ENERGY SAVINGS ACCOUNT OPTION FOR CUSTOMER SELF ADMINISTRATION OF ENERGY EFFICIENCY

Introduction:

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

Eligibility:

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

1. A single business (a single legal entity) with more than one electric account may combine the EEC amounts paid on multiple accounts to determine this eligibility.

2. A business shall be eligible if the annual average of the EEC for the 36 months prior to the customer's request to participate is equal to or greater than $5,000.

3. A customer in a new building shall be deemed eligible to participate if its projected EEC payment will be equal to or greater than $5,000, as determined by the Energy Efficiency Utility with input from the Department of Public Service (DPS or Department) and in consultation with the Customer.

Program Design:

Customers approved by the Public Utility Commission ("Commission")[1] to self-administer energy efficiency projects using an ESA may use funds collected through EEC payments for "Qualified Expenses" associated with energy efficiency projects provided that total "Qualified Expenses" in any period does not exceed 100% of "Available Funds." "Qualified Expenses" may be incurred in the following project categories: market driven, retrofit, planning, and prescriptive.

1. For **market-driven** projects, "Qualified Expenses" are defined as up to one hundred percent (100%) of the **incremental** costs associated with identifying, investigating, analyzing, designing, implementing, and/or installing societally cost-effective electric efficiency projects at facilities owned, operated, or controlled by the participating customer.
    a. For market-driven projects, incremental costs are defined as the difference between the actual cost of the equipment, installation labor, engineering, design, and commissioning and the cost of the equipment, installation labor, engineering,

[1] This document is substantively identical to the Attachment to the Commission's June 6, 2014, Order in proceeding number EEU-2014-02. However, pursuant to Section 9 of Act 53 of the 2017 legislative session, the Vermont Public Service Board name was changed to the Vermont Public Utility Commission, effective July 1, 2017. Accordingly, this document has been modified to reflect the Commission's name change.

design, and commissioning that would meet the current design and construction standard practice (the "baseline cost").

b. These costs may include the customer's internal design and engineering labor, outside design, engineering and installation labor and equipment costs. However, costs other than actual incremental material and installation labor costs shall be treated as "Planning Expenses" as described below.

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

3. For "**Planning**" projects, "Qualified Expenses" may include:
    a. Upon initial ESA program enrollment, or upon approval of this Order for currently enrolled Customers, and not more frequently than every three years, up to 100% of costs associated with development of an "Energy Efficiency Investment Plan" (EEIP) intended to guide project implementation for the next three years, provided that the costs for an EEIP do not exceed the expected ESA Customer Available Funds accrued in first 12 months or $10,000, whichever is less. An EEIP, at a minimum, shall consider:
        i. Baseline energy usage and data including trends; analysis or plan for analysis of the data;
        ii. Establishment of energy performance goals; and
        iii. Creation of an Energy Efficiency Action Plan to guide project implementation.
    b. For a customer's internal or external project design and engineering expenses associated with a market-driven or retrofit project:
        i. 50% of incurred expenses for project design and engineering may be considered Qualified Expenses and reimbursed through the ESA at the time they are incurred.
        ii. The remaining project design and engineering planning expenses may be considered Qualified Expenses upon the completion of the project. If the project has multiple phases, then the remaining 50% of project design and

engineering expenses may be considered qualified expenses in proportion to the expected MWh savings associated with each phase of the project.[2]

4. For "**Prescriptive**" projects, defined as electric projects or measures where a prescriptive rebate offer is available from the Energy Efficiency Utility to non-ESA customers, "Qualified Expenses" are defined as the level of EEU prescriptive rebate available to non-ESA customers.
    a. The customer's internal design and engineering labor, outside design, engineering and installation labor, and/or equipment costs not included as part of the prescriptive incentive are not eligible as Qualified Expenses for prescriptive projects.
    b. If the project is a stand-alone retrofit project where prescriptive incentives are available to non-ESA customers, then the 18-month payback requirement in provision 2.b. above shall not apply to those measures with prescriptive incentives.
    c. If the project is a mix of retrofit and market opportunity projects the 18-month payback requirement in provision 2.b above shall apply to non-prescriptive measures.

5. Consistent with current EEU practice, participants may choose to undertake projects in phases. Each element of a phased project must meet the requirements for project completion as defined in "Program Implementation", part 8, in order to qualify for reimbursement.

6. The final determination of whether the project represents a "market-driven", "retrofit", or "prescriptive" project, the electric avoided-cost benefits, assumptions regarding baseline design and construction standard practice, the amount needed to result in an 18- month payback on retrofit projects, and the reasonableness of planning cost estimates shall be determined by the EEU that serves the customer, in consultation with the customer. The EEU, in consultation with the customer, shall be responsible for the review and approval of costs associated with a customer's Energy Efficiency Investment Plan (EEIP). In the event of a dispute between the customer and the EEU, the dispute resolution process identified below will be followed.

