

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 6874

Investigation Into (1) the Energy Efficiency Charge for)
the Year 2004; and (2) the proposed revisions to the)
methodology for 2003, to be effective with bills rendered)
on or after November 1, 2003)

Hearing at
Montpelier, Vermont
September 24, 2003

Order entered: 10/16/2003

PRESENT: Ann Bishop, Hearing Officer

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1. Party of record but did not attend hearing.

2. Party did not attend hearing but company representative in attendance.

Appearances continued:

Sandra Dragon, President
William Driscoll, Vice President
Associated Industries of Vermont

Denis Poirier, Village Supervisor ²
Barton Village, Inc. Electric Department

Gary Kellogg, Vice President/General Manager ²
Citizens Communications Company d/b/a Citizens Energy Services

Lynn Paradis, Comptroller ²
Village of Enosburg Falls Water & Light Department, Inc.

Donald Rendall, Jr., Esq. ²
Green Mountain Power Corporation

Eric Werner, General Manager ²
Town of Hardwick Electric Department

Crystal Currier, Clerk ²
Village of Hyde Park Electric Department

Julia B. Fox, Clerk/Treasurer ²
Village of Jacksonville Electric Company

Ken Phelps, Manager ²
Village of Johnson Water & Light Department

John J. Collins, Comptroller ²
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Village of Lyndonville Electric Department

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Appearances continued:

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Town of Readsboro Electric Light Department

Thomas Pierce, President
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Swanton Village, Inc. Electric Department

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I. INTRODUCTION

The Energy Efficiency Charge ("EEC") is a volumetric charge to customers for the support of energy efficiency services provided in multiple electric utility service territories throughout Vermont.³ The EEC was established by the Public Service Board ("Board") pursuant to 30 V.S.A. § 209(d)(3). This Docket was opened to establish the methodology for calculating the EEC for the year 2004, and was subsequently expanded to consider revisions to the methodology for calculating the EEC for the year 2003, effective with bills rendered on and after November 1, 2003.

In this Proposal for Decision, I recommend that the Board approve, with three modifications and one clarification, the Stipulation among the Vermont Department of Public Service ("DPS"), the City of Burlington Electric Department ("BED"), Central Vermont Public Service Corporation ("CVPS"), Citizens Communications Company d/b/a Citizens Energy Services ("Citizens"), Green Mountain Power Corporation ("GMP"), Vermont Electric Cooperative, Inc. ("VEC"), the Vermont Marble Power Division of OMYA, Inc. ("Vermont Marble"), International Business Machines, Inc. ("IBM"),⁴ and the Vermont Ski Areas Association ("VSAA") that was filed by the DPS on September 22, 2003 ("Stipulation").⁵ I also recommend that the Board approve, in their entirety, two associated bilateral agreements: one between the DPS and CVPS, and one between the DPS and GMP, that were filed by the DPS along with the Stipulation.

The Stipulation sets forth a methodology for calculating the year 2004 EEC rates for the service territories of all Vermont electric distribution utilities ("Stipulation 2004 Methodology"), although under the Stipulation the rates for customers of BED and the Washington Electric

3. In most utility service territories, these energy efficiency services are provided by the Energy Efficiency Utility.

4. IBM is not a party to this Docket, but it has signed the Stipulation.

5. In addition, although the Fourteen Municipal Utilities have not signed the Stipulation, they do not oppose it. Tr. 9/24/03 at 194–195 (Needle). The 14 Municipal Utilities include: Barton Village Inc. Electric Department; Village of Enosburg Falls Water & Light Department; Town of Hardwick Electric Department; Village of Hyde Park Electric Department; Village of Jacksonville Electric Company; Village of Johnson Water & Light Department; Village of Ludlow Electric Light Department; Village of Lyndonville Electric Department; Village of Morrisville Water & Light Department; Village of Northfield Electric Department; Village of Orleans Electric Department; Town of Readsboro Electric Light Department; Town of Stowe Electric Department; and Swanton Village Inc. Electric Department.

Cooperative, Inc. ("WEC") would be determined on a service-territory specific basis, rather than on a statewide basis. The Stipulation 2004 Methodology is substantially similar to the current methodology used to calculate the year 2003 EEC rates, except that: (1) it allocates the total amount to be collected via the EEC among residential, commercial, and industrial classes (rather than between residential and non-residential customers, as the current methodology does) on the basis of each class' share of total electric revenues; and (2) it includes new standard definitions for commercial and industrial classes.

The Stipulation also includes a methodology for revising the year 2003 EEC rates, effective with bills rendered on and after November 1, 2003 ("Stipulation 2003 Methodology"). This methodology is identical to the Stipulation 2004 Methodology, except that it does not include the new standard definitions for commercial and industrial classes, and it allows CVPS to implement the methodology through adjustment of the existing percent surcharges it is applying for the 2003 EEC, provided that CVPS develops and implements separate percent surcharges for its commercial and industrial classes.

The three modifications that I recommend the Board make to the Stipulation are:

- (1) change Paragraph 3.d so that the basis for determining the total amount to be collected via the EEC from commercial demand customers is the same as that used in exh. DPS-7;
- (2) modify Paragraph 8 so that the adjustments related to over- or under-collection of the EEC and utility uncollectibles would be made on a territory-specific basis for WEC; and
- (3) amend the conditions listed in Paragraph 10.c regarding when utilities are required to obtain advance approval of the Clerk of the Board of their notices to customers of the 2004 EEC rates.

I also recommend that the Board clarify that the kW billing determinants to be used to develop and to apply the EEC capacity-kW rate for commercial and industrial customers (as described in Paragraph 3.f.iii of the Stipulation) include peak kW billing determinants only.

II. PROCEDURAL HISTORY

On March 27, 2003, the Board issued a "Memorandum re: Workshop to Discuss Possible Rulemaking to Establish the Methodology for the Energy Efficiency Charge in Future Years."

The memorandum made clear that the purpose of any resulting rule would be to establish the process by which the EEC would be calculated in future years. The resulting process spawned several months of workshops and meetings to discuss a possible rulemaking on this issue.

By August of 2003, it had become clear that there was not sufficient time to complete such a rulemaking before the 2004 EEC rates would need to be calculated. Consequently, on August 19, 2003, an Order Opening Investigation into the Energy Efficiency Charge for the Year 2004 was issued by the Board.

A prehearing conference and workshop were held on August 26, 2003. At the prehearing conference, Associated Industries of Vermont ("AIV") and VSAA moved to intervene. There being no objections, these motions were granted.

At the prehearing conference, the DPS recommended that the Board expand the scope of this Docket to allow consideration of applying the methodology proposed for 2004 to the 2003 EEC, effective with bills rendered on or after November 1, 2003.

On August 27, 2003, the DPS filed its proposal concerning the methodology for the EEC.

On August 29, 2003, I issued a prehearing conference memorandum in this Docket.

On September 2, 2003, the DPS filed a suggested notice to customers of the proposed changes to the 2003 EEC. On September 9, 2003, the DPS filed a revision of this proposed notice.

On September 5, 2003, the Contract Administrator for the Energy Efficiency Utility filed information with the Board addressing: the portion of the EEC typically collected during the last three months of the EEC year, the amount that EEC collections are running ahead of projections for the year to date, the amount of funds already collected from ratepayers in prior years that the Board has determined should be carried forward to buffer the effects of the budget increase previously adopted for 2004, and other issues related to the robustness of the Energy Efficiency Utility Fund's cash flow.

On September 8, 2003, the Board adopted the recommendation that the DPS had presented at the prehearing conference, and issued an Order Expanding the Scope of Investigation.

On September 12, 2003, AIV filed an alternate proposal for the EEC methodology (the "AIV Methodology").

On September 22, 2003, WEC filed a third proposal, specific to WEC customers, for the EEC methodology (the "WEC Methodology").

On September 19, 2003, the DPS filed a letter responding to both AIV and WEC's proposals.⁶

The prehearing conference memorandum dated August 29, 2003, required parties to file with the Board by September 15, 2003, letters stating whether they would seek reimbursement for incremental costs associated with noticing customers of the new EEC rates for 2004. GMP, CVPS, and BED filed such letters before the deadline, each stating that it would not seek reimbursement. VEC and Vermont Public Power Supply Authority, on behalf of the fourteen municipal utilities, filed letters before September 15, 2003 stating that an estimated \$1,000 and \$3,576.46, respectively, might be sought for reimbursement. Citizens, Rochester, and WEC, filed letters after September 15, 2003, each stating that it would not seek reimbursement.

On September 22, 2003, a proposed settlement among many (but not all) parties was filed by the DPS. The settlement consists of: (1) a Stipulation Concerning the Energy Efficiency Charge (the Stipulation) which was signed by the DPS, CVPS, GMP, Vermont Marble, Citizens, VEC, IBM, and VSAA;⁷ (2) a bilateral agreement between the DPS and CVPS concerning generation-displacement contracts and the EEC for 2004; and (3) a bilateral agreement between the DPS and GMP concerning the EEC for 2004.⁸

On September 24, 2003, the Contract Administrator for the Energy Efficiency Utility filed a compilation of utility EEC-related uncollectible information.

A technical hearing was held on September 24, 2003.

6. The DPS's filing commented on a proposal it believed WEC would be filing. WEC did file this proposal on September 22, 2003.

7. BED signed the Stipulation after it was originally filed with the Board. BED's signature was submitted at the technical hearing.

8. At the technical hearing, the Stipulation (including BED's signature) was admitted into evidence as exhibit DPS-1, the GMP-DPS bilateral agreement was admitted into evidence as exhibit DPS-2, and the CVPS-DPS bilateral agreement was admitted into evidence as exhibit DPS-3.

On September 25, 2003, AIV filed copies of exhibits AIV-3 and AIV-4 in electronic spreadsheet form, as I had requested during the technical hearing.

On September 29, 2003, CVPS filed a report containing two alternative sets of proposed revised 2003 EEC rates for its service territory. These rates, expressed in the form of percent surcharges, were calculated using the Stipulation 2003 Methodology and the AIV Methodology. On October 1, 2003, the Contract Administrator filed supplemental information pertaining to the estimated costs associated with noticing customers of the new EEC rates for 2004 for which the utilities might seek reimbursement from the Energy Efficiency Utility fund. On October 1, 2003, BED filed a copy of the notice regarding the proposed new 2003 EEC rates that it published in the newspaper. This notice included the proposed new 2003 EEC rates, calculated using the Stipulation 2003 Methodology. These filings will be admitted into evidence as exh. CVPS-1, exh. Board-4, and exh. BED-1, respectively, unless a party objects to these admissions in its comments on this Proposal for Decision. If a party objects, the Board will then rule on the objection.

III. METHODOLOGY FOR 2004

Parties presented evidence in this proceeding regarding three proposed methodologies for calculating the EEC rates for the year 2004: the Stipulation 2004 Methodology, the AIV Methodology, and the WEC Methodology. The Stipulation 2004 Methodology includes seven steps, the first of which is to determine the amount of the authorized EEC funding that should be collected from each customer class.⁹ The AIV Methodology proposes a different means of determining the portion of EEC funding that should be collected from each customer class, with subsequent steps in the calculation identical to those included in the Stipulation 2004 Methodology. The WEC Methodology proposes a third means of determining the portion of EEC revenues that should be collected from each customer class, but is intended to be applicable only in WEC's service territory. The Stipulation 2004 Methodology and the AIV Methodology

9. The subsequent steps in the Stipulation 2004 Methodology are described in finding 5, below. The Stipulation also addresses a number of other issues related to the implementation of the 2004 EEC that were not contested by any party. These uncontested issues are addressed in Section IIIC, below.

are discussed in Section IIIA, below, while the WEC Methodology is discussed in Section IIIB, below.

A. Statewide Methodology

Findings

1. The methodology used to calculate the current 2003 EEC rates combined commercial and industrial customers into one, non-residential customer group, and determined rates for the group as a whole. Exh. DPS-7 at 1.

2. When the Board approved the methodology to calculate the current 2003 EEC rates, it found that the methodology: "would result in residential customers paying approximately 44 percent of the total amount collected via the EEC, while 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." Docket 6741, Order of 10/31/02 at 9 (finding 8).

3. Using information provided by most, but not all, Vermont electric distribution utilities, the DPS analyzed the impacts of the current 2003 methodology on different classes of customers. This analysis showed that, on average, industrial customers experienced a 25 percent *increase* in the amount collected from them via the EEC in 2003, compared to 2002, while commercial customers experienced a five percent *decrease* in the amount collected from them via the EEC in 2003. Tr. 9/24/03 at 86–87 (Behrns).

