

85. 2001 WL 274846, *8 (NY PSC) (emphasis added).

86. *Id.*

ultimately, we want utilities to incur (and charge us for) the costs necessary to provide the stable, reliable, long-term basis upon which our society depends — and we want them to blend together generation, transmission, energy efficiency, distribution and customer services in a least-cost way to do just that. Even in a period of such economic stress that we need to reduce short-term costs at the expense of long-term losses, the rational place to reduce costs and budgets is not in the business sector that produces energy savings at half the avoided cost of delivered power.⁸⁷

Is a better deal likely elsewhere? Efficiency Vermont was chosen as a result of a competitive bidding process and has consistently met a major part of Vermont's need for energy efficiency services at little more than half the cost faced by Vermont utilities to procure and deliver the alternative product. In fact, Docket 5980 and 30 V.S.A. § 209(d)(2) both reflect a considered judgment that a decade of history showed that the statewide EEU business model would be better than having separate programs for each of Vermont's many service territories.

Are the EEU's administrative costs too high? The EEU is a very effective institution as shown by its level of savings and cost per kWh. The real test of costs, administrative or otherwise, is in the results — nowhere else can Vermont utilities purchase power for less. At a cost one-half that of other options, the EEU is clearly cost-effective at delivering those energy efficiency services. Which would be better: to deliver power with high administrative allocations and a cost of 2.6 cents per kWh, or with low administrative allocations, but a price of 7 cents per kWh? Fortunately, with the current EEU structure, Vermont is obtaining both low-cost services and clearly tracked and controlled administrative costs.⁸⁸

87. Whether we are in such a situation does, of course, deserve a serious analysis of the trade-off between short-term desires and long-term harms. Given the nature of the electric supply grid, with extraordinary public reliance upon reliability and with average lives of thirty years for investments, it is particularly important not to allow short-term stresses to lead us into incurring unneeded long-term costs. Thus, it is relevant that the amount at issue before us is a very small part of total system cost (about \$2 million out of annual electric rates of about \$600 million; i.e., one third of one percent). To put this in perspective, on an industrial customer bill of \$80,000 per year, the increase at stake would have an annual cost of less than \$240 per year (\$20 per month); for a household paying \$1,000 per year for electricity, the cost would be about \$3 per year (25 cents per month). In each case, of course, the one-year cost would be offset by the annual benefit in avoided electric system costs for the next 15 years.

88. A technical and significant factor is that the EEU's apparently high administrative costs appear that way because of an accounting convention. Reported administrative costs reflect the labor-intensive nature of the services provided. The Board approved the administrative cost accounting convention used by the EEU, asking it to keep separate detail for all administrative costs rather than incorporating those costs within program categories as is the more common treatment. Because the Board cares about administrative costs, it wanted to see all administrative costs directly, not have them hidden in other accounting categories. It is simply error to compare those results

(continued...)

Should the EEU be audited carefully? The answer is simple: it should be carefully audited, and it *is carefully audited*. Efficiency Vermont already sees five levels of audits of its costs and accomplishments:

- (1) its own purchase of audit services from an outside professional auditing firm;
- (2) a monthly review of all invoices, done by the independent Contract Administrator;
- (3) an external audit of the EEU fund which is done annually by an outside contractor;
- (4) an annual review of the past year's EEU energy savings claims and costs, done by the Department of Public Service; and
- (5) a triennial review of energy savings and the cost-effectiveness of Efficiency Vermont's programs, conducted by an outside auditor selected by the Public Service Board (by long-arranged statutory scheduling that review was filed last week, for forwarding to the Legislature at the start of the new year).

This certainly exceeds the auditing requirements for the electric power generators that Vermont will need to turn to as an alternative to the EEU (not to mention the audits of most businesses in our state). More importantly, it provides a high level of assurance that the results reported and contractually-predicted by Efficiency Vermont are reliable.⁸⁹

Is there a binding commitment to deliver the expected efficiency savings? The EEU's contract for service (in particular, its provisions for hold-backs and incentive payments) addresses this. The contract provides that the EEU will see substantial payments withheld unless its efficiency goals are achieved and verified. Thus, there is a powerful incentive to continue the EEU's past track-record of meeting (and exceeding) its commitments. If it does not do so, the relevant payments can be returned to ratepayers.