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

7. Determination of project eligibility for projects that received or will receive EEU services will be made as follows:

[2] For example, if a project is expected to get 100MWh of savings in phase 1, 50MWh in phase 2, and 50MWh in phase 3, then 50% of the initial costs would be reimbursed at the time incurred, 25% at completion of phase 1, and 12.5% for each of phase II and phase III, for full reimbursement.

a. Completed Customer Projects, as determined by receipt of incentive payments from an EEU prior to the initiation of a customer's ESA shall not be eligible for reimbursement as a Qualified Expense.
b. For phased project implementation, specific measures that have not previously received financial incentives from an EEU shall be eligible under the ESA option.
c. Projects that have received technical assistance prior to the initiation of a customer's ESA will remain eligible for reimbursement as a Qualified Expense. However, the technical assistance costs incurred by any third-party contractor through an EEU shall be factored into cost-effective analysis as appropriate.
d. New Construction projects are eligible for Qualified Expenses. All New Construction efficiency measures will be considered "market-driven," and subject to restriction of "Planning Expenses" as described above.
e. If an EEIP is conducted, the customer may be eligible for technical assistance on a project-specific implementation basis pursuant to an EEIP. Determinations of eligibility shall be made by an EEU.

8. As a minimum requirement, all customers completing projects through the ESA option must achieve an average net present value of electric benefits per dollar of "Available Funds" used that is greater than or equal to 1.2 times the utilized "Available Funds." Failure to achieve this standard will be cause to discontinue customer's participation in the ESA option. Multiple projects may be aggregated within a three-year participation period in order to meet the net present value threshold. Costs associated with development of the EEIP shall not be included in the calculation of average net present value of electric benefits per dollar of "Available Funds" spent.

9. Upon receipt of a customer's request to self-administer through the ESA option, the customer's premises and accounts associated with the ESA will not be eligible for EEU electric efficiency incentives for market-driven or retrofit projects, products, or service offerings other than technical assistance and prescriptive incentives as described in Provision 4 of Program Design. The customer shall remain eligible for EEU incentives, technical assistance, products, or service offerings for Thermal Efficiency and Process Fuels measures that are funded through non-EEC revenues.

Available Funds:

"Available Funds" to a customer participating in an ESA are defined as seventy percent (70%) of the EEC that the customer has paid since its ESA start date, or is projected to pay to its distribution utility through the EEC, for a three-year maximum period, net of taxes.[3]

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

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

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

3. For purposes of ESA future "Available Funds" estimates, a customer's future energy and demand consumption (kWh and kW) will be assumed to be equal to that of the latest full calendar year, unless the customer and the EEU mutually agree on a different projection. For new construction projects or major renovations that qualify as new construction projects, projected energy and demand consumption will be determined by the EEU in consultation with the customer and with input from the Department.

4. If a customer participating in the ESA option does not use Available Funds within twenty-four months of the date they have been allocated into the customer's ESA, those funds shall be forfeited by the customer and they shall be available for use by the EEU for other purposes authorized by the Commission.

    a. Under extraordinary circumstances beyond the control of the participant, a customer may apply for a waiver from the Commission to extend the time period before which Available Funds will be forfeited. The request shall:
        i. Be made as soon as extraordinary circumstances become known to the participant and at least 45 days prior to any forfeiture of Available Funds,
        ii. Describe the extraordinary circumstances that will prevent the participant from using the Available Funds,
        iii. Describe other future projects planned under the ESA option.
    b. If an EEIP identifies long-term projects that would require forfeiture of funds that would otherwise be Qualified Expenses within the twenty-four-month window for expenditure of ESA funds, a customer may apply for a waiver from the Commission to extend the time period before which Available Funds will be forfeited.
    c. The Commission will solicit comments from the Department and the EEU before making a determination.
    d. In making its determination, the Commission shall take into account whether approval of a waiver request would impact the ability of an EEU to achieve its performance goals. An EEU shall not be adversely affected in regard to its performance goals by an approved waiver.
    e. Any disputes shall be settled by the dispute resolution processes outlined below.

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

Program Implementation:

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

1. Eligible customers who desire to participate in the ESA option must file a request with the Public Utility Commission and provide a copy of the request to the Department and the Energy Efficiency Utility. The request may be made at any time. In its filing, the customer must:

    a. Provide documentation of the EEC paid or expected to be paid that demonstrates eligibility for the ESA option.
    b. Identify the premises and electric utility accounts that will be the subject of the ESA.
    c. Identify the customer's energy policy, if any, and/or the commitment of the organization to managing energy. This may include the dedication of an energy manager or team, if any, and roles and responsibilities of various entities as they relate to energy use.
    d. Describe the general strategy for acquiring energy efficiency resources in the customer's facility or facilities. This strategy may include the development of an EEIP.
    e. Agree to the policies and procedures of the ESA option as specified herein and in any other Commission Order or Rule.

