

**Report and Recommendations to the
Vermont Public Service Board
Relating to
Vermont's Energy Efficiency Utility**

May 29, 2002



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Report and Recommendations to the Vermont Public Service Board Relating to Vermont's Energy Efficiency Utility

I. Introduction

This Report is submitted to the Vermont Public Service Board as provided in ¶ 18 of the Memorandum of Understanding ("MOU") in Docket No. 5980.

Paragraph 18 of the MOU states:

The budgets set out in attachment B for calendar years 2003 and 2004 shall be subject to the following process: During calendar year 2002, the Department will conduct an evaluation of: (a) the economically achievable energy efficiency potential ("Potential") in the State, including but not necessarily limited to the Potential in the markets targeted by the Core Programs; (b) the record of the EEU [Energy Efficiency Utility] to date in achieving the eligible Potential in each of the markets targeted by the core Programs and in stimulating the transformation of markets to reduce barriers to energy efficiency acquisition; (c) the record of the EEU in distributing Core Program benefits geographically within the State; (d) the continued need to direct the resources of the EEU toward the markets targeted by the Core Programs and/or toward other markets, and (e) such other factors as the Department may deem relevant. On the basis of this evaluation, the Department will file a report with the Board, with a copy to the EEU and the DUs, which will include any recommendations for change, including but not limited to revisions to the budgets for calendar years 2003 and 2004. The Board will provide the EEU, DUs, all parties on the service list for this docket, and any other person or entity which qualifies for intervention under PSB Rule 2.209, an opportunity to submit comments and request a technical workshop prior to acting on the Department's report. Any costs for preparation of such evaluation and report may be allocated to the DUs and, if so allocated, may be booked, deferred, and recovered by the DUs in accordance with traditional DSM cost recovery mechanisms. The Department shall allocate any costs of litigation regarding such updates in accordance with 30 V.S.A. § 21.

There is no established format for making this kind of report to the Board. The Department is reporting and making recommendations on many specific items. The supporting and background materials that the Department is providing are numerous, in some cases complex, and do not lend themselves to a consistent form of presentation.

In light of this the Department has decided to provide its report and recommendations to the Board in a single relatively concise “Report and Recommendation Document” with each recommendation clearly stated and accompanied by a summary of the rationale and justification for it.

Much of the detailed documentation supporting this report and its recommendations is in the form of consultant work products, background discussion pieces, charts, budgets, compilations of data, and other relevant documents. These will be provided as a series of **Attachments** and **Appendices**¹ that will be referenced at the appropriate places in the Report and Recommendation Document.

The Department wishes to summarize briefly both the ongoing and the one-time activities that have informed the report and recommendations it is making to the Board.

1 Continuation of traditional interactions. The Department has continued a role it has traditionally played in relation to utility demand side management (“DSM”) programs and to energy efficiency efforts more generally. It has brought the interest and expertise of its staff in energy matters to the process of ongoing discussion, debate, implementation and innovation with regard to increasing the efficiency of Vermont’s energy use. Department staff has communicated regularly with Efficiency Vermont (EVT), Burlington Electric Department (BED), the Contract Administrator and utility staff, attended numerous meetings on program design and implementation, and shared ideas and insights about new approaches to increasing the benefits and effectiveness of programs. DPS staff has cooperated in a variety of joint efforts from code training to builders conferences to joint grant applications with Vermont Energy Investment Corporation (VEIC). The Department has continued its review of Act 250 projects under Criterion 9 (F), its work on energy education, code and efficiency standard development, the Distributed Utility Planning Collaborative under Docket No. 6290, and other proceedings in which it has worked directly and indirectly with EVT staff.

While this form of interaction does not constitute a formal evaluation or oversight role, it does provide an important range of information about the universe within which the EEU is functioning and what role it is playing and can play in Vermont’s energy picture.

¹**Attachments** are documents that the Department believes are an essential component of the Report. They accompany all distributed printed copies. **Appendices** are important documents that help communicate, illustrate or expand upon a topic addressed in the text of the Report. A table of **Appendices** is provided with this Report, and a web site link is provided so that readers of the Report may view or print out **Appendices** of particular interest to them.

' Second, the Department has taken on the role of “formal evaluation of the Core Programs and any other System-wide Programs approved by the Board for EEU implementation.” (MOU, ¶ 11.) A discussion of the scope of evaluation activities, a table of evaluation projects undertaken to date, and a summary of the evaluation budget are attached in **Appendix 1**. This evaluation work has included:

- < Formal evaluation activities performed by consultants hired for this purpose.
- < Reporting and Verification activities. Another part of the overall evaluation effort has been 1) working closely with EVT and BED, the Contract Administrator and others to establish reporting requirements for EVT and BED, 2) procedures for creating, reviewing and modifying the Technical Reference Manual of engineering and cost assumptions for efficiency measures, and 3) conducting the annual Verification review of the savings claimed by EVT and BED. A summary of the Verification process is included in **Appendix 2**.

Two full EVT verification reviews have been conducted at the time this report is written. Review of BED savings for 2000 has been completed, and review of 2001 claimed savings is under way.

- < Coordination with Contract Administrator. The Department also has continued to work with the Contract Administrator on defining and verifying EVT compliance with various performance indicators.
- < EEU Advisory Committee. Finally, the DPS has participated in and provided support to the Advisory Committee of the EEU established by the Board.

' Third, in January of 2002 the Department of Public Service hired Optimal Energy to conduct an assessment of the “economically achievable energy efficiency potential” in the state. A summary of Optimal’s work and findings appears as **Attachment 1** to this Report.

II. Report on Items (a) through (d) of Paragraph 18 of the MOU in Docket No. 5980

In this section the Department responds to each of the four topics it agreed to investigate under the provisions of ¶ 18 of the MOU.

(A) Economically Achievable Energy Efficiency Potential

As indicated in the Introduction, the Department of Public Service contracted with Optimal Energy to conduct an assessment of the “economically achievable energy efficiency potential” in the state.

The current analysis conducted by Optimal Energy is a significant improvement over the estimate of total Energy Efficiency Potential included as Appendix 2 in its 1997 report to the Board, *The Power to Save: A Plan to Transform Vermont’s Energy-efficiency Markets*.² For the first time in Vermont this analysis includes for the commercial/industrial sector a measure-level assessment of savings, load shapes and costs of numerous specific efficiency technologies and combinations of technologies.