4. A more equitable distribution of the EEC within the non-residential customer group will result if this group is divided into commercial and industrial classes. Tr. 9/24/03 at 66–67 (Behrns).

Stipulation 2004 Methodology

5. The Stipulation 2004 Methodology for all distribution utility service territories, except those of BED and WEC, includes the following steps:

- (1) determine the amount of the authorized EEC funding that will be billed to and paid by each respective customer class;
- (2) determine a uniform EEC kWh rate for each customer class;

- (3) determine uniform statewide volumetric EEC kWh billing rates (before taxes) for residential and non-demand commercial customer classes;
- (4) determine the amount of the authorized EEC funding that will be billed to and paid by demand-billed customers in the commercial and industrial classes;
- (5) segment the EEC amount to be paid by demand-billed commercial and industrial customers into two volumetric components – a demand component and an energy component;
- (6) determine uniform volumetric EEC energy-kWh and capacity-kW billing rates (before taxes) for demand-billed commercial and industrial customer classes; and
- (7) determine after-tax EEC billing rates.

Exh. DPS-1 at ¶ 3.

6. The first step of the Stipulation 2004 Methodology provides that the amount of EEC funding that will be collected from each customer class should be determined on a volumetric basis as measured by revenues. That is, the total EEC funding should be allocated among the residential, commercial, and industrial classes so that each class pays a percentage of the total EEC funding equal to the percentage of annual electric revenues contributed by that class during calendar year 2002. For the purpose of this calculation, annual electric revenues would not include revenues from WEC and BED sales, Vermont Marble's non-retail sales, and sales under special contracts specifically exempted in exhibits DPS-2 and DPS-3. Exh. DPS-1 at ¶¶ 3.a and 3.i.

7. The Stipulation 2004 Methodology defines the residential class as "all customers to whom electricity is supplied for residential or domestic purposes." This definition is to be interpreted consistently with existing distribution utility tariffs. Exh. DPS-1 at ¶ 1.s.

8. The Stipulation 2004 Methodology defines the commercial class as "a non-residential customer using less than 1,000 kW of electrical demand service per month for any or all months during the preceding calendar year or for the most recent preceding twelve month period." This definition is essentially the same as a definition of "commercial" employed by the Federal Energy Regulatory Commission ("FERC"). The Stipulation 2004 Methodology provides that the definition of commercial contained in the Stipulation is to be interpreted in accordance with the following provision of 18 C.F.R., Part 101, § 442:

Records shall be maintained also so as to show separately the revenues from commercial and industrial customers (1) which have demands generally of 1000 kW or more, and (2) those which have demands generally less than 1000 kW. Reasonable deviations above or below the 1000 kW demand are permissible in order that transfers of customers between the two classes during the year may be minimized.

Exh. DPS-1 at ¶ 1.d; tr. 9/24/03 at 68 (Behrns).

9. The Stipulation 2004 Methodology defines the industrial class as "a non-residential customer using 1,000 kW or more of electrical demand service per month for any or all months during the preceding calendar year or for the most recent preceding twelve month period." This definition is essentially the same as a definition of "industrial" employed by the FERC. The Stipulation 2004 Methodology provides that the definition of industrial contained in the Stipulation is to be interpreted in accordance with the provision of 18 C.F.R., Part 101, § 442 that is quoted in finding 8, above. Exh. DPS-1 at ¶ 1.p; tr. 9/24/03 at 68 (Behrns).

10. The Stipulation 2004 Methodology is nearly identical to the methodology that was used to calculate the 2003 EEC rates now in effect. The differences are: (1) in the current 2003 methodology, the initial allocation of EEC funds to be collected from each customer class was divided only between residential and non-residential customers, rather than among residential, commercial, and industrial customers as the Stipulation 2004 Methodology proposes; (2) in the current methodology, there is considerable ambiguity regarding the difference between a commercial and an industrial customer, while the Stipulation 2004 Methodology includes new standard definitions for "commercial" and "industrial" customers. Tr. 9/24/03 at 65–68 (Behrns).

11. Using the proposed new standard definitions for commercial and industrial customers will result in some customers who are billed under "industrial" or "large power" rates by their individual electric utilities being billed under the proposed new 2004 EEC rate for commercial demand customers.¹⁰ Tr. 9/24/03 at 125 (Behrns).

12. The Stipulation 2003 Methodology is similar to the Stipulation 2004 Methodology except that: (1) existing distribution utility classifications for commercial and industrial customers would be used instead of the new standard definitions described in findings 8 and 9, above; and (2) CVPS would be allowed to implement the methodology through adjustment of the

10. In this Proposal for Decision, I will refer to these customers as "Reclassified Customers."

existing percent surcharges it is applying for the 2003 EEC, provided that CVPS develops and implements separate percent surcharges for its commercial class and its industrial class.¹¹ Exh. DPS-1 at ¶¶ 7.b.i. and 7.b.ii.

13. Using 2001 billing determinants and revenues, the DPS analyzed the effect of applying the Stipulation 2003 Methodology to calculate EEC rates for 2003. This analysis showed that the EEC rate for industrial customers would be 18 percent *lower* than the current non-residential demand rate, while the EEC rate for commercial demand-billed customers would be 9.9 percent *higher* than the current non-residential demand rate, and the EEC rate for commercial non-demand-billed customers would be 11.4 percent *higher* than the current non-residential non-demand rate. Exh. DPS-7 at 6.

14. At least a few customers who would be classified as commercial customers under the Stipulation 2004 Methodology have already experienced increases close to the 25 percent average experienced by industrial customers in 2003, and would see additional increases ranging between 5.4 percent and 9.8 percent in 2003 if the EEC rates were recalculated using the Stipulation 2003 Methodology and if the customers were classified as commercial customers in 2003. Exh. AIV-3; exh. AIV-4.

15. In 2001, there were 285,735 customers statewide served under electric utility residential tariffs, 42,303 customers served under electric utility commercial tariffs, and 413 customers served under electric utility industrial tariffs. Exh. DPS-7 at 9.

16. The Stipulation 2004 Methodology should be used to calculate the EEC for customers in BED's service territory, except that the inputs to the calculation should be specific to BED's service territory. Exh. DPS-1 at ¶ 4.

17. The Stipulation 2004 Methodology would result in a more equitable allocation of total EEC revenue than the current methodology, and is a fair and reasonable means of assigning the amounts to be collected via the EEC to each customer class. Tr. 9/24/03 at 66, 87, 91 (Behrns).

11. The Stipulation 2003 Methodology is addressed in this and subsequent findings because it provides useful information for understanding the rate impacts of the Stipulation 2004 Methodology. The substantive merits of adopting the Stipulation 2003 Methodology are addressed in a separate section (IVA), below.

AIV Methodology

18. The proposed AIV Methodology is identical to the Stipulation 2004 Methodology, except for the first step. Exh. AIV-1 at 2; exh. DPS-7 at 6.

19. The first step of the AIV Methodology provides that 50 percent of total EEC revenues would be collected from residential customers, with the remaining 50 percent of total EEC revenues collected from non-residential customers. The share allocated to non-residential customers would be divided between commercial and industrial customers so that each class would pay a percentage of the total EEC funding equal to the percentage of annual electric revenues from non-residential customers contributed by that class during calendar year 2002. Exh. DPS-7 at 6.

20. The AIV Methodology was designated as "Option 3" in an analysis performed by the DPS using 2001 billing determinants and revenues to analyze the effect of applying various methodologies to calculate revised EEC rates for 2003. This analysis showed that under the AIV Methodology, the EEC rate for residential customers would be 13.7 percent *higher* than the current residential rate, the EEC rate for industrial customers would be 26.5 percent *lower* than the current non-residential demand rate, the EEC rate for commercial demand customers would be 1.6 percent *lower* than the current non-residential demand rate, and the EEC rate for commercial non-demand customers would be 0.2 percent *lower* than the current non-residential non-demand rate. Exh. DPS-7 at 6.

21. Thirty-two percent of the energy savings achieved by the Energy Efficiency Utility during the first seven months of 2003 resulted from the EEU's activities with residential customers, while 68 percent of the energy savings during that same time period resulted from services provided to non-residential customers. Because energy savings are approximately 90 percent of the EEU's "total resource benefits,"¹² it is likely that approximately similar percentages of the total resource benefits achieved by the EEU resulted from its services provided to the two customer groups. Exh. Board-3 at 3; tr. 9/24/03 at 185–186 (Wickenden).

12. "Total resource benefits" is a performance metric defined in the Board's contract with Vermont Energy Investment Corporation, the entity serving as the Energy Efficiency Utility.

Discussion

When the Board approved the methodology used to calculate the current 2003 EEC rates, it expected that "the impact on individual customers will vary depending on what service territory they are located in (since the 2002 EEC charge varies by utility service territory)."¹³ However, the Board found that the methodology would allocate the same portion of the total amount to be collected via the EEC to residential and non-residential customers as the methodology in effect for the year 2002. In other words, the new methodology was not expected to change the prior allocation among customer classes. However, the evidence in this Docket shows that the actual impact on some customer classes was different than the Board expected. The DPS's analysis of the effects of the methodology used to calculate the EEC for 2003 shows that industrial customers, considered as a class, experienced a 25 percent *increase* in their EEC payments in 2003 while, at the same time, commercial customers, considered as a class, experienced a 5 percent *decrease* in their EEC payments.

I am persuaded that it is appropriate to refine the methodology used to calculate the EEC for 2004 to correct this "unintended consequence" and "disproportionate result."¹⁴ The methodology used to calculate the EEC for 2004 should be fair to all customer classes. The question before me is which of two proposed methodologies, the Stipulation 2004 Methodology or the AIV Methodology, best accomplishes this objective. These methodologies are quite similar, differing only in the manner for determining what share of the total amount to be collected via the EEC will be paid by residential, commercial, and industrial customers, respectively.

Allocation Methodology Among Customer Classes

The Stipulation's signatories support the use of annual electric revenues to determine what share of the total amount to be collected via the EEC will be paid by residential, commercial, and industrial customers. Annual electric revenues were used in a similar manner in the methodology that was used to calculate the current 2003 EEC rates, except that in 2003,

13. Docket 6741, Order of 10/31/02 at 19.

14. Tr. 9/24/03 at 66, 94 (Behrns).

collections were divided between residential and non-residential customer classes, while the Stipulation 2004 Methodology divides the collections among residential, commercial, and industrial customer classes. Essentially, the Stipulation's signatories argue that the current methodology needs only a minor refinement – using three customer classes instead of two – in order to correct the "unintended consequence"¹⁵ and be fair to all customer classes.

The division of commercial and industrial customers into separate classes with separate rates is consistent with standard practice in electric utility rate design – customers are separated into groups based on their usage characteristics. Typically, this results in separate commercial and industrial classes (as can be seen from the FERC definitions of "commercial" and "industrial" described in findings 8 and 9). I am persuaded it is appropriate to separate customers into three classes — residential, commercial, and industrial — for purposes of allocating 2004 EEC collections.

AIV does not challenge the separation of non-residential customers into commercial and industrial classes, but it does disagree with the DPS's assertion that this refinement will correct the "unintended consequence" for all affected customers. Instead, AIV argues that a more fundamental change to the current methodology is necessary. AIV presented evidence that 12 commercial customers (using the new definition) experienced significant increases in their EEC payments in 2003 and, under the Stipulation 2004 Methodology, would experience additional significant increases in their EEC payments in 2004.¹⁶ However, I am unable to determine the significance of this fact.

Every rate design that reallocates costs among customer classes results in some customer classes experiencing rate increases, while other classes experience decreases. If a rate design does not reallocate costs among classes, but does change the individual components of a rate (i.e., customer charge, kWh charge, kW charge), some customers within a class will experience bill increases while others will experience bill decreases, depending on the individual customer's consumption. A rate design proposal is not unfair just because it will cause some customers' bills

15. Tr. 9/24/03 at 66 (Behrns).

16. Exh. AIV-3; exh. AIV-4.

to increase.¹⁷ On the contrary, under standard rate design principles, an increase in some customers' bills as a result of a rate redesign is in fact an indication that those customers paid too little previously.