Is this investment required by some "legal technicality" and not worth it on its own merits? I believe the majority's statement of law is basically correct in this area: Section 218(c) sets out a standard to move towards, rather than a rigid mathematical requirement. Our difference on this point is a narrow and pragmatic one, not a legal dispute. Vermont law requires each electric utility to prepare and implement a plan to meet the public's need for energy services "at the lowest present value life cycle cost, including environmental and economic costs, through

88. (...continued)
directly to corporate administrative costs without making sure that the same accounting conventions are being applied.

89. It is unclear whether comments about auditing were based on ignorance about existing reviews or on a desire for additional scrutiny; if the latter, the Board could ask the State Auditor to add a sixth level of review.

a strategy" including "comprehensive energy efficiency programs."⁹⁰ Vermont's energy efficiency utility is a means to fulfill this utility obligation.⁹¹ We, today, are trying to determine whether the Department's current proposal is the best way to move towards that goal. The evidence about avoided power purchase and delivery costs demonstrates, to me, that the unamended budget would bring us closer to the statute's goal; that is not a mere 'technicality' but a real-world benefit: lower long-term power costs.

Should we reduce our investments in efficiency because Vermont's electricity costs are high? Vermont's electricity costs **are** too high, and we need ongoing efforts to reduce them.⁹² "In fact, we face, not a temporary emergency, but a long-term responsibility."⁹³ The reasons for high rates are many, but there is no doubt that improvement is essential.

We have recently made major progress towards stabilizing Vermont's electric rates; including materially reducing Vermont utilities' obligations to Vermont Yankee (roughly one-third of our power cost structure), ending controversies about Hydro-Québec costs (another third of such costs), and statutory changes and regulatory filings intended to reduce costs for small-power producers (about one-fifth of our power costs). Indeed — and very importantly in terms of economic competition — our position in regard to other states may well improve as those other states come out from under short-term artificial rate caps and face the true costs of imperfectly deregulated markets. However, the underlying truth is simple, clear, and vital to improving our future:

Vermont faces unusually high power costs and buys its marginal power out of one of the most expensive wholesale power markets in North America. Thus, not despite high regional power costs, but **because** of them, investments in energy efficiency are **particularly** valuable to our state and vital to controlling electric bills and improving Vermont's economy.

90. 30 V.S.A. § 218c (a)(1). Thus, the EEU's activities are *utility obligations* paid for as a utility cost of service; they are not governmental and the fee to pay for those activities is a utility cost of service, not a governmental "tax."

91. 30 V.S.A. § 209(d)(2).

92. It is also true that neither the record nor data from the most authoritative source, the US Energy Information Agency, support some of the public comments filed in this proceeding (such as that Vermont has the second highest rates in the United States or that commercial rates are 50% higher than in surrounding states). A more complete analysis of comparative rates and bills deserves a future forum; but, it is worth noting that neither a cure for our current costs nor Vermont's competitive position will be helped by inaccurate assessments.

93. Dwight Eisenhower, responding to the launch of Sputnik and quoted in Robert Caro, *Master of the Senate* (2002) at 1027.

Indeed, it would be a sad irony if a concern for lowering Vermont's electric power costs were to lead us away from our most cost-effective way of achieving just that goal.

We will be revisiting these questions — and many others — in the years to come. But, the record to date already provides some answers about the current state of affairs. Energy efficiency is indeed like having a low cost, low-emissions power plant right inside our state. It is labor-intensive, it brings jobs to the state, and it keeps Vermonters' hard-earned dollars at home, rather than being sent to out-of-state power producers. I applaud the majority's commitment to keeping that invisible power plant humming. However, for the reasons set out above, I would maintain its budget for 2003 at \$16 million rather than reducing it to \$14 million. Thus, despite my great respect for my colleagues' judgment on this (and other) matters, I must respectfully dissent.

Dated at Montpelier, Vermont, this 30th day of December, 2002.

s/Michael H. Dworkin

Michael H. Dworkin, Chair

OFFICE OF THE CLERK

FILED: December 30, 2002

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