Based on input from the Board and Vermont utilities, the Department hired Martin Kushler (who is providing policy guidance to the Department in implementing its evaluation of the Energy Efficiency Utility) to conduct an independent review of the work performed by Optimal Energy. Mr. Kushler is a knowledgeable and highly respected national expert on utility energy efficiency programs. His review provides an informed perspective on whether the work done by Optimal is credible and reliable.

Based on the analysis of Vermont’s energy efficiency markets conducted by Optimal Energy, it is clear that the economically achievable potential far exceeds any level of savings that could be secured by the activity of Efficiency Vermont at the budget levels proposed in this report.

²**Attachment 1** is considered by the Department to be still in draft form. The information and conclusions have received a preliminary review by Department staff and Mr. Kushler. That review will continue and a final version of the analysis will accompany the Department’s Report to the Vermont Legislature in January of 2003. The Department believes the analysis will not be changed significantly and that this draft version should be useful to the Board as it stands.

Table 1: EEU Performance Compared to Optimal's Efficiency Potential Estimate

Year	Efficiency Potential Annualized MWh	Reported Savings Annualized MWh
2000		29,898
2001		40,193
2002		34,223 (Projected*)
2003	129,709	
2004	173,202	
2005	228,794	

* 2002 projections are the minimum necessary to meet contractual obligations
2000 Reported Savings include EVT, BED, WEC, and other electric utilities' reports.
2001 Reported Savings include EVT, BED, and WEC.

Please see **Attachment 1** for a complete summary of the economically achievable energy efficiency potential, including a discussion of methodology used and the conclusions reached.

The Department concludes that while the creation of the efficiency utility has been positive, constructive and effective, it has only begun to capture the energy efficiency potential in the Vermont marketplace. The savings gained to date are real and significant; preliminary evaluation results suggest that some markets are beginning to change at an incremental pace; but the level of economically achievable energy efficiency potential is so large that it dwarfs the level of effort undertaken so far and the funds available to secure resources over the next three years.

(B) The Record of the EEU to Date in Achieving Eligible Potential

One of the objectives of this report as defined in ¶ 18 of the MOU is to assess:

(b) the record of the EEU to date in achieving the eligible Potential in each of the markets targeted by the core Programs and in stimulating the transformation of markets to reduce barriers to energy efficiency acquisition

The Department's assessment is that Efficiency Vermont has been successful in its efforts to begin capturing the eligible "Potential" in each of the markets identified in the MOU and specified in the contract between EVT and the Board.

- ' EVT has exceeded its internal MWh saving goals for the first two years of operation and is well on its way to exceeding the overall three-year contract goal of 83,766 annualized MWh by a significant margin. (See EVT's Annual Report for 2001, published and distributed on March 1, 2002.)
- ' EVT has already exceeded its Total Resource Benefit (TRB) goals for the three year contract period.
- ' All but one of the 21 Activity Milestones and Performance Indicators set under the contract and required at the date of this report had been met on time. The one milestone EVT failed to meet on time was an Activity Milestone and it was subsequently completed. There are an additional 14 performance indicators to be met by EVT in 2002. (See **Appendix 3**, the Contract Administrator's report on Performance Objectives)
- ' Efficiency Vermont has established itself as a presence in Vermont energy markets. It has developed strong working relationships with the Vermont business community, with Vermont State Buildings, with contractors, architects and engineers, with schools, with regional and national energy efficiency programs, with retailers and wholesalers, and increasingly with the public at large.
- ' Efficiency Vermont has become a leader in training on energy issues. It has planned and conducted two annual "Builders Conferences" that are developing both a regional and a national reputation for excellence.

EVT's Annual Report on implementation of the Core Programs through 2001 provides a detailed discussion of EVT's record in securing the eligible potential in the markets targeted by the Core Programs. Page 10 of the Report provides a summary of savings to date in each program area. Pages 26-106 provide detailed discussions and summaries of each program, including expenditures and savings, and the distribution of savings by end use, utility service territory and county.

The Department sees no need to summarize these materials in detail in this Report. The material in EVT’s Annual Report provides a useful picture of how the programs are being implemented and how they are being modified over time.³

EVT’s contract with the Board includes the requirement that the DPS review and “verify” Efficiency Vermont’s annualized MWh and total resource benefits (TRB) claimed in its Annual Report provided on March 1. The DPS issues a report and recommendation to the EEU Contract Administrator around May 1. The Contract Administrator subsequently makes a recommendation to the Board regarding the appropriate savings EVT may claim for the reporting year. To date, the DPS has completed reviews for EVT’s 2000 and 2001 claimed savings.

For the Year 2000, the DPS proposed the total annualized MWh savings claimed by EVT be reduced by about 2.2%. The Contract Administrator made a recommendation to the Board adjusting EVT’s savings claims by about 2%.

For Year 2001, the DPS proposed reducing the EVT claimed annualized MWh savings by about 2%. The Contract Administrator supported the DPS adjustments in a May 24, 2002 memo to the Board. A final determination of EVT’s 2001 Annualized MWh savings and TRB will be made by the Board later in 2002.

Revisions to claimed EVT savings as a result of the verification process are shown in the following table.

Table 2: Summary of Verification Process Results

Year	Annualized MWh Claim	TRB Claim	Annualized MWh Revised	TRB Revised
2000	23,335	\$19,931,041	22,794	\$17,110,766
2001	37,565	\$24,747,096	36,894 (Pending Board certification)	\$23,775,913 (Pending Board certification)

The Verification adjustments do not include savings and TRB for the Customer Credit Program, since they are not included in EVT’s contract targets.

³EVT’s 2001 Annual Report provided March 1, 2002 is available at the DPS website <http://www.state.vt.us/psd/EEU2002Report/Report2002Home.htm> with the appendices to this report. EVT will issue a revision once the Board “certifies” the savings and TRB accomplishments for 2001, expected later this year.

The verification process includes an in-depth review of EVT's database and program files. The DPS brings in an engineering firm, SAIC, to analyze complex projects, and to provide an independent assessment of technical baselines, engineering estimates and savings calculation methodologies. (See **Appendix 2** for a more detailed discussion of the Verification process.)

The verification process provides detailed information about how EVT is conducting its programs. This information supplements 1) the Department's informal knowledge about the programs gained by regular interaction with EVT and BED personnel and other market actors, and 2) the information being gained from completed and ongoing formal evaluation projects.