As noted above, the Board fully expected differences among individual customers' bill impacts as a result of the methodology used to calculate the current 2003 EEC rates. The fact that the 12 customers shown on exh. AIV-3 and exh. AIV-4 experienced significant increases in EEC payments in 2003 and, under the Stipulation 2004 Methodology, would experience additional significant increases in their EEC payments in 2004, does not persuade me that the refinement proposed by the Stipulation 2004 Methodology would not correct the "unintended consequence" of the methodology used to calculate the current 2003 rates. Rather, I am persuaded by the results of the DPS's analysis of the effect of the Stipulation 2004 Methodology on customer classes, since that was the level at which the "unintended consequence" occurred.¹⁸ The results of this analysis show that the EEC rate for industrial customers would be 18 percent *lower* than the current non-residential demand rate, the EEC rate for commercial demand-billed customers would be 9.9 percent *higher* than the current non-residential demand rate, and the EEC rate for commercial non-demand-billed customers would be 11.4 percent *higher* than the current non-residential non-demand rate. The EEC rate for residential customers would not change.¹⁹ These rate effects should be considered in the context of the average 25 percent *increase* experienced by industrial customers and the average 5 percent *decrease* experienced by

17. I note that AIV has not argued that the Stipulation 2004 Methodology is unfair because it will cause certain business customers' EEC payments to increase. Rather, AIV argues that the Stipulation 2004 Methodology is unfair because it will cause these customers to experience a second increase.

18. Technically, the DPS's analysis was of the effect of using the Stipulation 2003 Methodology to calculate revised 2003 EEC rates. However, since the Stipulation 2004 Methodology is substantially similar to the Stipulation 2003 Methodology, I am persuaded that it is reasonable to consider the results of the DPS's analysis as a proxy for the effects of the Stipulation 2004 Methodology on individual customer classes. However, I note that because there will be no Reclassified Customers under the Stipulation 2003 Methodology, the DPS's analysis provides no information regarding the effect of the Stipulation 2004 Methodology on these customers.

19. It is important to note that these expected rate impacts would affect only the EEC portion of a customer's bill, not the entire bill. The EEC is already a small portion of a customer's bill, and any changes to the EEC would represent an even smaller fraction of the customer's bill. For example, for the 12 customers shown on exh. AIV-3 and exh. AIV-4, current EEC payments are less than three percent of their total electric bills. An increase of approximately 10 percent to their EEC payments would result in an increase to those customers' total electric bills of approximately 0.3 percent.

commercial customers as a result of the current 2003 EEC rates. In other words, because the direction of the changes are opposite (the class that saw an increase before would experience a decrease in 2004, and vice versa), they partially offset each other, and thus appropriately correct the "unintended consequence."

AIV has proposed an alternative to the Stipulation 2004 Methodology for calculating the EEC rates for 2004. The AIV Methodology provides for the collection of 50 percent of EEC revenues from residential customers, and 50 percent from non-residential customers, with the amount to be collected from non-residential customers further divided between commercial and industrial customers on the basis of the percentage of annual non-residential electric revenue contributed by each group.²⁰ In other words, AIV accepts that it is appropriate to use percentage of revenue as the basis for allocating EEC funds between commercial and industrial customers, but only after using another method for allocating EEC funds between residential and non-residential customers. I am troubled by this aspect of AIV's position. AIV has not justified why it is appropriate to use percentage of revenue as the basis for allocating EEC funds between two customer classes, but not among three. In addition, I note that the use of two different factors to allocate EEC funds among the three customer classes is contrary to the Board's long-standing practice of using only one allocation factor to determine the appropriate portion of a particular type of costs to collect from each customer class.²¹

AIV argues that it is appropriate to collect 50 percent of EEC revenues from residential customers and the remaining 50 percent from non-residential customers because: (1) it evenly divides the collections between two distinct classes of customers; (2) it "alleviates economic harm" by providing a more appropriate distribution of collections to commercial and industrial customers than the Stipulation 2004 Methodology does; and (3) it is close to the share of the

20. Exh. DPS-7 at 6.

21. Different allocation factors are typically used for different types of costs. For example, billing costs may be assigned based on the number of customers in each class, while certain power costs may be assigned based on each class' contribution to the utility's system peak. However, only one allocation factor is used to divide each particular cost among all customer classes.

"cumulative benefits" achieved through activities financed by the Energy Efficiency Utility during the period 2000 – 2002.²² I will address each of these arguments in turn.

AIV's first argument (that it is appropriate to evenly divide EEC collections among two different groups of customers) is not persuasive. Simply determining that two groups of customers are different is not a justification for assigning half of the costs to each group.

AIV's second argument (that it would alleviate economic harm by providing a more appropriate distribution of collections to commercial and industrial customers) is also not persuasive.²³ AIV is correct in noting that the Board did consider Vermont's economic situation in Docket 6777 when it reduced the total amount to be collected via the EEC in 2003. However, the Board's decision in that Docket affected all customer classes equally. That is, the Board's decision to reduce the amount to be collected via the EEC in 2003 applied to all residential, commercial, and industrial customers. The Board did not use Vermont's economic situation as the basis for increasing the amount to be collected from one customer class while decreasing the amount to be collected from two other customer classes, as the AIV Methodology would do.

Third, I am not convinced that it is appropriate to use the "cumulative benefits" achieved as a result of the Energy Efficiency Utility's activities in the 2000 – 2002 period as the basis for allocating costs between residential and non-residential customers. The "cumulative benefits" cited by AIV are those stated in the Energy Efficiency Utility's 2002 Annual Report.²⁴ The benefits included in the EEU's 2002 Annual Report are calculated pursuant to the terms of a performance metric known as "Total Resource Benefits" that is defined in the Board's contract with the entity serving as the Energy Efficiency Utility.²⁵ However, Total Resource Benefits (and thus the "cumulative benefits" cited by AIV) do not include the significant system benefits

22. Exh. AIV-1 at 3.

23. Additionally, I note that this argument by AIV begs the true issue here: what is an appropriate allocation of EEC collections among customer classes?

24. Exh. AIV-1 at 3.

25. AIV failed to present any evidence explaining the term "cumulative benefits." Rather than reject AIV's argument due to this insufficiency in AIV's evidentiary presentation, I will instead take official notice of the missing facts, so that the Board may address AIV's argument on its merits. Accordingly, pursuant to 3 V.S.A. § 8110(4), I take official notice of the Board's October 2002 contract with Vermont Energy Investment Corporation, the entity serving as the Energy Efficiency Utility. If a party objects to my taking official notice of this contract in its comments on this Proposal for Decision, the Board will rule on the objection.

that the Board has previously concluded result from cost-effective investments in energy efficiency. Cost-effective investments in energy efficiency enable Vermont utilities to avoid purchasing and delivering power at prices that exceed the cost of the energy efficiency investments. These higher costs of purchasing power ultimately would be passed through to customers in rates. In other words, "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."²⁶ By definition, these system benefits accrue to all customer classes. Therefore, "cumulative benefits" as used by AIV are actually only a portion of the total benefits resulting from the Energy Efficiency Utility's activities, and I conclude that it is not appropriate to use only a portion of the benefits from the Energy Efficiency Utility's activities as the basis for allocating EEC collections among residential and non-residential customers.

In addition, the DPS correctly notes that "cumulative benefits" through 2002 concern a past period that is not the period for which the proposed rates are being developed, and the allocation of Energy Efficiency Utility budgets between residential and non-residential sectors is substantially different for the period to which the proposed rates will apply.²⁷ This difference in budget allocation is likely to produce a different result in terms of distribution of benefits between the residential and non-residential sectors.²⁸ In fact, for the period January through July, 2003, 32 percent of energy savings achieved by the Energy Efficiency Utility came from residential services while 68 percent of energy savings came from business services. Because Total Resource Benefits are approximately 90 percent energy savings and 10 percent other resource savings, it is anticipated that Total Resource Benefits during this time period would be similarly divided between the residential and business sectors.²⁹ This known difference between the distribution of historical "cumulative benefits" and the benefits expected to be achieved

26. Docket 6777, Order of 12/30/02 at 18.

27. The Board has approved a three-year budget for the Energy Efficiency Utility in which 41 percent would be allocated to residential services, and 59 percent would be allocated to non-residential services. For the period January through July, 2003, 40 percent of the Energy Efficiency Utility's expenses were for residential services, while 60 percent of the expenses were for business services. Exh. Board-3 at 3.

28. Tr. 9/24/03 at 80–81 (Behrns).

29. Exh. Board-3 at 3; tr. 9/24/03 at 185–186 (Wickenden).

during 2004 is yet another reason why I conclude it is not reasonable to use "cumulative benefits" as the basis for allocating 2004 EEC collections between residential and non-residential customers.

Ultimately, I am persuaded that it is appropriate to use the percentage of annual electric revenue contributed by each customer class as the basis for allocating EEC funds among customer classes. I base this conclusion, in part, on the fact that both the Stipulation 2004 Methodology and the AIV Methodology use this allocation method, although they apply it to a different number of customer classes. In addition, I conclude that the AIV Methodology's proposed allocation method is not appropriate because: (1) it uses multiple factors to allocate a single cost among customer classes, one to allocate the cost between residential and non-residential customers, and the second to further allocate the non-residential portion between commercial and industrial customers; and (2) AIV has not demonstrated that its proposed 50 percent allocation to residential customers and 50 percent allocation to non-residential customers is reasonable. Therefore, I conclude that it is more appropriate to use the Stipulation 2004 Methodology than the AIV Methodology to calculate the 2004 EEC rates.

Modification and Clarification to the Stipulation 2004 Methodology

I have two concerns with the Stipulation 2004 Methodology, that I recommend the Board address by making one modification and one clarification to that methodology.³⁰

Paragraph 3.d of the Stipulation (which describes the fourth step of the Stipulation 2004 Methodology) calls for the total EEC amount to be billed to customers in the commercial class to be further segmented between demand-billed and non-demand-billed customers according to the percentage of annual electric revenue contributed by each of these customer groups. However, the EEC kWh rate for commercial non-demand billed customers was already established in step three of the methodology (described in Paragraph 3.c of the Stipulation). As a result, under the Stipulation 2004 Methodology, the amount to be collected from commercial non-demand billed

30. In this Proposal for Decision, I recommend three modifications to the Stipulation, but only discuss one of these modifications here. My second modification relates to implementation of the Stipulation 2004 Methodology in WEC's service territory and will be discussed in Section IIIB, below. My third modification relates to customer notice and will be discussed in Section IIIC, below.

customers would be equal to the rate established in step three of the methodology times the total kWh sales to commercial non-demand billed customers.

If the language in Paragraph 3.d is followed as currently written, and the *revenue* split between commercial non-demand-billed customers and commercial demand-billed customers is different than the *kWh usage* split between those two customer groups, it is likely that commercial customers as a whole will pay an amount either greater than or less than that determined in step one of the Stipulation 2004 Methodology. This situation can be avoided by modifying Paragraph 3.d of the Stipulation so that step four consists of multiplying the rate for commercial non-demand billed customers that was established in step three times the total kWh sales to those customers, and subtracting this amount from the total amount to be billed to all commercial customers.

While this is a change to the language of the Stipulation, it appears to be consistent with the formula shown on page 3 of exh. DPS-1 for determining EEC rates for both groups of commercial customers. In addition, in recommending that the Board make this modification, I am relying on the DPS's testimony that the Stipulation 2004 Methodology is identical to the methodology used to calculate the current EEC rates, except for certain enumerated items which do not include changing the basis for determining the amount to be collected from demand-billed customers.³¹ Finally, I note that page 1 of exh. DPS-1 shows the methodology used to calculate the current EEC rates, and my proposed modification is consistent with the manner in which the amount to be collected from demand-billed customers was determined when the current 2003 rates were calculated.³² However, I did not raise this specific issue with the signatories to the Stipulation at the technical hearing in this Docket. As a result, I specifically invite them to address in their comments on this Proposal for Decision:

- (1) whether my understanding of the implications of using Paragraph 3.d of the Stipulation as written in conjunction with the commercial non-demand EEC rate

31. Tr. 9/24/03 at 65–70 (Behrns).

32. The 2003 methodology divided all non-residential customers into demand-billed and non-demand-billed, and did not separately break out commercial customers. Nevertheless, the issue of how to determine what revenues should be collected from demand-billed and non-demand-billed members of a particular customer class is identical to the issue addressed in the fourth step of the Stipulation 2004 Methodology.

previously determined in step three of the Stipulation 2004 Methodology is correct;

(2) whether I have correctly understood the DPS's testimony regarding the portions of the Stipulation 2004 Methodology that are different from the methodology used to calculate the current 2003 EEC rates; and

(3) whether the modification I have proposed is a reasonable one that is fair to all customer classes.