2. Within 30 days of receipt of a customer's filing requesting to utilize the ESA option, the Department will verify that the customer meets the eligibility criteria and recommend to the Public Utility Commission to certify a start date as appropriate. The customer may choose to secure this verification prior to filing its request. The Commission shall inform the customer, the affected EEU, the DPS, the customer's Distribution Utility, and the Fiscal Agent of the start date if the application is approved.

3. Following receipt of the customer’s filing and certification of eligibility, the start date determined by the Commission shall be the first customer bill on or after either the beginning of the 2^{nd} calendar quarter (April 1st) or the 4^{th} calendar quarter (October 1st), whichever is first.

4. ESA participants will continue to pay 100% of the billed EEC, with ESA amounts ("Available Funds") held by the Fiscal Agent and accounted for separately from other EEU funding.

    a. The customer must provide monthly documentation of its EEC to the EEU. Upon request, such documentation must also be provided to the Department.
    b. Upon request, Distribution Utilities shall provide the EEU and Department with confirmation of customer bills and payment.

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

6. All market-driven and retrofit projects under the ESA option must pass the same cost-effectiveness screening requirements set by the Public Utility Commission for the EEU and Vermont utilities.

7. The EEU will review the project information submitted by customers and screen projects for societal cost-effectiveness using the statewide screening tool and avoided costs, and notify the customer in writing within 30 days if: the project meets the cost-effectiveness screening criteria and is an eligible project; the EEU needs additional data to screen or review the project; the EEU agrees or disagrees with any or all of the customer's assumptions and estimates; the EEU needs additional time to review the submission. The notification will also include the amount of Qualified Expenses. The EEU may request additional information on projects as may be reasonably required to (a) carry out assessment of cost-effectiveness, and (b) report on costs and savings of proposed projects.

8. Once an approved project installation is complete:

    a. The customer shall notify the EEU of completion.
    b. The EEU may inspect to assure that the project has been installed as specified.
    c. The customer shall provide the EEU with dated, project-specific cost documentation. Lack of such documentation from the customer may result in denial of reimbursement for those costs.
    d. Based on review of final installation and cost information, the EEU will reimburse or appropriately credit the customer for Qualified Expenses pursuant to Provision 9 below. The EEU will seek reimbursement for those payments from the EEU Fiscal Agent on its monthly invoice.

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

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

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

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

Dispute Resolution Procedures:

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

2. A customer may also make an appeal directly to the Public Utility Commission.

Program Discontinuation:

The following provides guidance on discontinuation of customer participation in the ESA option.

1. Once a customer is enrolled under the ESA option, the customer continues to be enrolled until the ESA option becomes unavailable, the Commission determines that the customer is no longer eligible, or the customer notifies, in writing, the Public Utility Commission, the Department of Public Service, and the EEU of its desire to discontinue participation.

2. The Department may recommend to the Public Utility Commission that a customer's ESA be discontinued if:

    a. A customer has forfeited any Available Funds.
    b. A customer should no longer participate in the ESA program for cause.

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

4. In case of termination of customer participation in the ESA program, any unspent "Available Funds", as determined by the DPS and approved by the Commission, would then return to the EEU fund for use by an EEU to acquire electric efficiency resources. If a customer had used forecasted "Available Funds" for a project, the customer would continue to recoup Qualified Expenses.

Customer Confidentiality:

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

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

DPS Verification:

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

Energy & Capacity Savings:

1. Savings results (annualized energy savings, summer and winter coincident peak reductions, Total Resource Benefits, etc.) from completed ESA projects shall count toward EEU performance targets. If the total estimated service territory ESA funding (expended and available) for an EEU performance period exceeds one percent of the resource acquisition budget in the third year of that performance period as approved by the Commission, the EEU and the Commission will agree to examine the possible effects on the EEU Performance Goals and consider appropriateness of adjustments.

2. As part of the EEU Demand Resource Plan proceedings, the DPS and the EEUs will review participation and performance to date in the ESA option and recommend to the Commission whether savings shall continue to count toward EEU contractual or other performance goals. If savings continue to count toward EEU performance goals, parties shall determine whether the process to adjust savings and goals as outlined above is reasonable.

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

Program Evaluation:

1. No later than three years after initial Commission approval of the ESA option, and every three years thereafter or at any time by request or its own initiative, the Commission shall initiate a process to review program performance to date and consider any changes that may be proposed by interested parties. Evaluation of the ESA option shall include, but not be limited to consideration of:

    a. Participation and experience with the ESA option.
    b. Re-consideration of any third-party certification processes that may provide benefits to ratepayers.
    c. Savings and capacity credit allocations.