The DPS evaluation process is beginning to provide information on Vermont's energy efficiency markets, on program elements that need to be improved, on the potential for shifts in program emphasis, and on significant new opportunities. Detailed results of the numerous evaluations being conducted and conclusions drawn from them will be refined over the next three months and will be provided to the Board in the course of the contract negotiation process.

Appendix 4 includes rough draft summaries of observations, baselines and findings from evaluation work completed to date in both the Residential and Commercial/Industrial markets. It is important to emphasize that these findings are preliminary in nature.

As part of the assessment of the EEU record to date it is appropriate to reflect on the history and the purposes that gave rise to its creation.⁴ This discussion also addresses in general terms the effect the EEU is beginning to have on Vermont's energy markets.

The reasons the Department supported the creation of the EEU included the following:

- < To create an organization with the sole purpose of securing energy efficiency resources and transforming energy efficiency markets.
- < To reduce the level of regulatory controversy and provide clarity for utilities about their obligations and risks

⁴The creation of the Energy Efficiency Utility is built on years of policy development, implementation effort, experimentation, and no small amount of controversy and litigation over the concept of least cost energy planning and the implementation of energy efficiency programs in Vermont.

- < To provide for consistent, flexible and responsive statewide energy efficiency programs so that all utility customers would be offered comparable services; trade allies could deal with a single set of program requirements; modifications to programs could be made promptly and efficiently; and the messages about energy efficiency could be presented in a consistent, integrated manner.

- < To provide administrative and program efficiencies, cross-program benefits, and a critical mass that would help improve the effectiveness of efficiency initiatives and the transformation of efficiency markets in Vermont and throughout the Northeast.

A discussion of the extent to which each objective has been met follows.

Create an organization with a single purpose.

There is an inherent structural difficulty in requiring the delivery of energy efficiency programs through electric utilities as they are currently regulated. It places utilities in the position of reducing usage of their product when they have limited opportunity to sell their services to new customers. This creates the perception, and to some extent the reality, that they are working against their own interests by reducing revenues and cash flow.

The concept of an Energy Efficiency Utility that would operate under a performance contract with the Public Service Board with the single purpose of providing efficiency services was intended to remove this internal tension.

This objective has been accomplished and the basic structure now in place serves the people of Vermont well.

The existing contract between EVT and the Board has electric savings goals, total resource benefit goals, and numerous milestones and program indicators that provide clear targets and guidance for the EEU. In many cases specific milestones and program indicators were designed to focus attention by EVT on specific aspects of the market that might not be given adequate priority through overall savings targets.⁵

The Department proposes below some suggestions for adapting the performance incentive structure to help support the implementation of evolving policy objectives.

⁵Clearly the art of defining the incentive mechanisms, weighing the value of each, understanding how they interact with each other, and learning how to translate underlying policy objectives into effective performance indicators requires constant intelligence and creativity.

The lesson learned from the approach embodied in the EEU experience to date is that an entity removed from the business of selling energy, highly motivated to attain public benefits, and clearly guided by performance objectives can become a very effective agent for securing efficiency gains. EVT is dedicated to the single purpose of acquiring efficiency resources and taking the numerous actions and initiatives that contribute to transforming efficiency markets.

Reduce the level of regulatory controversy

The hope underlying this objective was that the financial and staff resources devoted to struggles, negotiations and litigation over the design, implementation of and cost recovery for demand side management programs could be dramatically reduced.

This objective has been accomplished. The level of controversy, litigation and time spent on “regulatory” DSM activities has declined dramatically. Utilities have, as a general matter, been supportive of, and sometimes active partners with Efficiency Vermont. Information is being shared and leads are being provided. Utilities have experienced a much higher level of confidence that they will not be subject to DSM-related criticism or disallowances in rate cases and other litigated proceedings.

Resources made available by reduced controversy are now focused on efforts and activities that improve program delivery and broaden the scope of efficiency efforts.

Vermont has a uniform system for reporting the costs and benefits of energy efficiency programs. We have a consistent, definitive review and sign-off process for verifying EVT energy savings. We have a workable method for maintaining, updating and revising the engineering estimates and cost assumptions used for calculating efficiency savings. We have effective communication and oversight procedures to monitor the programs on a regular basis. Finally, we have the resources to conduct market and program-related evaluation activities on a consistent statewide level.

While there has been no effort to quantify the dollar savings of these changes, the DPS believes they are significant. Even more important, however, is the increased productivity of the people involved as they devote most of their time to understanding, responding to and changing Vermont’s energy efficiency markets.

Provide consistent, flexible and responsive statewide energy efficiency programs

As required under the MOU and the terms of the contract between EVT and the Board, EVT has implemented programs in the following markets:

- Residential New Construction (and remodeling)
- Residential Efficient Products
- Residential Low Income (in partnership with Vermont’s Weatherization Program)
- Residential Low Income Multifamily
- Commercial/Industrial New Construction
- Commercial/Industrial Market Opportunities
- Farm Program (integrated into the Commercial/Industrial Market Opportunities Program in 2002)

Emerging Market Programs:

- Residential
- Commercial

For the first time Vermonters across the state in every utility service territory have equal access to these programs. EVT has made a significant effort to provide a high and consistent level of service statewide in each program area.

While the Department has not conducted specific formal evaluations in each program area, the fact that EVT has been exceeding its savings goals and distributing savings with a high degree of equity among customer classes and geographic regions of the state indicates that it is beginning to acquire significant energy savings in each of the targeted markets.

Evaluation results so far show a fairly high level of awareness about EVT and the services it offers. There is no real baseline against which to measure this awareness, since each utility conducted its own programs prior to the creation of EVT, but the baselines established in the evaluation efforts to date will provide a point of reference for comparable studies to be conducted during any further contract period.

Efforts not subject to easy measurement, but indicative of EVT’s success in accomplishing consistent, flexible and continuing service delivery, include the following:

- 1) effective outreach by programs to trade allies, including training sessions, creation of retail vendor networks, the development of consistent program protocols and prescriptive rebate forms;
- 2) the development of effective partnerships with statewide organizations such as the Weatherization program, the Superintendent’s Association, the Ski Areas Association, the State Department of Buildings and General Services, the State Chamber of Commerce, etc. and,

- 3) work on code development and training, the annual Builder’s Conference, emerging relationships with VEDA and other financing institutions.

Efficiency Vermont has shown significant flexibility in revising and adapting programs to respond to market changes and opportunities. For example, changes in rebates for lighting products have been made when necessary with minimal disruption and confusion to vendors and customers.