Paragraph 3.f.iii of the Stipulation describes the kW billing determinants to be used to develop and to apply the EEC capacity-kW rate for commercial and industrial customers. This Paragraph does not specify whether only peak kW billing determinants should be used or whether off-peak kW should be included in the billing determinants. However, based on exh. DPS-7, which refers specifically to "billed kW sales (peak),"³³ and the DPS's testimony that the Stipulation 2004 Methodology is identical to the methodology used to calculate the current EEC rates, except for certain enumerated items which do not include using off-peak billed kW to develop and apply the EEC rates,³⁴ I conclude that the signatories' intent was to continue the practice of using only peak kW billing determinants to develop and to apply the EEC capacity-kW rate for commercial and industrial customers. As a result, I recommend that the Board clarify that only peak kW billing determinants should be used when developing and applying the 2004 EEC capacity-kW rate for commercial and industrial customers.³⁵

Standard Statewide Definitions for Commercial and Industrial Customers

The Stipulation 2004 Methodology proposes the use of standard statewide definitions for commercial and industrial customers. This aspect of the methodology is uncontested, but it deserves some discussion. Based on my substantial experience with the tariffs of Vermont's electric distribution utilities, I am aware that different utilities currently use different consumption thresholds to distinguish between commercial and industrial customers. Because the methodology used to calculate the current 2003 EEC rates combined commercial and

33. Exh. DPS-7 at 3.

34. Tr. 9/24/03 at 65–70 (Behrns).

35. If my conclusion regarding the signatories' intent with respect to this issue is incorrect, parties should so inform the Board in their comments on this Proposal for Decision.

industrial customers into one category of non-residential customers, the different utility definitions of commercial and industrial did not cause similar customers in different service territories to pay different EEC rates. The situation with respect to the Stipulation 2004 Methodology is different, however. If standard definitions are not implemented, two customers with identical consumption but located in different electric utility service territories could be considered members of different customer classes based on their respective utilities' tariffs. This situation would result in the two customers being charged two different EEC rates.

The Stipulation 2004 Methodology includes new standard definitions for commercial and industrial customers that would apply statewide. These definitions are essentially the same as the definitions established by the FERC. The use of these standard definitions would eliminate the potential unfairness resulting from the individual utilities' varying definitions, although it would result in a certain number of customers to be billed under industrial rates by their individual electric utilities, but billed under the new EEC rate for commercial demand customers. Neither AIV nor the DPS was able to state on the record how many Reclassified Customers there could be.³⁶ However, the number is certainly fewer than 413 (the total number of customers billed under utility industrial tariffs in 2001),³⁷ and is likely closer to 345 (the total number of industrial customers minus the approximately 70 customers who would meet the proposed new definition of industrial customer³⁸). Thus, the total number of Reclassified Customers is likely to be somewhere between 0.80 and 0.97 percent of all business customers.³⁹ I am persuaded that the equity benefits of using the new standard definitions for commercial and industrial customers are significant and that the new proposed definitions are reasonable, even though a small number of business customers may experience some initial confusion regarding their reclassification.

36. Tr. 9/24/03 at 47–48 (Driscoll); tr. 9/24/03 at 125–126 (Behrns).

37. Exh. DPS-7 at 9.

38. Exh. AIV-1 at 3.

39. $345 \text{ Reclassified Customers} \div (42,303 \text{ customers currently served under commercial tariffs} + 413 \text{ customers served under industrial tariffs}) = 0.0080$ which is 0.80 percent. $413 \text{ Reclassified Customers} \div (42,303 \text{ customers currently served under commercial tariffs} + 413 \text{ customers served under industrial tariffs}) = 0.0097$ which is 0.97 percent.

B. Issues Specific to WEC's Service Territory

Findings

22. The Stipulation proposes that, for 2004, the EEC for customers in WEC's service territory should be designed to raise the equivalent of 2.4 mills/kWh from WEC's customers and should be calculated using the Stipulation 2004 Methodology. Exh. DPS-1 at ¶ 5; tr. 9/24/03 at 71 (Behrns).

23. Under the Stipulation, WEC would not be required to make adjustments for uncollectibles and over- or under-collection of the EEC in previous years. DPS-1 at ¶ 8.

24. An agreement between the DPS and WEC, dated July 29, 2002 ("July 29, 2002, Agreement"), provides: "That WEC customers will pay an EEC equivalent to 2.4 mills/kWh for the years 2003 and 2004, and 2.6 mills/kWh in 2005." Exh. DPS-6 at Attachment A.

25. Ninety-eight percent of WEC's customers are in the residential class. Tr. 9/24/03 at 164 (Patt).

26. A total of ten WEC customers have a demand charge as part of their billing. Tr. 9/24/03 at 158 (Patt).

27. For WEC, the 2003 estimate for EEC uncollectibles is \$256.72. The year 2002 EEC uncollectibles true-up shows that an additional \$3.32 is needed to adjust for the 2002 uncollectibles. Therefore, the 2004 EEC for WEC's service territory is to include adjustments for prior uncollectibles. The charge should be set to collect an additional \$260.04, plus one percent to include the associated fuel gross receipts taxes and the gross revenue tax.⁴⁰ Exh. Board-1 at 1.

Discussion

Much of the controversy between the DPS and WEC involves the meaning of the term "equivalent," as used in the July 29, 2002, Agreement. WEC contends that the Agreement provides that residential customers' EEC rates should not exceed 2.4 mills/kWh in 2003 and

40. The information required to illustrate any true-up needed for under- or over-collections is not available at this time, but will be submitted as a compliance filing.

2004,⁴¹ while the DPS has taken the position that, as a whole, the customers within the WEC service territory should pay the equivalent of 2.4 mills/kWh.⁴²

When the Board approved the July 29, 2002, Agreement, the Board expressly stated that "[t]he methodology of the Energy Efficiency Charge for WEC's customers for the year 2003 will be determined in Docket 6741."⁴³ In Docket 6741, the Board determined that, for the calendar year 2003, WEC would use the methodology used by every other utility in the state, except BED.⁴⁴ After adjustments were made for EEC-related uncollectible accounts and undercollections, the resulting rates for the 2003 EEC for WEC's territory were:

- (a) For residential customers: 2.452 mills/kWh;
- (b) For non-residential customers who are not demand billed: 2.452 mills/kWh;
- (c) For non-residential customers who are demand billed: 1.343 mills/kWh and \$0.3110/kW per month, with the kW month charge assessed on billed peak kW only; and
- (d) For unmetered street and security lighting customers: \$0.088264, \$0.220661, and \$0.353059 per month for 100, 250, and 400 watt units, respectively.⁴⁵

Considering the Board's determination of WEC's 2003 EEC rates, it is obvious that the Board has not accepted the July 29, 2002, Agreement as a binding mandate that the EEC for WEC's residential customers must not exceed 2.4 mills/kWh.⁴⁶

The Stipulation 2004 Methodology is reasonable for setting the statewide EEC. Because consistency among the utilities promotes principles of equity and increases administrative efficiency, there must be a compelling reason why this methodology should not be applied to all utilities in Vermont. WEC has put forth no reason, beyond the ambiguous language of the

41. Tr. 9/24/03 at 164 (Patt).

42. Tr. 9/24/03 at 71 (Behrns).

43. Board memorandum of August 1, 2002, at 9.

44. Docket No. 6741, Order of 10/31/02 at 9-10, 41.

45. Docket No. 6741, Order of 15/5/02 at 3.

46. The term "equivalent" in the July 29, 2002, Agreement is sufficiently ambiguous that it could be interpreted to support either the DPS or WEC. I should also note that WEC has been inconsistent in its interpretation of the term "equivalent." Under cross-examination by the DPS, WEC stated that it would not have objected if WEC's residential customers were charged 2.3 mills/kWh rather than 2.4 mills/kWh. Tr. 9/24/03 at 16 (Patt).

July 29, 2002, Agreement, as to why the Stipulation 2004 Methodology should not be applied to it, and thus has failed to justify the special dispensation it seeks from the application of the statewide methodology.

WEC and the DPS agree that the July 29, 2002, Agreement does not allow WEC's rates to be adjusted for uncollectible accounts and over- or under-collections. This agreement is surprising because, as explained above, such adjustments were made when WEC's current 2003 EEC rates were calculated, even though 2003 is the first year covered by the July 29, 2002, Agreement. I am not persuaded that the July 29, 2002, Agreement prohibits such adjustments or that it justifies treating WEC differently from all other electric utilities with respect to this issue. As a result, I recommend that the Board modify the Stipulation (at Paragraph 8) to require those adjustments to be made when calculating the 2004 EEC rates for customers in WEC's service territory.⁴⁷ As this issue was not specifically addressed during the technical hearing of September 24, 2003, I invite the parties to address this issue in their comments on this Proposal for Decision.

Given the ambiguity of the July 29, 2002, Agreement, the Board's past determination of the EEC methodology as applied to customers in WEC's service territory, and the importance of consistency and equity in the application of the EEC methodology through Vermont, I recommend that the Board approve the Stipulation 2004 Methodology, as modified herein, for application in WEC's service territory.

C. Uncontested Issues

Findings

28. The Stipulation provides that during calendar year 2004, the EEC should be at least a single line on the customer's bill and should be designed to raise the Core Program Budget for that year and the additional amount of the gross revenue tax (30 V.S.A. § 22) and fuel gross receipts or "weatherization" tax (33 V.S.A. § 2503) applicable to the EEC, as adjusted for:

47. I note that the dollar value of the uncollectible accounts adjustment is quite small. It would result in an additional \$260.04 being collected via the EEC from customers in WEC's service territory. Exh. Bd-1 at 1 and Attachment. The record does not currently contain information regarding the dollar value of the over- or under-collection adjustment that would be used in the calculation for EEC rates for WEC's service territory.

- (1) over- or under-collection of the year 2003 EEC;
- (2) amounts of the year 2003 EEC which a distribution utility was unable to collect, trued up for any uncollectibles estimate used to set the 2003 EEC; and
- (3) a comparison of estimated revenues used in adjusting the year 2003 EEC for over- or under-collection of the year 2002 EEC, with actual amounts for the corresponding period on which the estimates were based.

The Stipulation also provides that all three of these adjustments should be calculated on a statewide basis, excluding the territory of BED, which should be on a territory-specific basis, and the territory of WEC, for which these adjustments should not be made.⁴⁸ Exh. DPS-1 at ¶¶ 2, 8; tr. 9/24/03 at 173 (Patt).

29. During calendar year 2004, the EEC for customers in BED's service territory should be designed to raise:

- (1) that portion of the Core Program Budget, including costs for support of DPS evaluation activities, the Contract Administrator and the Fiscal Agent, which is associated with BED's core program implementation;
- (2) the contribution of BED's customers to the Energy Efficiency Utility's core program implementation; and
- (3) the additional amount of the gross revenue tax (30 V.S.A. § 22) and fuel gross receipts or "weatherization" tax (33 V.S.A. § 2503) applicable to the EEC.

Exh. DPS-1 at ¶ 4.

30. The Stipulation provides that, in determining uncollectible amounts attributable to the EEC, a distribution utility should be permitted to include, after exhausting reasonably available remedies, a partial non-payment of a bill by a customer, provided that the only portion of such non-payment attributed to the EEC is that amount determined by multiplying the partial non-payment by a fraction with the numerator consisting of the EEC amount on the bill and the denominator consisting of the total amount on the bill. The Stipulation also provides that, with respect to the calculation of the year 2004 EEC for all service territories except those of BED and WEC, the uncollectible amounts from the year 2003 EEC for all distribution utilities except BED and WEC should be added together to the year 2004 EEC and the amount of each distribution

48. I have previously recommended that the Board modify Paragraph 8 of the Stipulation to require that these adjustments also be made on a territory-specific basis for the territory of WEC. See, the discussion in Section IIIB, above.

utility's EEC uncollectibles from the year 2003 EEC should be paid to the distribution utility out of the funds raised by the year 2004 EEC. The amount of BED's uncollectibles should be determined and accounted for on a territory-specific basis.⁴⁹ Exh. DPS-1 at ¶ 8.a.

31. A carrying charge for a reasonable uncollectible accounts amount attributable to the year 2003, trued up for any 2002 uncollectibles estimate used in setting the 2003 EEC, should be applied to the 2004 EEC. This charge should be the distribution utility's Allowance for Funds Used During Construction rate or, if the distribution utility does not have such a rate, the distribution utility's short-term borrowing rate. Once the carrying charge amount has been determined, this amount should be included in the distribution utility's uncollectible amount to be collected through the year 2004 EEC. Exh. DPS-1 at ¶ 8.b.

32. On or before February 20, 2004, each distribution utility seeking reimbursement for uncollectible amounts relating to the year 2003 EEC should submit an invoice to the Contract Administrator setting forth the amounts calculated in accordance with Paragraphs 8.a. and 8.b of the Stipulation, except that each distribution utility should substitute actual uncollectibles for any estimates used in setting the 2003 EEC, and should adjust the invoice for any estimates included in the distribution utility's 2002 uncollectibles invoice. On or before March 1, 2004, the Fiscal Agent should pay each distribution utility submitting such an invoice the total EEC uncollectible amount for the distribution utility's territory in 2003. Exh. DPS-1 at ¶ 8.c.

33. On or before February 20, 2004, each distribution utility that owes money to the Energy Efficiency Utility Fund as a result of an overestimation of the year 2002 EEC uncollectibles in excess of those used to offset 2003 EEC uncollectibles should mail the amount owed to the Energy Efficiency Utility Fund to the attention of the Contract Administrator. The Contract Administrator should then verify the amount and forward the funds to the Fiscal Agent. Exh. Board-1 at 1–2; tr. 9/24/03 at 150 (Behrns).

34. Excluding BED and WEC, the 2003 statewide estimate for EEC uncollectibles is \$57,739.05. Excluding BED and WEC, the year 2002 EEC uncollectibles true-up shows that an

49. I have previously recommended that the Board modify Paragraph 8 of the Stipulation to require that the adjustment for uncollectible accounts be made on a territory-specific basis for the territory of WEC. *See*, the discussion in Section IIIB, above.

additional \$5,691.86 needs to be collected via the 2004 EEC. Therefore, the 2004 EEC should be set to collect an additional \$63,430.91, plus one percent to include the associated fuel gross receipts taxes and the gross revenue tax. Exh. Board-1 at 1.

35. For BED, the 2003 estimate for EEC uncollectibles is \$4,670.54. BED has no true-up for 2002. Therefore, BED's 2004 EEC should be set to collect an additional \$4,670.54, plus one percent to include the associated fuel gross receipts taxes and the gross revenue tax. Exh. Board-1 at 1.

36. All retail customers' electric bills should be subject to, and should be used in the calculation of, the EEC, except customers identified in the bilateral agreements between the DPS and GMP, and between the DPS and CVPS. Exh. DPS-1 at ¶ 5; exh. DPS-2 at ¶ 2; exh. DPS-3 at ¶ 2.

37. The EEC for 2004 should be effected on bills rendered on or after February 1, 2004, with no proration. Exh. DPS-1 at ¶ 7.

38. Interest income accrued in or credited to the accounts of the Energy Efficiency Utility Fund after December 31, 2002, should be paid toward the DPS's costs in performing evaluation activities and preparing reports concerning the Energy Efficiency Utility. The Stipulation provides that to the extent that the DPS's receipt of such monies requires authorization by or the approval of another governmental entity, this provision should be subject to such authorization or approval. Exh. DPS-1 at ¶ 9.

39. Paragraph 10.a of the Stipulation provides that no later than 30 days prior to the effective date of the 2004 EEC, the Board should publish a newspaper notice, at the expense of the EEC, stating the EEC rates for 2004 and such other matters as the Board may deem appropriate. Exh. DPS-1 at ¶ 10.a.

40. Each distribution utility should publish notice of the year 2004 EEC to all of its customers through a bill insert or newsletter. However, if a distribution utility uses postcard or "printed through the envelope" billing and therefore is unable to provide a bill insert or newsletter, the distribution utility should provide notice of the year 2004 EEC on its bill to customers, unless the Clerk of the Board approves or requires such distribution utility to provide, in lieu of notice on the bill, a newspaper notice in addition to the notice to be published by the

Board. This notice should be provided during the complete billing cycle immediately preceding the effective date of the year 2004 EEC. Within 30 days of providing such notice, each distribution utility should file a copy of the notice with the Board. Exh. DPS-1 at ¶¶ 10.b. and 10.d.

41. The notice to be given by distribution utilities should be in such form as the Clerk of the Board approves, except that such approval should not be required when a distribution utility provides such notice in a form identical to the form approved by the Clerk of the Board for the 2003 EEC except for:

- (1) the rates changed to correspond to the approved EEC rates for 2003;
- (2) the non-residential class modified to be called the commercial class;
- (3) a line added, under the commercial class, stating the industrial class rate;
- (4) the deletion of any wording referring to a petition pending before the Board to reduce the amount to be collected via the EEC in 2003; and
- (5) the deletion of the sentence referring to the percentage that the EEC was in 2002, and the addition of a column showing the EEC rates effective with bills rendered on or after November 1, 2003, under the title "current rates", and the addition of the column title "new rates" above the column containing the 2004 EEC rates.

Exh. DPS-1 at ¶ 10.c; tr. 9/24/03 at 140–141 (Behrns).

42. A distribution utility should be permitted to request reimbursement by February 20, 2004, from the Contract Administrator, of the incremental cost of adding the notice of the year 2004 EEC to a bill insert or newsletter which otherwise would be issued to its customers, or the incremental cost of adding the notice to the distribution utility's bill, or the total cost of publishing newspaper notice of the year 2004 EEC, if required by the Clerk of the Board. Exh. DPS-1 at ¶ 10.e.

43. As of September 24, 2003, the only utilities planning to request reimbursement of their costs for notifying customers of the year 2004 EEC were VEC and the Fourteen Municipal Utilities. The combined estimate of these costs is \$4,576. In addition, it is estimated that it will cost the Board \$2,000 to publish a statewide newspaper notice regarding the year 2004 EEC in five newspapers. Exh. Board-4 at 2.

44. The EEC should not be designed to raise and should not include the sales and use tax (32 V.S.A. § 9971(2)). Sales and use tax should be assessed, collected and remitted by the distribution utility based on the entirety of all charges included on the bill which are subject to the sales and use tax. To the extent applicable to the EEC, each distribution utility should bill and remit sales tax on the EEC in the same manner as it otherwise bills and remits sales tax. Exh. DPS-1 at ¶ 11.

45. Each distribution utility should send to the Fiscal Agent the total amount of the EEC billed to customers no later than 23 days after the end of the billing month. Exh. DPS-1 at ¶ 12.

46. Payment of the EEC by customers of a distribution utility should be a requirement for service and should be subject to applicable law and Board rules, including but not limited to those rules governing deposit and disconnection for non-payment. Exh. DPS-1 at ¶ 13.

47. The Contract Administrator should be entitled to determine the accuracy of any invoices submitted under the Stipulation, subject to resolution by the Board of any disputes concerning those invoices. Exh. DPS-1 at ¶ 14.

48. The Stipulation does not change the provisions of the stipulation approved by the Board in its October 31, 2002, Order in Docket 6741 regarding the next date for determination of Uncommitted Funds. The Docket 6741 Stipulation provided that Uncommitted Funds should next be determined as of December 31, 2005, and that the amount of such Uncommitted Funds should be determined no later than June 3, 2006. If the amount of Uncommitted Funds exceeds five percent of the authorized Core Program Budget for year 2005, under the terms of the Docket 6741 Stipulation, such amount will be applied as a credit against the year 2007 EEC; otherwise the disposition of the amount will be determined by the Board. Exh. DPS-1 at ¶ 15.

49. The DPS and GMP have entered into a bilateral agreement that specifies that certain special contracts between GMP and GMP customers will not be used to collect the 2004 EEC. Exh. DPS -2.

50. The DPS and CVPS have entered into a bilateral agreement that specifies that certain special contracts between CVPS and CVPS customers will not be used to collect the 2004 EEC. Exh. DPS-3.

Discussion

Most of the uncontested provisions of the Stipulation resolve issues related to the implementation of the year 2004 EEC in the same manner that they were resolved for the year 2003. There are three exceptions to this general statement. First, the Stipulation allows distribution utilities to seek reimbursement from the Energy Efficiency Utility Fund for the cost of providing notice to customers of the year 2004 EEC rates. Second, the Stipulation allows distribution utilities who are seeking reimbursement for the prior year's EEC-related uncollectible amounts to seek reimbursement for their actual uncollectible amounts, rather than an estimate of those amounts. Third, the Stipulation does not require the distribution utilities to obtain the approval of their customer notices regarding the year 2004 EEC rates if their notices are substantially similar to the notices approved by the Clerk of the Board for the 2003 EEC rates.

Given that the Board has already found the resolutions embodied in most of the uncontested provisions to be reasonable for the implementation of the current 2003 EEC, and no party has presented evidence in this Docket that these resolutions are no longer reasonable, I recommend that the Board approve these resolutions for the implementation of the year 2004 EEC. This same reasoning applies to the terms of the bilateral agreements between the DPS and GMP and the DPS and CVPS, as described in findings 49 and 50, above. I also recommend that the Board approve the three provisions that provide different resolutions than those approved for the implementation of the year 2003 EEC, for the following reasons. First, it is reasonable for distribution utilities to seek reimbursement from the Energy Efficiency Utility Fund for the cost of providing notice to customers of the year 2004 EEC rates because the cost of providing such notice is related to the implementation of the EEC.⁵⁰

Second, it is reasonable for distribution utilities to seek reimbursement for their actual EEC-related uncollectible amounts, rather than an estimate of those amounts. While it is necessary to use an estimate of uncollectible amounts for several months of 2003 in order to calculate the 2004 EEC rates, by the time the utilities file for reimbursement (February 20, 2004) they will know their actual EEC-related uncollectible amounts for 2003. Allowing the utilities to file for actual amounts will be administratively simpler and more efficient.

50. Tr. 9/24/03 at 69 (Behrns).

Third, it is reasonable for distribution utilities who are only making minor formatting and updating changes to the notices they sent to customers last year regarding the year 2003 EEC rates to be able to send those new notices to customers without obtaining the advance approval of the Clerk of the Board. Those utilities who are making more significant changes to the notices will, as last year, be required to file their proposed notices with the Clerk of the Board for approval, and other utilities may file proposed notices with the Clerk of the Board for approval if they so choose. The Stipulation does not prohibit this, but merely states that for certain utilities, it is not necessary.

I do recommend, however, that the Board expand the list of changes a utility may make to the form of its customer notice without obtaining the advance approval of the Clerk of the Board. Last year's notices included references to a motion pending before the Board at that time to reduce the total amount to be collected via the EEC in 2003. This information is clearly not applicable to the 2004 EEC rates, and I recommend that utilities be able to delete all references to the formerly pending motion (along with the characterization of the rates included in the old notice as "maximum" rates since that was directly related to the pending motion) without triggering the requirement for approval by the Clerk of the Board. In addition, last year's notices included a sentence referring to the 2002 EEC percentage rate, which was the EEC rate in effect at the time the notice was sent out. Since the way in which the 2003 EEC rates were billed to customers changed in all service territories except CVPS, it is necessary to change this format in order to correctly show the comparison between the 2003 rates and the new 2004 rates. In order to accomplish this, I recommend that the utilities be allowed to make the following formatting changes without triggering the requirement for approval by the Clerk of the Board: (1) delete the sentence referring to the 2002 EEC rates; (2) add a column showing the EEC rates effective with bills rendered on or after November 1, 2003, under the title "current rates"; and (3) add the column title "new rates" above the column containing the 2004 EEC rates.

There is one additional issue related to the content of the customer notices of the 2004 EEC rates that is not addressed by the Stipulation. The customer notices sent out last year explained what entity delivered the energy efficiency services paid for by the funds collected via the EEC, and how to obtain additional information about these services. In most cases, this was

Efficiency Vermont, Vermont's Energy Efficiency Utility, and the notices included contact information for Efficiency Vermont. Since the Stipulation treats the customer notices sent out last year as a model for the customer notices to be sent out this year, I consider it likely that this year's customer notices would also refer in some manner to Efficiency Vermont. If they do, I recommend that the Board encourage the distribution utilities to provide Efficiency Vermont an opportunity to comment on the way in which its name is used in this year's customer notices. Given that the notices will reach all Vermont electric customers, and these are also potential customers of Efficiency Vermont, it is reasonable to allow Efficiency Vermont an opportunity to present any concerns and recommendations it may have regarding the use of its name. For the same reason, I recommend that the Board provide Efficiency Vermont an opportunity to comment on the way in which its name is used in the newspaper notice regarding the 2004 EEC rates which will be published by the Board.

Finally, I note that while the Stipulation's provisions regarding the use of adjustments for EEC-related uncollectible accounts and over- or under-collections are not contested by any party, I have recommended in Section IIIB, above, that the Board modify these provisions for WEC's service territory. The Stipulation provides that these adjustments should not be made for WEC's service territory. I have recommended, for the reasons set forth in Section IIIB, that the adjustments should be made when calculating the 2004 EEC rates for WEC's service territory, just as they should be made when calculating the 2004 EEC rates for all other electric utility service territories.

D. Compliance Filings

The Stipulation 2004 Methodology provides a formula for calculating the 2004 EEC rates. This formula requires certain inputs that are not currently in the record in this proceeding. The DPS has agreed to develop an electronic template which the distribution utilities can use to provide some of these inputs to the Board. I appreciate the DPS's willingness to develop this template, and recommend that the Board require it to be provided electronically to all electric distribution utilities by October 24, 2003.