Provide administrative and program efficiencies, cross-program benefits, and a critical mass

To date, Efficiency Vermont has acquired savings at a lower cost per annualized MWh than originally implied by its contract with the Board. The efficiencies and the increased effectiveness of running a single set of programs statewide are both being realized. For example, EVT has been able to coordinate design and delivery of its Residential New Construction program with Vermont Gas Systems. The program modifications negotiated between EVT and VGS result in increased comprehensiveness and consistent offerings to affected customers.

With regard to creating a “critical mass” that can begin to transform markets more broadly, EVT has been prompt to take advantage of the national DOE and EPA Energy Star labeling programs. EVT has also been able to work on behalf of all Vermont customers through its coordination with regional programs offered by the Northeast Energy Efficiency Partnership (“NEEP”).

(C) The Record of the EEU in Distributing Core Program Benefits Geographically Within State

¶ 45 of the MOU states:

Over time, the system-wide Programs offered by the EEU should generally reflect a level of expenditure that corresponds to electric energy use by geographic region and customer class throughout the state. In this regard, the Parties agree that the design of the System-wide Programs and the budgets for those Programs should generally seek to provide a level of service to customer classes and regions of the state that corresponds to their share of the eligible energy efficiency potential and their contribution to DSM expenditures.

EVT has developed a set of comparison tools that show the distribution of savings throughout the state. These tools allow prompt and thorough analysis of the distribution of program benefits. Based on this information, EVT has made program marketing and targeting decisions to better serve geographic or utility service territories and customer groups that appear to be attaining inadequate program benefits.

The Department, the Contract Administrator, and the Advisory Committee assisted in the development of these tools and each party reviews them on a regular basis.

The most recent set of tables, from the March 2002 Annual Report for 2001 is presented in **Attachment 2**.

These tables show that the cumulative distribution of benefits between residential ratepayers and commercial/industrial ratepayers is roughly equal, that participation in each Vermont county correlates well with the population of that county, and that participation and distribution of Total Resource Benefits by utility service territory correlates increasingly well with utilities' number of customers as well as with their contribution to EVT through the Energy Efficiency Charge.⁶

EVT's performance to date under this guideline has been successful. EVT has demonstrated a strong commitment to attaining the objective of fair distribution of program benefits. Equity in these programs will continue to be a topic deserving attention; however, the DPS believes no further analysis is required at this time.

The Department notes that as a general matter the existence of the EEU itself has dramatically increased equity in both the availability and provision of efficiency benefits to electric utility customers throughout the state.

(D) The Continued Need to Direct the Resources of the EEU Toward the Markets Targeted by the Core Programs and/or Other Markets

The Department believes there are three components to addressing this issue.

1. There is no indication that there are market-based purveyors of efficiency services that will acquire a significant portion of the identified efficiency potential absent the systematic efforts to influence these markets provided by an Energy Efficiency Utility. This conclusion is reinforced by the evaluation work that has been completed to date, and it is further addressed in work that has been done nationally.

An ACEEE study completed in September 2001 found that in nine states where electric utility deregulation had been adopted the earliest, the private energy service market entities are not stepping in to replace energy efficiency efforts previously conducted by regulated utility companies. On the contrary, the private market actors tended to concentrate their energy efficiency activities in areas

⁶Please see also EVT's March 1 Annual Report for 2001, pp. 16-21.

where there was still some legislative or regulatory support for such efforts. Over 80% of the energy service companies (“ESCO’s”) interviewed rated legislative or regulatory support for energy efficiency programs as crucial to their business. See **Appendix 5** for the executive summary of the report conducted by Dr. Martin Kushler and Patti Witte for ACEEE.

2. The success to date of the EEU and the discussion of its performance under (B) above provides further evidence of the need for continuation of the EEU. For example, many of the benefits of the EEU derive from having a statewide, consistent, and ongoing presence in the efficiency markets. Even when markets are transformed for specific efficiency products, barriers to other efficiency strategies with significant societal benefits remain. A flexible and responsive entity such as the EEU is critical. Its continuation and the trust it builds over time are essential to the advancement of energy efficiency success in ever-evolving markets.
3. Finally, the Department has focused its formal evaluation effort thus far primarily on gaining a better understanding of the energy efficiency markets in Vermont. The research completed to date is helping the DPS and EVT to understand what is working, what needs improvement, and how resources should be allocated and directed.

A number of the recommendations that follow are informed by evaluation lessons learned so far. The value of a sustained evaluation approach that is statewide in nature and that can provide baselines against which to compare future studies is significant. The Department is confident that this process will yield both near-term input to EVT as it continues to implement and modify the provision of efficiency services, and long term analytical tools that will allow us to assess the accomplishments of programs and initiatives over time.

In addition, the evaluation efforts produce information that provides valuable input to the Department’s ongoing responsibilities for energy planning and broader policy development and advocacy.

III. Recommendations to the Public Service Board

(A) Recommendations Pertaining to the Terms of the EVT/PSB Contract

Recommendation 1:

The Board should promptly enter into negotiations with Efficiency Vermont to renew the contract between EVT and the Board for another three year period.

- < As demonstrated in the Report on economically achievable energy efficiency potential attached in Attachment 1, there is a vast reservoir of remaining cost-effective electric efficiency potential available in Vermont homes, businesses and institutions.**

- < Given the performance by EVT during the initial contract period, the Department of Public Service does not believe it is appropriate or necessary for the Board to conduct a competitive solicitation to select a new contractor to serve as the Energy Efficiency Utility.**

- < The contract should be for a three-year period. Although the MOU speaks to budgets for 2003 and 2004, the Department sees no reason why the contract should not be for an additional three year term and many reasons why it should. A three-year term of renewal provides an adequate period for continued operation by EVT and will be acceptable under rules that apply to state contracts, since this possibility was provided for in the initial contract.**

In summary, as discussed in **II. (B)** above, EVT's record of performance under the existing contract fully warrants an extension. The Department does not believe this is a difficult decision or a controversial recommendation.

Recommendation 2:

The DPS recommends that the following amounts be collected from the wires charge for Energy Efficiency Utility operations in the years 2003, 2004, 2005.