I recommend that the Board require the distribution utilities and the Contract Administrator to file the following information by November 7, 2003, so that the Board may input the information into the formula and perform the straight mathematical calculations necessary to determine the 2004 EEC rates.⁵¹ Each distribution utility should be required to file electronically, using the template developed by the DPS, and applying the new standard definitions of commercial and industrial customers:

- 2002 kWh and kW billing determinants for residential, commercial demand-billed, commercial non-demand-billed, and industrial customers;⁵²
- 2002 revenues for residential, commercial, and industrial customers; and
- 2002 energy and demand revenues for commercial demand-billed and industrial revenues.

CVPS's, GMP's, and Vermont Marble's filings should also indicate the amounts of their total 2002 billing determinants and revenues that are related to sales which, pursuant to Paragraph 3.i of the Stipulation, are not to be used in the calculation of the 2004 EEC rates. The Contract Administrator should file a reconciliation of the 2002 estimated EEC over- or under-collection with the actual 2002 EEC over- or under-collection, and an estimate of the 2003 EEC over- or under-collection.

IV. CHANGES TO CURRENT METHODOLOGY FOR 2003

A. Statewide Methodology

Findings

51. The Stipulation 2003 Methodology would not change the 2003 EEC residential rates. Tr. 9/24/03 at 74 (Behrns).

52. The Stipulation 2003 Methodology would *reduce* the EEC rate for industrial customers by 18 percent from the current non-residential demand rate, *increase* the EEC rate for commercial demand-billed customers by 9.9 percent from the current non-residential demand

51. It is a straight mathematical calculation for the Board to apply the formula set forth in the Stipulation 2004 Methodology to these inputs. Tr. 9/24/03 at 144 (Behrns).

52. The kW billing determinants to be provided should be consistent with Paragraph 3.f.iii of the Stipulation.

rate, and *increase* the EEC rate for commercial non-demand-billed customers by 11.4 percent from the current non-residential non-demand rate. Exh. DPS-7 at 6.

53. Using the Stipulation 2003 Methodology results in the following EEC rates, for all distribution utility service territories except those of BED, WEC, and CVPS:

- a. For residential customers, the rate would be unchanged at 3.172 mills/kWh;
- b. For commercial customers who are not demand billed, the rate would be 2.827 mills/kWh;
- c. For commercial customers who are demand billed, the rate would be 1.783 mills/kWh and \$0.407340/kW per month, with the kW month charge assessed on billed peak kW only;
- d. For industrial customers who are demand billed, the rate would be 1.331 mills/kWh and \$0.303963/kW per month, with the kW month charge assessed on billed peak kW only;
- e. For unmetered street and security lighting customers, the rate would be 2.827 mills/kWh times the nominal size of the light times 360 hours per month.

Exh. DPS-7 at 6; exh. DPS-1 at ¶ 3.h; tr. 9/24/03 at 74 (Behrns).

54. Using the Stipulation 2003 Methodology results in the following EEC rates for BED's service territory:

- a. For residential customers, the rate would be unchanged at 2.598 mills/kWh;
- b. For commercial customers who are not demand billed, the rate would be 3.279 mills/kWh;
- c. For commercial customers who are demand billed, the rate would be 1.868 mills/kWh and \$0.305382/kW per month, with the kW month charge assessed on billed peak kW only;
- d. For industrial customers who are demand billed, the rate would be 1.479 mills/kWh and \$0.390860/kW per month, with the kW month charge assessed on billed peak kW only;
- e. For unmetered street and security lighting customers, the rate would be 3.279 mills/kWh times the nominal size of the light times 360 hours per month.

Exh. BED-1 at 4.

55. Using the Stipulation 2003 Methodology results in the following EEC rates for CVPS's service territory:

CVPS Rate Class	EEC Surcharge Percentage
<u>Residential</u>	
Rates 1 & 8	2.70%
Rate 9	3.12%
Rate 11	3.31%
<u>General Service</u>	
Rate 2	2.68%
Rate 10	2.82%
<u>Primary Service</u>	
Rate 4 - Commercial	3.10%
Rate 4 - Industrial	2.30%
Rate 12	4.05%
<u>Transmission Voltage Service</u>	
Rate 5 - Commercial	6.26%
Rate 5 - Industrial	2.77%
<u>Off-Peak Service</u>	
Rate 3	4.84%
Rate 13	5.41%
Rate 14	4.84%
Rate 15	6.53%
<u>Lighting</u>	
Rates 6 & 7	0.93%

Exh. CVPS-1 at 3.

56. The Stipulation provides for the revised 2003 EEC rates calculated pursuant to the Stipulation 2003 Methodology to take effect with bills rendered on or after November 1, 2003.

Exh. DPS-1 at ¶ 7.b.

57. It is reasonable to implement the Stipulation 2003 Methodology effective with bills rendered on or after November 1, 2003, in order to correct an unintended consequence of the current methodology used to calculate the 2003 EEC. This unintended consequence was that, on average, industrial customers experienced a 25 percent *increase* in the amount collected from them via the EEC in 2003, while commercial customers experienced a five percent *decrease* in the amount collected from them via the EEC in 2003. Tr. 9/24/03 at 69, 86–87 (Behrns).

58. Using the Stipulation 2003 Methodology to recalculate 2003 EEC rates, effective with bills rendered on and after November 1, 2003, will not threaten the Energy Efficiency Utility Fund's cash flow. Exh. Board-2 at 2.

Discussion

I have already concluded that it is appropriate to use a different methodology to calculate the EEC for 2004 than the methodology used to calculate the current 2003 EEC rates, in order to correct an unintended consequence of the current methodology and to use a methodology that is fair to all customer classes. For the same reasons, I conclude that it is appropriate to revise the methodology to calculate the EEC in 2003, effective with bills rendered on or after November 1, 2003.

Once again, there are two methodologies before me that could be used to recalculate the EEC rates, here for application beginning in November, 2003, through the end of the year: the Stipulation 2003 Methodology and the AIV Methodology. The Stipulation 2003 Methodology is nearly identical to the Stipulation 2004 Methodology. The AIV Methodology is identical for 2003 and 2004. As a result, many of the issues raised regarding these two methodologies are the same as those already discussed in the context of the proposed methodologies for 2004. Accordingly, I will refer to the prior discussion when appropriate.

I have already determined that it is appropriate to separate customers into three classes — residential, commercial, and industrial — for the purposes of allocating 2004 EEC collections. I have also already determined that it is appropriate to use the percentage of annual electric revenue contributed by each customer class as the basis for allocating EEC collections among customer classes in 2004. For the same reasons, I conclude that it is appropriate to separate

customers into three classes — residential, commercial, and industrial — and to use the percentage of annual electric revenue contributed by each customer class as the basis for allocating EEC collections among customer classes in 2003.

I have also already determined that the AIV Methodology's proposed method of allocating 2004 EEC collections among customer classes is not appropriate. For the same reasons, I conclude that the AIV Methodology's proposed method of allocating 2003 EEC collections among customer classes is not appropriate.⁵³

Therefore, I conclude that it is more appropriate to use the Stipulation 2003 Methodology than the AIV Methodology to calculate revised 2003 EEC rates.

There are two additional issues related to the implementation of the Stipulation 2003 Methodology that deserve discussion. First, the Stipulation 2003 Methodology does not apply the new definitions of commercial and industrial customers. It would be preferable for the methodology to only be changed once, and for the new definitions to take effect with bills rendered on and after November 1, 2003. However, there will be very little time between the date of a Board order establishing the new rates for 2003, and the date by which the utilities will begin issuing bills based on those new rates (assuming the Board accepts my recommendations regarding the proposed 2003 changes). Based on my understanding of electric utility billing systems, changes to existing rate elements within existing tariffs (such as changing a mill rate or a percentage charge) take considerably less time to implement than changes which affect the structure of the tariffs themselves (such as changes which cause some customers billed under a utility's industrial tariff to be charged EEC commercial demand rates, while other customers on the same industrial tariff would be charged EEC industrial rates). As a result, given the length of time utilities will have to make any changes to their billing systems before issuing bills on November 1, 2003, I conclude that it is reasonable not to apply the new definitions of commercial and industrial customers in 2003.

53. I note that AIV's argument that "cumulative benefits" from the 2000 – 2002 period should be used to allocate EEC payments between residential and non-residential customer classes is even less persuasive with respect to 2003 EEC rates, given that there is already actual data regarding energy savings for seven months of 2003, and this actual data shows a distribution between the customer classes significantly different from that achieved in 2000 – 2002 (see finding 21, above).

Second, the Stipulation includes slightly different provisions regarding notice to customers of the revised 2003 EEC rates than of the 2004 EEC rates. Specifically, the Stipulation provides that the distribution utilities will provide notice to customers of the proposed change to the 2003 EEC rates. In most cases, this notice has already been provided.⁵⁴ However, based on the disagreement between WEC and the DPS regarding the form of the notice WEC should provide its customers,⁵⁵ I conclude that WEC has not yet notified its customers; this issue will be addressed in Section IVB, below.

In addition, the rates I am recommending that the Board approve for CVPS, while substantively similar, are in a different format than was included in the original customer notice sent by CVPS. That is, the original proposal called for CVPS to implement the revised rates using per kWh and per kW rates, while the Stipulation allows CVPS to implement the 2003 revised rates using percentage charges. I am pleased that, according to CVPS's counsel, CVPS is already planning to prepare a bill insert for its November bills advising its customers of the new EEC rates.⁵⁶ Such notice would satisfy my concern that CVPS's customers understand their new 2003 EEC rates. Accordingly, I recommend that the Board require CVPS to provide such notice to their customers in their November bills.

B. Issues Specific to WEC's Service Territory

Findings

59. The 2003 EEC rates for WEC's residential customers would not change under the Stipulation 2003 Methodology. Tr. 9/24/03 at 74 (Behrns).

Discussion

54. At the technical hearing, I stated my understanding that all distribution utilities had provided notice to their customers of the DPS's proposal to change the 2003 EEC rates. Only BED stated that it had not yet provided such notice. Tr. 9/24/03 at 200–201 (Ellis, counsel for BED). Since the technical hearing, BED has published a newspaper notice of the proposed changes. Exh. BED-1 at 4.

55. See, e.g., exh. DPS-6 at 2; tr. 9/24/03 at 73 (Behrns);

56. Tr. 9/24/03 at 201 (Silver, counsel for CVPS).

I have already concluded that the Stipulation 2004 Methodology should be used to calculate the 2004 EEC rates for customers in WEC's service territory in order to promote equity and consistency, both with prior Board orders on this issue and among distribution utility service territories. These same reasons lead me to conclude that the Stipulation 2003 Methodology should be used to calculate revised 2003 EEC rates for customers in WEC's service territory.

Similarly, in Section IIIB, above, I recommended that the Board modify the Stipulation to require adjustments for EEC-related uncollectible accounts and over- or under-collections to be made when calculating the 2004 EEC rates for customers in WEC's service territory. For the same reasons articulated in that Section, this modification should also apply to the calculation of the revised 2003 EEC rates for customers in WEC's service territory.

However, I do not have the information required to calculate the 2003 EEC rates for WEC's non-residential customers. Therefore I recommend that the Board order WEC to calculate its 2003 EEC rates according to the Stipulation 2003 Methodology, but using the uncollectibles and over- or under-collection adjustments approved by the Board for 2003 in Docket 6741.⁵⁷ I recommend that the Board require WEC to file these revised rates with the Board on or before October 22, 2003, and provide parties to this docket an opportunity to comment on WEC's calculated rates by October 28, 2003. Finally, I recommend that the Board expedite its review of these rates so that WEC can provide its customers, on or before October 31, 2003, with notice of the new 2003 EEC rates for WEC's service territory that will be approved by the Board.

V. CONCLUSION

In conclusion, I recommend that the Board approve, with three modifications and one clarification, the Stipulation. The three modifications are:

- (1) change Paragraph 3.d so that the basis for determining the total amount to be collected via the EEC from commercial demand customers is the same as that used in exh. DPS-7;

⁵⁷. Docket 6741, Order of 12/5/02 at 2.

(2) modify Paragraph 8 so that the adjustments related to over- or under-collection of the EEC and utility uncollectibles would be made on a territory-specific basis for WEC; and

(3) amend the conditions listed in Paragraph 10.c regarding when utilities are required to obtain advance approval of the Clerk of the Board of their notices to customers of the 2004 EEC rates.