2003 \$16,172,252

2004 \$16,321,795

2005 \$17,500,000

The DPS proposal includes a minor adjustment to the annual EEU budget amounts included in the MOU for years 2003 and 2004. These budgets were based on the best information available at the time. According to the MOU, these amounts are subject to recommendations to be included in this report. They are also subject to ¶ 46 of the MOU, which states that *“...at no time during the five-year period commencing January 1, 2000 should the DU customer contribution to the EEU for the Core Programs exceed the equivalent of 2.9 mills/kWh on total statewide retail sales.”*

Using the most recent available (year 2000) MWh sales and revised projections, the DPS estimates that the MOU budget for 2004 would be about \$227,000 higher than the maximum the DU customer contribution provision allows. The DPS proposes that the Board should increase the 2003 budget by \$227,000 and reduce the 2004 budget by an equal amount. With this adjustment, the two-year total of 2003 and 2004 budgets would equal those amounts agreed to in the MOU and neither budget would violate the provisions of ¶ 46.

The DPS therefore recommends the Board set the above annual amounts for contract negotiation purposes. The specific amount that can be collected for each of the years 2003 and 2004 will depend on the most recent sales data available at the time the charge is set. Finally, the DPS recommends that the amount to be collected in the year 2005 should be set at \$17,500,000, the maximum permitted under authorizing legislation.

⁷These amounts cover the following expenditures in each year: 1) EVT program implementation costs, including performance based fees, 2) Customer Credit Program costs, 3) BED “Core Program” implementation costs, 4) DPS evaluation costs, 5) Contract Administrator costs, and 6) Fiscal Agent costs.

Attachment 1 suggests that the level of cost-effective Energy Efficiency Potential Savings in Vermont far exceeds the amount that can be acquired by the budget totals the DPS is proposing. The issue posed by the estimate of DSM potential is not “whether it is warranted to continue to fund the EEU” but “how much are we willing to spend to secure a meaningful portion of the available efficiency resources?”

The DPS supports the MOU in Docket No. 5980, and believes that the settlement embodied in that document should be given a high degree of deference. The Department sees no reason to recommend lower total budget amounts for the two years agreed upon in the MOU, but the DPS also believes that the continued incremental ramp-up of spending for EVT envisioned in the MOU is workable and desirable. In the third year, 2005, the constraint on the budget is the amount of total wires charge funding permitted under Vermont state law.

Recommendation 3:

The Board should not seek significant changes in the markets and types of opportunities EVT is contracted to address, but should be less specific about requiring that strict “program designs” be implemented.

EVT has worked with a package of “Core Programs” originally proposed by the Department and confirmed by the Board in its Order approving the MOU and in its contract with EVT. The Department sees no reason to change significantly in this contract renewal period the various markets and opportunities addressed by those programs. Given that the total budget amounts available in the renewal period represent only incremental growth from those in place in 2002, the Department does not believe that major new program initiatives (for instance, a significant shift to focusing on retrofit markets) should be pursued in the next contract period.

It is also appropriate, after three years of program implementation experience, to consider less strict programs definitions. As EVT evolves and becomes more customer-focused, it is likely that more activities, technologies and strategies that cut across traditional program boundaries should be given higher priority, and that activities that focus on changing markets generally are appropriate. Relatively minor changes in reporting requirements may address part of this need for greater flexibility. The DPS recommends some modifications in the structure of the contract as well.

Preservation of some kind of Emerging Market capability in both the Residential and Commercial Sectors may be appropriate and could help provide ongoing flexibility for EVT to respond to significant new market sub-sectors, new cost-effective technologies and practices and to certain strategic retrofit opportunities. On the other hand, often what is termed “retrofit” resources become accessible in a “lost opportunity” situation. EVT’s work with customers making certain market decisions can easily lead to retrofit opportunities. The next contract should be designed to encourage such resource acquisition. If

adequate flexibility in program design is established, separate “Emerging Markets” programs may not be the best way to promote the flexibility and innovation these program concepts were originally designed to promote.

Adjustments to a new contract of the type suggested here can best be considered in the contract negotiation process with EVT. The Board should provide EVT the opportunity to make proposals about how greater customer focus in informing EVT activities and initiatives can be promoted in the next contract.

Recommendation 4:

The Board should provide for greater flexibility by EVT in allocating funds among program areas within the Residential and Commercial Program sectors, while still requiring some limitation on reallocation between Residential and Commercial sectors generally.

The current arrangement under which EVT has primary responsibility to revise and adapt its program designs in response to the market, the needs of customers, and the opportunities that present themselves is working well.

EVT has demonstrated its commitment to meeting customer needs, thinking creatively about the customers it serves, and addressing a wide range of efficiency markets and opportunities. As EVT becomes more customer-focused and finds new strategies for serving homes, businesses and institutions that cross program boundaries, it will not be useful to insist on strict adherence to detailed program budgets and close supervision of reallocation among programs within a customer class.

The public interests that justified the imposition of detailed program budgets and related contract terms are: 1) assurance that key market sectors would continue to be given priority, 2) assurance that certain kinds of equity in the provision of services would be maintained and 3) assurance that the temptations of certain forms of “cream-skimming” would be avoided.

While the Department, as expressed in Recommendation 3, advocates that the general focus of EVT implementation should remain in the markets and opportunities it is now addressing, the need for Board approval of relatively minor reallocations among budgets is an oversight tool that can actually provide a disincentive to certain actions that would be intelligent and appropriate program adjustments by EVT.

In the contract negotiation process EVT should have an opportunity to propose budgets for program areas and activities that may cross program boundaries and tools for managing those budgets that

would provide them with greater flexibility, while still maintaining a commitment to serving key market segments and the underlying orientation of the programs.

The Board should also continue and increase its reliance on carefully designed performance indicators that will maintain appropriate attention by EVT to market sectors and customer groups it feels need particular attention. If this is done well, the need to adhere strictly to program-by-program budget requirements (which is a more crude tool for accomplishing the same objective) is diminished.

Regular communication among EVT, the Contract Administrator and the Department, and the opportunity for regular review of Efficiency Vermont's monthly and quarterly reports provides an opportunity for timely discussion of fund shifts. Guidance, based upon this information, along with the existing requirements regarding the equitable distribution of EVT resources, and an annual program review meeting under MOU ¶ 19 should be sufficient to direct EVT as it manages its annual budgets and expenditures.

While the Department supports increased flexibility, it still believes that something close to the current allocation of program expenditures between residential and commercial/industrial sectors should be maintained.

This idea has been discussed in the EEU Advisory Committee and the DPS supports the recommendation the Committee makes in its letter to the Board.