The clarification is that the kW billing determinants to be used to develop and to apply the EEC capacity-kW rate for commercial and industrial customers (as described in Paragraph 3.f.iii) include peak kW billing determinants only.

I recommend that the Board approve the two bilateral agreements filed with the Stipulation in their entirety.

I also recommend that the Board:

- Approve the implementation of revised 2003 EEC rates, effective with service rendered on bills rendered on or after November 1, 2003, with no proration;
- Approve the revised 2003 EEC rates for customers in all distribution utility service territories except for BED, CVPS, and WEC as set forth in finding 53, above;
- Approve the revised 2003 EEC rates for customers in BED's service territory as set forth in finding 54, above;
- Approve the revised 2003 EEC rates for customers in CVPS's service territory as set forth in finding 55, above;
- Require WEC to file its EEC rates as calculated according to the Stipulation 2003 Methodology by October 22, 2003, and allow parties until October 28, 2003, to comment on these calculated rates if they so choose.
- Urge the DPS to file, on or before October 24, 2003, an electronic template which can be used by Vermont electric distribution utilities to provide certain billing determinant and revenue inputs to the Board;
- Require each Vermont electric distribution utility to file, on or before November 7, 2003, using the new standard definitions of commercial and industrial customers:
 - 2002 kWh and kW billing determinants for residential, commercial demand-billed, commercial non-demand-billed, and industrial customers;
 - 2002 revenues for residential, commercial, and industrial customers; and

- 2002 energy and demand revenues for commercial demand-billed, and industrial revenues.
- Require CVPS's, GMP's, and Vermont Marble's November 7, 2003, filings to also indicate the amounts of their total 2002 billing determinants and revenues that are related to sales which, pursuant to Paragraph 3.i of the Stipulation, are not to be used in the calculation of the 2004 EEC rates.
- Require the Contract Administrator to file, on or before November 7, 2003, a reconciliation of the 2002 estimated EEC over- or under-collection with the actual 2002 EEC over- or under-collection, and an estimate of the 2003 EEC over- or under-collection;
- Require WEC to provide notice, on or before October 31, 2003, to its customers of the new 2003 EEC rates that will be approved by the Board for customers in WEC's service territory;
- Require CVPS to provide notice to its customers with its November, 2003, bills of the approved new EEC rates for customers in CVPS's service territory.
- Encourage all distribution utilities who refer to Efficiency Vermont in their customer notices regarding the 2004 EEC rates to provide Efficiency Vermont an opportunity to comment on the manner in which it is referred to in the notices; and
- Provide Efficiency Vermont an opportunity to comment on the manner in which it is referred to in the newspaper notice prepared by the Board regarding the 2004 EEC rates.

VI. HEARING OFFICER DISCUSSION

The DPS, WEC, AIV, BED, Citizens, and CVPS have filed comments on the Proposal for Decision. WEC pointed out that the Proposal for Decision includes a factual error.⁵⁸ The Proposal for Decision stated that the July 29, 2002, Agreement was not approved in its entirety and was not binding on the Board. This is incorrect. As WEC indicated in its comments, the Board's August 1, 2002, memorandum stated "the Board is approving the July 29, 2002 agreement between the DPS and WEC." WEC and the DPS agree that the Proposal for Decision

58. The DPS later concurred with this aspect of WEC's comments. *See*, letter from Aaron Adler, Esq., DPS, to Susan M. Hudson, Clerk, Board, dated October 10, 2003.

should be modified to correct this factual error. I have done so by correcting all references to the Agreement not being approved by the Board and not being binding on the Board.⁵⁹

I apologize to WEC for failing to notice the plain language of the Board's August 1, 2002, memorandum (particularly since the approval language is located shortly before the excerpt from the Board's memorandum that is quoted on page 25 of the Proposal for Decision), and I thank WEC for bringing the approval language to the Board's attention. It was not my intention to recommend that the Board disregard its previous determination regarding the July 29, 2002, Agreement.

The DPS recommended several minor corrections to the Proposal for Decision, which I have reviewed and found to be reasonable. Three of these suggested changes were to the Procedural History: (1) a correction to the date on which the Stipulation was filed with the Board; (2) the inclusion of the filing of the DPS's proposal; and (3) the inclusion of the fact that BED's signature to the Stipulation was submitted at the Technical Hearing. Two of the DPS's suggested corrections were in specific findings: (1) proposed new language to clarify finding 37;⁶⁰ and (2) the correction of a typographical error in finding 50. The last of the DPS's minor changes related to the manner in which the July 29, 2002, agreement between the DPS and WEC was referenced.⁶¹

BED recommended that two corrections be made to the Proposal for Decision: (1) the inclusion in the Procedural History of the fact that BED executed the Stipulation after it was originally filed with the Board;⁶² and (2) the correction of a typographical error in the EEC rate

59. These corrections required revising and moving footnote 42 in the original Proposal for Decision.

60. Finding 37 describes the Stipulation's provision regarding the date on which the EEC for 2004 should take effect. This paragraph of the Stipulation states, in relevant part, "The EEC for 2004 will be effected, for service rendered, on bills rendered on or after February 1, 2004, with no proration." Exh. DPS-1 at ¶ 7. The original language in finding 37 parallels the language in the Stipulation; the DPS's proposed new language is consistent with the Stipulation, and I agree that the clarification is helpful.

61. The Proposal for Decision originally referred to this agreement as a Memorandum of Understanding. The DPS correctly points out that the July 29, 2002, document does not use this term, but instead refers to the "Agreement Between WEC and DPS on Energy Efficiency Collection Amount, Program Design and Delivery and Service Arrangement in WEC's Service Territory."

62. BED also noted that the filing date on which the Stipulation was filed with the Board was incorrect in the Procedural History.

for BED's residential customers in finding 54. I have reviewed these changes and found them to be reasonable.

I have also found one typographical error in the Proposal for Decision that was not mentioned in any party's comments. In Finding 50, which refers to the bilateral agreement between the DPS and CVPS, the end of the citation reference was inadvertently omitted.⁶³ It originally read "Exh. DPS" and should have read "Exh. DPS-3."

I have incorporated the changes described above in this Proposal for Decision and, because they are not adverse to any party's interest, pursuant to 30 V.S.A. § 811, I also conclude that the proposal need not be reissued to the parties for comment.

The remaining issues raised by the DPS, WEC, AIV and Citizens are substantive in nature; thus, they will be considered directly by the Board.

Dated at Montpelier, Vermont, this 15th day of October, 2003.

s/Ann Bishop

Ann Bishop
Hearing Officer

63. This is a different typographical error than that included in the DPS's comments.

VII. BOARD DISCUSSION

The DPS, AIV, WEC, BED, Citizens, and CVPS have filed comments on the Proposal for Decision. CVPS stated it does not oppose the Proposal for Decision. WEC pointed out a factual error, and the DPS and BED suggested technical corrections; the Hearing Officer has addressed these comments as described above.

AIV, WEC, the DPS, and Citizens raised substantive issues regarding the Proposal for Decision which we will address here. These issues can be grouped into four areas: (1) the appropriateness of the methodology to be used to calculate the EEC rates that is recommended in the Proposal for Decision; (2) the tone and content of the Hearing Officer's recommendations regarding the methodology to be used to calculate the EEC rates for customers in WEC's service territory; (3) the Hearing Officer's proposed modification to and clarification of the Stipulation; and (4) whether the Board should approve new 2003 EEC rates for industrial customers who are not demand billed. In addition, the DPS's comments included a recommendation that the Board initiate a rulemaking proceeding to establish the methodology for calculating the EEC rates in future years. We will address each of these in turn.

Appropriateness of the Methodology Recommended in the Proposal for Decision

AIV argues that the EEC calculation methodology recommended in the Proposal for Decision contains "fundamental flaws." AIV notes that the recommended methodology will lower the amount to be collected via the EEC from industrial customers who experienced an average increase of 25 percent in their EEC payments in 2003 compared with 2002, and argues that an appropriate methodology should provide similar "relief" to smaller business customers who experienced increases of a similar magnitude in 2003. AIV asserts that there are a significant number of these smaller business customers "with every likelihood that they outnumber the industrial class customers." As a result, AIV recommends that the Board reject the Proposal for Decision, not to continue to use the current methodology, but to "do the work necessary" to develop a methodology that provides relief to all business customers who experienced an increase in their EEC payments in 2003. AIV, itself, has not presented as evidence the analysis that it recommends.

We are not persuaded by AIV's arguments. The purpose of this proceeding is to determine the methodology to be used to calculate EEC rates that will be fair and reasonable for all customer classes, not to provide "relief" to certain customers.

As the Hearing Officer noted in the Proposal for Decision, rate design changes affect different customer classes and different individual customers within those classes in different ways. Rate designs that reallocate costs among customer classes result in some customer classes experiencing rate increases, while other classes experience decreases. Rate designs that change the individual components of a rate (i.e., customer charge, kWh charge, kW charge) result in some customers within a class experiencing rate increases while others experience decreases, depending on the individual customer's consumption. We expected the methodology used to calculate the current EEC rates would affect individual customers differently. (Similarly, we expect that any methodology we approve for calculating the 2004 EEC rates will affect individual customers differently.)

What we did not expect was that the methodology used to calculate the current EEC rates would change the prior allocation among customer classes. We agree with the Hearing Officer's conclusion that the methodology used to calculate the 2004 EEC rates should correct this "unintended consequence." However, we emphasize that this "unintended consequence" referred to *customer classes*, not to individual customers.

The current methodology, which was defined in a Stipulation among the parties in Docket 6741, unexpectedly resulted in industrial customers, as a class, experiencing a 25 percent *increase* in their EEC payments in 2003 while, at the same time, commercial customers, as a class, experienced a 5 percent *decrease* in their EEC payments. The DPS has shown that under the Stipulation 2004 Methodology, the EEC rate for industrial customers would be 18 percent *lower* than the current non-residential demand rate, the EEC rate for commercial demand-billed customers would be 9.9 percent *higher* than the current non-residential demand rate, and the EEC rate for commercial non-demand-billed customers would be 11.4 percent *higher* than the current non-residential non-demand rate. In other words, the rate changes would partially offset each other because the class that saw an increase in 2003 would experience a decrease in 2004, and

vice versa. We agree with the Hearing Officer that this analysis shows that the Stipulation 2004 Methodology appropriately corrects the "unintended consequence."

In reaching this conclusion we do not want to give the impression that we are unconcerned about the effects of our decisions on individual customers. We recognize that bill increases are difficult for many customers. Nevertheless, rate design is, by its very nature, a zero-sum game; since the sum from all ratepayers must yield a pre-defined revenue level, reductions for some parties (such as large industrial customers) must necessarily be balanced by increases for others (such as smaller commercial customers). Any time a rate design is changed, some customers will pay more while other customers will pay less. The fact that some customers will experience a second significant increase in their EEC payments does not necessarily mean that the methodology that produced those rates is unfair. Rather, as the Proposal for Decision notes, under traditional rate design principles, an increase in some customers' bills as a result of a rate redesign is an indication that those customers paid too little previously.

We have considered whether the AIV Methodology would result in just and reasonable EEC rates for all customer classes and we agree with the Hearing Officer's conclusion that it would not. As stated in the Proposal for Decision, contrary to long-standing rate design practice, the AIV Methodology uses multiple factors to allocate a single cost among customer classes. In addition, AIV has not shown that its proposed 50 percent allocation to residential customers and 50 percent allocation to non-residential customers is reasonable.

AIV argues that if the Board is not able to accept its proposed methodology, a different methodology should be developed that does provide "relief" to these smaller business customers. While we do not accept AIV's argument that a methodology should be designed that would provide "relief" to certain customers, we have considered whether additional work should be performed before we approve a methodology to calculate the 2004 EEC rates. We determine that the record in this proceeding is sufficient to enable us to approve a methodology that will result in just and reasonable EEC rates in 2004 for all customer classes. In addition, as noted in the Procedural History, the proceedings in this Docket followed several months of workshops and meetings to discuss a possible rulemaking regarding the methodology for calculating an EEC in future years. In other words, six months of research by the parties resulted in the proposals under

consideration in this Docket. There is no reason to conclude that additional months of research would lead to better proposals. On the contrary, such a delay would perpetuate the "unintended consequence" of the current methodology for calculating EEC rates. We conclude this would not be in the public interest, and therefore decline to accept AIV's recommendation that additional work be performed to develop another methodology.