Recommendation 5:

The Board should give high priority to the stability and predictability of the total three-year contract budget amount when considering whether unspent funds “...should be retained in a contingency fund or applied as a credit to the next year’s system benefits charge or DU assessment...” (MOU ¶ 19).⁸

⁸¶ 19 reads in part:

Annually on or before September 1, commencing in the year 2000, the EEU shall file with the Board, with a copy to the Department and each DU, the EEU’s request for reallocation of funds between and among programs. Such request shall also address the issue of whether any anticipated unspent budget amount should be retained in a contingency fund or applied as a credit to the next year’s system benefits charge or DU assessment, whichever is applicable (see paragraphs 21 and 24 below)....

The original energy efficiency contract period was for two years and ten months, with the option to renew up to 36 months. The contract contains multi-year budgets and performance measures. This planning horizon is supported by the Vermont statute authorizing the Board to create an energy efficiency utility. That statute (V.S.A. §209(e)(7)) specifies that the Board shall provide a reasonably stable multi year budget and planning cycle. However, the contract also contains a provision -- an annual request for carry-over of unspent funds -- that implies that this request may be denied.

Although the contract provision is clearly responsive to the MOU requirement in ¶19, any action that would actually apply unspent funds as a credit against the following year's system benefits charge would have the effect of lowering the amount available under the contract. A reduction in the total contract budget would suggest that the performance requirements in the contract might need to be renegotiated.

This provision could lead to significant complications in contractual, budgetary and performance agreements. Consequently, the Department recommends that the Board give high priority to maintaining stable and predictable budgets for the EEU when reviewing annual requests for carry-over of any unspent program funds.

The Department notes that this idea has been discussed in the Advisory Committee and supports the spirit of the recommendation it is making in its letter to the Board. While perhaps the simplest action would be to alter certain of the provisions in ¶ 19, making such a change would require the consent of all signers of the MOU. The Department is reluctant to seek a change to the MOU, which has provided a stable foundation for the EEU. Moreover, the DPS has not had an opportunity to consult with the parties, and so is not proposing a change at this time.⁹

⁹It is the Department's belief that MOU ¶19's language on unspent budget amounts was primarily intended to address a unique situation which in fact existed only in the first three year contract term. Each utility negotiated individual settlement agreements with the DPS that included specific dollar amounts to be assessed through a wires charge. At the time the MOU was filed, the parties did not know whether legislation would be in place to authorize the creation of a wires charge to fund EEU programs.

This, combined with uncertainty among the parties about just how the creation of the EEU would proceed, created concern that if utilities were making direct contributions to EEU budgets and these budgets had been set unrealistically high there should be some mechanism for returning excess funds to utility ratepayers. The Department believes that the authorization and implementation of the wires charge and the current three-year time frame of the contract appears to be working well and makes the carry-forward review provision less important.

Recommendation 6:

The Board should structure the contract with EVT in a manner that encourages EVT to include in its portfolio, where appropriate, some energy efficiency-related activities that will contribute to the acquisition of energy savings and the transformation of energy markets, but which do not produce immediate, easily documented savings.

As EVT becomes involved with customers, trade allies, and the public generally, there are certain activities it is invited or expected to undertake that promote energy efficiency, but to which it is difficult to attribute direct or immediate energy savings. Many of these activities can play a significant role in transforming energy markets; some are vital to building consumer acceptance of energy efficiency; and some have value for the marketing opportunities they provide.

In general these activities include such things as providing certain forms of customer service, code and product efficiency standard support, technical assistance, support for regional initiatives, trade ally education, more general educational services, and school-based education programs.

The heavily weighted focus on MWh savings in the current contract may tend to create a disincentive for EVT to undertake such initiatives, although it is important to emphasize that EVT has worked on a number of such activities despite the existing disincentive to do so.

The annual Builder's Conference is an example of an activity that EVT has undertaken primarily out of its organizational commitment to creating long-term change in the Vermont and regional energy markets.¹⁰

One way to encourage activities of this sort is to exclude an amount (up to, for example 7%) of total program funds from the calculation of MWh savings goals while creating other performance incentives that would reward EVT for leveraging additional funding sources, such as grants, for such activities. This has already been done in a small way through certain performance incentives in the current contract.

¹⁰In addition, Vermont Energy Investment Corporation ("VEIC"), the parent corporation of EVT, has worked with the DPS on activities that could secure grant funding to provide services that enhance their program implementation efforts. The Department has been able to secure grant funding for some educational and code-related efforts that have allowed VEIC to provide critical services to efforts that have market transformation potential, but little immediate resource acquisition potential.

It may be that other ways of addressing the need and proper incentive structure for EVT to undertake these activities can be devised in the contract negotiation process. *The Department, however, wants to make it clear that it does not recommend an actual segregation of funds or separate budgeting process for these activities.* Such an approach would be contrary to the recommendations 3 and 4 for increasing both program and budget flexibility.

The Department notes that this idea has been discussed extensively in the Advisory Committee and in general terms supports the recommendation made in the Advisory Committee's letter to the Board.

Recommendation 7:

The Board should not require EVT to assume major new responsibilities in providing additional energy-related services to customers.

A number of suggestions have been made on various occasions about "additional" roles that EVT might play in providing to customers services that are actually or apparently related to the efficiency services they now provide. Sometimes the suggestions are brought up by regulators, sometimes by customers, sometimes by vendors or other interested parties. These proposals have been discussed extensively in the Advisory Committee meetings and those discussions have been helpful to the thinking of the DPS on this matter.

It is not surprising that once an organization such as the EEU is in place, new purposes and functions are proposed for it. The following is a list of some of the "suggestions" that have been made for new functions that might be taken on by the EVT:

1. EVT might become the implementer of a renewable energy incentive program somewhat analogous to the energy efficiency programs it implements now. This assumes some kind of funding (possibly a "wires charge") that would have to be approved by the legislature.
2. EVT might be involved in recruiting/aggregating customers for "load response" programs as part of the Independent System Operator (ISO) and utility strategies for recruiting customers to help deal with system peaks.
3. EVT might play a greater role in identifying/recommending customer-sited generation in suitable combined heat and power (CHP) applications.
4. EVT might systematically expand its efficiency work to all fuels. This would clearly require new funding, probably from a revenue source that came from other fuels. There is no serious proposal of which the DPS is aware to do this at present.

5. EVT might deliver and assume responsibility for some or all of the Vermont Gas Programs. (Chairman Dworkin raised this possibility in a recent VGS rate case.)

The Department understands that there may be pressure by utilities, regulators and customers for EVT to provide additional services. It may even be that customers and even trade allies become critical of the role EVT plays when it focuses on cost-effective efficiency opportunities that sometimes compete with other measures they wish to market or install. It is also possible that a firm that offered a wider variety of energy-related services might be able to appeal to more customers.

While the Department believes that it may be beneficial for many of these services to be available to Vermont consumers, it is cautious about proposing the addition of major new functions to EVT in the term of the proposed contract renewal.¹¹

The primary reason for the Department's caution is that there is clear authorization and an established funding source for the services that the EEU now provides. There is no clear or predictable funding source to enable EVT to provide the additional services.

The second reason for caution is a concern over the potential of any new service to "compete" with or significantly alter the manner in which EVT is delivering efficiency services.¹²

The Department is very supportive of the work now being done by EVT and its primary focus on electric energy efficiency. The DPS believes that the concern for providing different kinds of services should be addressed incrementally as specific cases, issues and opportunities arise. For instance, the DPS, EVT, and the EEU Advisory Committee have all been involved in discussions about how EVT should deal with situations in which a customer is interested in, is investigating, or is having a supplier market on-site generation or combined heat and power ("CHP") systems. The Policy paper that was developed as an outcome of those discussions, and which guides EVT in dealing with CHP applications is attached as **Appendix 6**.

¹¹The Department still strongly supports the provisions of ¶ 52 of the MOU that encourage the EEU "...to develop customer contribution strategies and other sources of funding that can be used to maximize the ability of programs to provide additional efficiency savings (e.g. fossil fuel, water, sewer, O&M) and other societal benefits as well." and the provisions of the current Contract that encourage and reward such activity by EVT.

¹²The Department has less concern in this regard with a proposal that would allow it to provide more comprehensive, "all-fuels" efficiency services, as might be the case under proposals 4 and 5, although the previously stated funding source concerns would still apply. The Department is, however, currently recommending coordination with Vermont Gas energy efficiency programs rather than the delivery of VGS programs by EVT.

The proposals the DPS has already made for increased program flexibility offer limited and appropriate opportunities for EVT to gain experience with the interrelationships among the kinds of services EVT now offers and those additional services it, or some other entity, could offer in the future.

In the event that additional funding become available to enable EVT to provide one or more of the services described above in some substantial and systematic fashion, and should there be a specific proposal for EVT to deliver such services during the term of the contract extension, the Board should retain the right to review and approve any such proposal.

The Board need not approve grants or other resources EVT might acquire that would allow it to expand the kind of market transformation activities addressed in Recommendation 6, above. Instead, EVT should notify the Board of any such grants or resources so that the Board could exercise oversight to ensure non-interference with core program delivery.

Finally, the Department recommends that any contract with EVT contain a provision that allows for re-opening the contract should major changes in funding or major proposed changes in responsibility for EVT be proposed.

(B) Recommendations Pertaining to Matters Other Than the Terms of the EVT/PSB Contract

Recommendation 8:

The DPS recommends that the Board authorize the Burlington Electric Department to continue delivery of EEU Programs in its service territory for the next 3 year contract period.

Burlington Electric Department's (BED) 2001 Annual Report on DSM Program Implementation provided on April 5, 2002 reflects a second year of successful implementation of the EEU Core Programs in its service territory. The program results reflected in its annual report, together with the results of a recently completed assessment of its program implementation conducted for the DPS by a third party evaluator, support this recommendation.

After two years, BED reports spending about \$1.2 million of its 3 year budget of \$1.6 million to acquire 4,754 annualized MWh savings, well over its 3 year savings goal of 4,148 MWh. While the DPS has not yet conducted a 2001 verification process for BED similar to that undertaken for EVT, it expects the results will be comparable in scope to the adjustments proposed to EVT's 2001 savings claims.

The "Initial Assessment of BED Core Program Implementation" Report conducted for the DPS by GDS Associates finds that BED is delivering the Core Programs in a manner consistent with EVT and that it does not appear to be experiencing any significant increased administrative burden or reduced program benefit as a result of delivering the programs only within its service territory. The study also found that overall coordination with EVT on the Core Programs could be improved but is adequate.

The DPS asked GDS to assess BED's progress in meeting its Performance Indicators set forth in the Board's September 22, 2000 Order approving BED's core program implementation. The report prepared by GDS (**Appendix 7** of this report) contains a summary of the status of these indicators. Overall, it appears BED is on track to meet the goals for the majority of the indicators by the end of 2002.

Recommendation 9:

The DPS makes the following recommendations concerning the energy efficiency charge (“EEC”):

- < Starting in 2003, the EEC should apply throughout the state including electric customers in BED’s service territory.**
- < Starting in 2003, the charge should be uniform statewide, with the possible exception of the EEC rate applicable to those electric customers in BED’s service territory.**
- < Starting in 2003, the Fiscal Agent should disburse moneys collected from the EEC to fund BED’s EEU program activities.**
- < The Department further recommends that the Board, shortly after acting on this report, establish a separate proceeding to determine the appropriate rate design for a uniform charge, and address in that proceeding the establishment of a formula which would govern and simplify the setting of the charge for 2003 through 2005.**

The initial three year term of the EVT Contract was characterized by individual agreements between the Department and various utilities about how much each would contribute to the funding of the EEU, either directly from utility revenues, or through the wires charge, should it be authorized by the legislature. This was a period of transition as the EEU was phased in and the previous way of funding DSM programs (and the accounts in place to recover the cost of past DSM expenditures) were phased out. During this period, BED implemented EEU programs in its territory and funded that implementation from the proceeds of a “revolving load” fund rather than the EEC, so no EEC was effected on the bills of electric customers in BED’s territory.

In a December 20, 2001 letter, BED notified the Board of the potential need for an EEC within its service territory as early as January 1, 2003. In recent discussion with DPS, BED affirms the need to implement an EEC within its service territory for 2003. Accordingly, starting in that year, the Board should include BED customers in the EEC established pursuant to 30 V.S.A. § 209(d)(3).

Paragraph 21 of the Docket 5980 MOU contemplates that this report will address the question of whether the EEC should be uniform. The Department has considered this question and recommends the inception of a uniform EEC. Equity, simplicity and consistency all suggest that adopting a uniform

wires charge for the funding of the EEU programs makes sense. The one possible exception to this uniformity may be the EEC rate charged to BED's electric customers, which conceivably could be different from the EEC rate charged to the remainder of the state on the rationale that BED is implementing a full panoply of EEU programs within its service territory and a purpose of charging an EEC to BED's customers is to fund that implementation. Counter-arguments to this rationale, however, exist (eg., equity, simplicity, and consistency) and this report neither endorses nor rejects a different EEC rate for BED's electric customers. The Board should consider this issue as it moves through the process contemplated in MOU ¶ 18.