Ultimately we are persuaded that the methodology recommended by the Hearing Officer in the Proposal for Decision will result in just and reasonable EEC rates for all customer classes. We reach this conclusion despite the fact that AIV has shown that 12 commercial customers (under the new definition) will experience a second significant increase in their EEC payments. The Board has long held that rate designs should be cost-based in order to send price signals that promote the efficient use of natural resources. Departure from cost-based rates would result in trade-offs and cross-subsidies among customer classes, or among individual customers. As the Board stated in Docket 5308 (the Board's investigation into the adoption of special energy programs for low-income households):

In recent years there have been many proposals to assist various classes of customers through cross-subsidies, including existing businesses, new businesses, farms, schools, public facilities and residential customers generally. Under Vermont's well-established policy favoring cost-based utility rates, the Board has opposed these measures when they impose additional costs on other customer classes.⁶⁴

The Stipulation 2004 Methodology is consistent with this long-standing ratemaking policy; the AIV Methodology is not.

Finally, we note that one way to mitigate bill increases is through cost-effective energy efficiency investments that enable customers to lower their electricity consumption. We encourage all customers to make such investments, when possible, and remind all parties that the funds collected via the EEC are used by Vermont's Energy Efficiency Utility to help customers do just that.

64. Docket 5308, Order of 3/9/93 at 3–4 (footnote 3).

Issues Related to WEC's Service Territory

WEC takes issue with the choice of words in two areas of the Proposal for Decision. The first concerns the use of the word "controversy" to describe the disagreement between WEC and the DPS. Additionally, WEC disputes the term "special dispensation" as used to define WEC's argument that it should not be bound by the Stipulation 2004 Methodology. We feel that the use of these terms is appropriate in light of the meaning of these terms. While it is possible that a term exists that more accurately captures the nuances inherent in these issues, we do not see a need to "word-smith" each term in the Proposal for Decision.

WEC also disputes the Hearing Officer's characterizations of its testimony during the technical hearing as inconsistent. Upon review of WEC's testimony, we conclude that WEC was not inconsistent in its testimony. However, the conclusions reached in the Proposal for Decision did not rest on this characterization of WEC's testimony. We feel that the conclusion reached by the Hearing Officer with respect to the application of the Stipulation 2004 Methodology to WEC's service territory is sound, despite this factual error.

Finally, we want to comment on an issue raised by WEC that has already been addressed in the Hearing Officer's Discussion. The Hearing Officer's error regarding Board approval of the July 29, 2002, Agreement was unfortunate, and might have created the perception by the parties that she believed the Board was free to disregard the terms of an agreement between two (or more) parties that it had previously approved. In fact, the Board does recognize that an approved agreement remains valid and will not be contradicted without first offering an opportunity for contested case proceedings on the matter. We understand WEC's concern with the factual error in the original Proposal for Decision regarding whether the Board had approved the July 29, 2002, Agreement, and we agree with WEC that the Hearing Officer's original statements regarding Board approval of the July 29, 2002, Agreement were not necessary to justify the Proposal for Decision's recommendations. We emphasize that our decision today is in no way inconsistent with the terms of the July 29, 2002, Agreement, and that our previous approval of that Agreement is in no way modified by the terms of this Order.

The DPS provides two comments on the issues related to WEC's service territory. First, the DPS expressed concern that the Proposal for Decision, by stating that the July 29, 2002,

Agreement was not approved by the Board and thus not binding, creates an inference that the Agreement was not being honored. The statement that the July 29, 2002, Agreement was not approved by the Board has been corrected, as noted above. We believe that this change corrects any inference that the Agreement was not being honored.

Secondly, the DPS disputes the Hearing Officer's conclusion that the term "equivalent" is ambiguous and could be interpreted to support either WEC's or the DPS's position. We agree with the Hearing Officer's conclusion that the term "equivalent" is ambiguous. "Equivalent" could mean that the EEC can be "calculated for members with both energy and demand billing determinants"⁶⁵ as WEC has asserted.⁶⁶ However, we do not agree that the term can be interpreted to mean "not to exceed," as WEC has also argued. Consequently, we do not fully adopt the DPS's position with respect to the ambiguity of the term "equivalent."

Hearing Officer's Proposed Modifications to and Clarification to the Stipulation

The Hearing Officer recommended that the Board make three modifications and one clarification to the Stipulation. The first modification was discussed above in the section regarding issues specific to WEC's service territory. The other modifications and the clarification are discussed below.

The DPS was the only party to respond to the Hearing Officer's invitation to comment on her proposed modification to Paragraph 3.d of the Stipulation (which describes the fourth step of the Stipulation 2004 Methodology). The DPS stated that the Hearing Officer's understanding of the implications of using Paragraph 3.d as written is correct, and it did not intend such implications. The DPS agreed that the paragraph should be modified as proposed by the Hearing Officer to conform with the model used to develop the EEC rates (exh. DPS-7), and stated that this proposed modification is fair to all customer classes. We accept the Hearing Officer's recommendation on this issue. Paragraph 3.d of the Stipulation is hereby modified so that step four of the Stipulation 2004 Methodology consists of multiplying the rate for commercial non-

65. Exh. DPS-6.

66. This interpretation would mean that the Agreement does not preclude an EEC rate that included both energy and demand components. This interpretation would be consistent with the Board's statement at the time it approved the July 29, 2002, Agreement that the methodology for the EEC for WEC's customers was still to be determined.

demand-billed customers that was established in step three times the total kWh sales to those customers, and subtracting this amount from the total amount to be billed to all commercial customers.

The DPS also agreed with the Hearing Officer's recommendation that the Board clarify that only peak kW billing determinants should be used when developing and applying the 2004 EEC capacity-kW rate for commercial and industrial customers. No other party commented on this recommendation. We concur with the Hearing Officer and the DPS, and we make the recommended clarification of Paragraph 3.f.iii of the Stipulation.

The Hearing Officer recommended that the Board amend the conditions listed in Paragraph 10.c regarding when utilities are required to obtain advance approval of the Clerk of the Board of their notices to customers of the 2004 EEC rates. No party commented on this recommendation. We find it reasonable and hereby amend Paragraph 10.c as recommended by the Hearing Officer.

New 2003 EEC Rates for Industrial Customers Who Are Not Demand Billed

Citizens noted that finding 53 did not include a rate for industrial customers who are not demand billed, and pointed out that its notice to customers regarding the DPS's proposed changes to the 2003 EEC rates did include a rate for those customers. Given that Paragraph 3.d of the Stipulation states that all customers in the industrial class are demand billed, it would appear that a rate for industrial customers who are not demand billed would not be necessary. However, given that the notice that Citizens sent to its customers did include a rate for such customers, we will modify finding 53 to include the rate for industrial customers who are not demand billed.⁶⁷ The following text is added to finding 53:

- f. For industrial customers who are not demand billed, the rate would be 2.081 mills/kWh.

67. We also determine that it is not necessary to include a rate for industrial customers who are not demand billed in finding 54 (which states the EEC rates for BED's customers) because BED's customer notice did not include such a rate. Exh. BED-1.

Rulemaking to Establish Methodology to Calculate EEC Rates in Future Years

The DPS recommended that, if the Board approves the Proposal for Decision, the Board should propose a rule, based on the methodology recommended to the Board in the Proposal for Decision, that would govern how the EEC is calculated in the future. The DPS explained that a rule, once in effect, would reduce the amount of time and resources that would need to be spent on EEC rate design by the Board, the DPS, and the parties.

We agree that the methodology for calculating the EEC should be specified in a rule. As is noted in the Procedural History, we initiated discussions regarding such a rulemaking in March of this year, but after several months of workshops, we opened this investigation because there was no longer sufficient time to complete a rulemaking before the 2004 EEC rates would need to be calculated.

It is our intention, once the EEC rates for 2004 have been calculated and this Docket is closed, to open a rulemaking proceeding to establish the methodology that would be used to calculate EEC rates in 2005 and beyond. We further intend to use the methodology approved today for the 2004 EEC rates as the initial proposed rule, except that the proposed rule would provide that, beginning in 2006, WEC customers would pay the same uniform statewide rates as customers of other utilities (this is necessary for the proposed rule to be consistent with the terms of the July 29, 2002, Agreement).

VIII. ORDER

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

1. The findings and recommendations of the Hearing Officer are adopted, as modified above.
2. The Stipulation among the Vermont Department of Public Service ("DPS"), the City of Burlington Electric Department ("BED"), Central Vermont Public Service Corporation ("CVPS"), Citizens Communications Company, d/b/a Citizens Energy Services, Green Mountain Power Corporation ("GMP"), Vermont Electric Cooperative, Inc., the Vermont Marble Power

Division of OMYA, Inc. ("Vermont Marble"), International Business Machines Corporation, and the Vermont Ski Areas Association that was filed with the Board on September 22, 2003

("Stipulation"), is hereby approved with the following three modifications and one clarification:

- Paragraph 3.d is modified so that the basis for determining the total amount to be collected via the Energy Efficiency Charge ("EEC") from commercial demand customers is the same as that used in exh. DPS-7;
- Paragraph 8 is modified so that the adjustments related to over- or under-collection of the EEC and utility uncollectibles would be made on a territory-specific basis for Washington Electric Cooperative, Inc. ("WEC"); and
- the conditions listed in Paragraph 10.c, regarding when utilities are required to obtain advance approval of the Clerk of the Board of their notices to customers of the 2004 EEC rates, are amended as described above;
- the kW billing determinants to be used to develop and to apply the EEC capacity-kW rate for commercial and industrial customers that are described in Paragraph 3.f.iii shall include peak kW billing determinants only.

3. The methodology for calculating EEC rates, as set forth in paragraph 3 of the Stipulation and as modified and clarified in paragraph 2 of this Order shall be used by all utilities to calculate 2004 EEC rates for customers in all distribution utility service territories. The 2004 EEC rates shall take effect on bills rendered on or after February 1, 2004, with no proration.

4. The DPS has agreed to provide each Vermont electric distribution utility with an electronic template which can be used to provide the data listed in paragraph 5, below, to the Board. In order for the utilities to use this template to comply with the filing deadline in paragraph 5, below, they should have this template on or before October 24, 2003. We therefore urge the DPS to provide each Vermont electric distribution utility such an electronic template by that date, and if it cannot do so, to inform the utilities and the Board as soon as possible.

5. On or before November 7, 2003, each Vermont electric distribution utility shall file electronically, using the template to be provided by the DPS, and applying the new standard definitions of commercial and industrial customers:

- 2002 kWh and kW billing determinants for residential, commercial demand-billed, commercial non-demand-billed, and industrial customers;
- 2002 revenues for residential, commercial, and industrial customers; and
- 2002 energy and demand revenues for commercial demand-billed, and industrial revenues.

6. CVPS's, GMP's, and Vermont Marble's November 7, 2003, filings shall also indicate the amounts of their total 2002 billing determinants and revenues that are related to sales which, pursuant to Paragraph 3.i of the Stipulation, are not to be used in the calculation of the 2004 EEC rates.

7. On or before November 7, 2003, the Contract Administrator shall file a reconciliation of the 2002 estimated EEC over- or under-collection with the actual 2002 EEC over- or under-collection, and an estimate of the 2003 EEC over- or under-collection.

8. All distribution utilities who refer to Efficiency Vermont in their customer notices regarding the 2004 EEC rates are encouraged to provide Efficiency Vermont an opportunity to comment on the manner in which it is referred to in the notices.

9. The Bilateral Agreement between the DPS and CVPS that was filed with the Stipulation is hereby approved in its entirety.

10. The Bilateral Agreement between the DPS and GMP that was filed with the Stipulation is hereby approved in its entirety.

11. The year 2003 EEC rates shall be revised as follows, effective with service rendered on bills rendered on or after November 1, 2003, with no proration:

- a. The revised year 2003 EEC rates for customers in all distribution utility service territories except for BED, CVPS, and WEC shall be as set forth in finding 53, above.
- b. The revised year 2003 EEC rates for customers in BED's service territory shall be as set forth in finding 54, above.
- c. The revised year 2003 EEC rates for customers in CVPS's service territory shall be as shown in finding 55, above.

12. WEC shall file its EEC rates as calculated according to the Stipulation 2003 Methodology by October 22, 2003. Any party that wishes to comment on these calculated rates shall do so by October 28, 2003.

13. On or before October 31, 2003, WEC shall provide notice to its customers of the new 2003 EEC rates to be approved by the Board for WEC's service territory.

14. CVPS shall provide notice to its customers with its November, 2003, bills of the approved new 2003 EEC rates for CVPS's service territory.

Dated at Montpelier, Vermont, this 16th day of October, 2003.

s/Michael H. Dworkin)

) PUBLIC SERVICE

s/David C. Coen)

) BOARD

s/John D. Burke)

) OF VERMONT

OFFICE OF THE CLERK

FILED: October 16, 2003

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.