In any case, the EEC should be set to secure the targeted overall budget amount for EEU system-wide program activities. As the amount to be raised will now include BED's implementation of the EEU programs within its service territory, DPS believes that the Board will need to know BED's proposed budgets prior to completing a renewal contract with EVT. The Board therefore should direct BED to file as soon as possible its preliminary proposed budgets for such implementation during the period 2003 through 2005. DPS suggests that, in preparing such information, BED should assume that the EEU programs will continue during 2003 through 2005 to be implemented in the manner contemplated by this report (i.e., essentially the same programs as during the prior three-year period, with EVT and BED implementation having the same "look and feel").

If EEU program implementation by BED is to be funded from the EEC established by the Board pursuant to 30 V.S.A. § 209(d)(3), then in conformance with the requirements of that section all EEC funds collected within BED's service territory will need to be paid to the Board's Fiscal Agent. The Department therefore recommends that, starting in 2003, the Fiscal Agent disburse EEC moneys to BED for its EEU program implementation in the same manner and using the same process as the Fiscal Agent uses for EVT.

The Department further recommends that the Board open a separate proceeding to establish a rate design for the EEC. Specifically, if, in acting on the Department's report, the Board agrees that the wires charge should be uniform, the Board should promptly open a proceeding leading to a rule which sets out the formula for determining the charge each year during the period 2003 through 2005. Such a formula would, in concept, have as an input the amount to be raised in a particular year. It would then use appropriate determinants to break that amount out in a manner consistent with the uniform charge concept and the rate design determined by the Board to be appropriate.

Using this formula, the Board would by order annually set the charge, beginning in 2003. To date, the EEC has been set for each year in an annual contested case proceeding, which DPS believes has been problematic because it requires more Board and party resources, time, and expenditure than is necessary. The future annual setting of the EEC proposed in this report would not require a prior contested case proceeding. The Board has authority to set the EEC "by order or rule"; this authority does not contain language requiring notice and opportunity for hearing, which requirement is the trigger for the Administrative Procedure Act's contested case provisions. 30 V.S.A. § 209(d)(3); 3 V.S.A. § 801(b)(2).

In 2005, contemporaneously with the activities that will be needed regarding the next EEU contracting and implementation cycle, the Department should evaluate the design established for the EEC during this cycle and recommend any appropriate changes to the Board.

Recommendation 10:

The Department recommends that Washington Electric Cooperative be provided an opportunity to continue implementing its Residential New Construction program.

Washington Electric Cooperative (“WEC”) has indicated it is interested in continuing to implement its Residential New Construction Program in its service territory. WEC should be given an opportunity to make a specific proposal to the Board upon which the DPS will base its final recommendation on this matter.

WEC’s program could maintain its innovative features, such as the “Energy Assessment Fee,” which add value to its individual program delivery. It should be consistent in most other respects with the statewide RNC program and should provide for effective coordination with EVT. A WEC proposal should include detailed explanations of the budget, the means of accounting for the Energy Assessment Fee and other unique features, and a mechanism for assuring reporting consistent with the requirements for EVT.

Recommendation 11:

The Department recommends the Customer Credit Program be continued as it has been operated.

The DPS contracted with GDS Associates to provide an independent assessment of the Customer Credit Program to review EVT’s coordination/administrative functions in implementing the Program and to assess the impact of the program on customer cost effective energy efficiency investments. The initial results of this work indicate the program is being successfully administered by EVT and that it is helping to change the customer’s internal practices toward more energy efficient decision making. See Appendix 8.

Recommendation 12:

The Department recommends that the following amounts be made available to the DPS for the conduct of continuing evaluation activities.

In the current 3 year contract period, the DPS evaluation budgets total \$1,179,000. The EEC fund provides \$1,125,000 and BED contributes \$54,000. The total represents about 3.7% of the three year EEU budgets approved for the years 2000 - 2002.

For the next three year contract, the DPS proposes evaluation budgets of 3.3% of the total EEU budgets approved by the Board. For the budgets proposed by the DPS in this report, the DPS evaluation budget would be about \$1.65 million, as follows:

2003	\$533,684
2004	\$538,619
2005	\$577,500

Recommendation 13:

The Department recommends that an update of the assessment of Economically Achievable Energy Efficiency Potential in the State be conducted under the direction of the Department as part of the EEU selection process in 2005, and that the costs of conducting that update be billable to Vermont utilities, as they were under the terms of ¶ 18 for this contract review cycle.

The Department believes that, in conjunction with the 2005 EEU selection process, it should conduct an update of the economically achievable efficiency potential in Vermont. This update will perhaps be more important in 2005 than it is today, since in 2005 the Board will be addressing the selection of a contractor for a new contract cycle rather than the renewal of an existing contract. If, in 2005, the Board determines to use the same six-year contract cycle it used for the existing contract (i.e., three-year initial contract with a three-year renewal), then it may be appropriate to determine in 2005 whether updates of efficiency potential should be conducted every three years or moved to an every six-year time frame appropriately timed to inform each new contract cycle.

The Department also believes that the costs of updating efficiency potential should be allocated to Vermont's electric utilities because these updates are done to inform EEU programs that are

implemented to satisfy the electric utilities' obligation respecting provision of system-wide DSM programs to customers. 30 V.S.A. § 218c; Docket No. 5980, Order of 9/30/99 at 40-41. An electric utility would pay for such an update if it were done with regard to its own implementation of system-wide DSM programs, and therefore the electric utilities collectively should pay for an update done to inform programs implemented on their behalf.

Under 30 V.S.A. §§ 20 and 21, DPS expenditures may be allocated to utilities if they related to the proceedings listed under 30 V.S.A. § 20, which include but are not limited to investigations initiated by the Board or DPS or monitoring compliance with any formal opinion or order of the Board. Accordingly, the Department recommends that, at the beginning of 2005, the Board open an investigation into the economically achievable efficiency potential in Vermont. The scope of that proceeding would include solely the investigation of such potential; it would not include contractor selection. The Department would conduct an update of statewide efficiency potential for review in that proceeding.