

**STATE OF VERMONT
PUBLIC SERVICE BOARD**

Docket No. 7466

Investigation in Petition Filed)
By Vermont Department of Public Service)
Re: Energy Efficiency Utility Structure)

**REBUTTAL TESTIMONY OF JOHN J. PLUNKETT
ON BEHALF OF
THE VERMONT ENERGY INVESTMENT CORPORATION**

JULY 31, 2009

Summary: Plunkett rebuts Prefiled Direct Testimony opposing the Order of Appointment mechanism, the appointment term, and performance review cycle proposed by VEIC. It also addresses the role of the proposed EEU Facilitator under an Order of Appointment, as well as how additional external funding that may be provided for EEU activities in the future should be treated.

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PUBLIC SERVICE RE: ENERGY EFFICIENCY UTILITY STRUCTURE**

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LIST OF EXHIBITS

25	Exhibit VEIC JJP-1:	Resume of John J. Plunkett
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PUBLIC SERVICE BOARD
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RE: ENERGY EFFICIENCY UTILITY STRUCTURE
REBUTTAL TESTIMONY OF JOHN J. PLUNKETT

I. Introduction

A. Witness Identification and Qualifications

Q. State your name, occupation, and business address.

A. I am John J. Plunkett, an economist and partner in Green Energy Economics Group, a small consultancy I co-founded in 2005. My address is 1002 Jerusalem Road, Bristol, VT 05443.

Q. On whose behalf are you testifying in this proceeding?

A. My testimony is sponsored by Vermont Energy Investment Corporation (“VEIC”), the incumbent Energy Efficiency Utility (“EEU”) Contractor for Efficiency Vermont.

Q. What are your responsibilities at Efficiency Vermont?

A. I have been engaged as Efficiency Vermont’s senior policy advisor since its inception. My responsibilities include economic, policy, and evaluation research, analysis, and advice. Currently I am leading the work related to the Public Service Board’s Order in Docket 7081, which requires the EEU to prepare a 20-year

1 estimate of energy efficiency savings expected to be achieved from the EEU's
2 system-wide portfolio. Known informally as “Forecast 20,” it will forecast the
3 cost-effective peak demand and energy savings achievable at current funding levels
4 over the next twenty years throughout the State and in sixteen load zones.

5 **Q. Summarize your qualifications.**

6 A. I have worked for thirty years in energy utility planning, concentrating on energy
7 efficiency as a resource and business strategy for energy service providers.
8 Throughout my career I have played key advisory and negotiating roles on all
9 aspects of electric and gas utility demand side management (“DSM”), including
10 residential, industrial, and commercial program design; implementation
11 management and oversight; performance incentive design; and monitoring,
12 verification, and evaluation. I have led, prepared, or contributed to numerous
13 analyses and reports on the economically achievable potential for efficiency and
14 renewable resources.

15 I have worked on these issues throughout North America and in China on
16 behalf of energy service providers, citizen and environmental groups, state
17 consumer advocates, utility regulators, and government agencies at the local, state,
18 provincial, and national levels. I earned my B.A. in Economics, with Distinction,
19 from Swarthmore College, where I graduated Phi Beta Kappa and was awarded the
20 Adams Prize in Quantitative Economics. Exhibit VEIC-JJP-1 contains my full
21 resume.

22 **Q. Have you testified in utility regulatory proceedings before?**

23 A. Yes. I have testified before utility regulators in a dozen states and three Canadian
24 provinces. Most of the two dozen or so cases in which I have testified involved the

1 review of electricity and natural gas DSM investment plans over the past two
2 decades. I testified in March on British Columbia Hydro's long-term DSM plan
3 before the BC Utilities Commission, on behalf of the BC Sustainable Energy
4 Association ("BCSEA"). I also filed direct testimony last October for BCSEA
5 assessing conservation plans submitted by Terasen Gas. I testified in October on
6 behalf of the Office of Consumer Counsel before the Connecticut Department of
7 Public Utility Control regarding the demand side component of the proposed
8 integrated resource plans of the Connecticut Light and Power and the United
9 Illuminating companies.

10 **Q. Have you testified previously before the Vermont Public Service Board?**

11 A. Yes. I testified in Docket 7213 (Green Mountain Power Corporation ["GMP"]
12 merger) in 2007, Docket 6860 (Vermont Electric Power Company ["VELCO"]
13 Northwest Reliability Project) in 2004), Docket 5980 (energy efficiency utility
14 proceeding) in 1997, Docket 5983 (GMP rate case) in 1997, Docket 5724 (Central
15 Vermont Public Service Corp. ["CVPS"] rate case) in 1994, and Docket 5270 CV 1
16 and 3 (CVPS efficiency proceedings) in 1994.

17 In addition, I served as consultant to the Public Service Board ("the Board")
18 in its original investigation into energy efficiency and DSM in Docket 5270 from
19 1988 to 1990, and in Docket 5330 regarding the Hydro Quebec contract in 1989
20 to 1990.

21 **Q: Do you have other experience related to energy efficiency investment planning
22 and portfolio administration?**

23 A: Yes. Over the past three years I have consulted on the development and analysis of
24 energy efficiency investment portfolios for Philadelphia, Chicago, and New York

1 City. I have also consulted extensively on energy efficiency investment in the
2 People's Republic of China ("PRC").

3 **Q: Describe your recent work on energy efficiency investment plans in the United**
4 **States.**

5 A. For the last year I have been leading the development of a five-year gas DSM
6 program plan for Philadelphia Gas Works ("PGW"), which is now the subject of
7 collaborative negotiations with other parties; I am also assisting PGW with
8 implementation planning. I am beginning my second year working for People's
9 Gas, a natural gas utility serving the city of Chicago and its suburbs, on economic
10 analysis in the planning and implementation of its Chicagoland three-year energy
11 efficiency program portfolio.

12 Since 2007 I have been working for New York City's Economic Development
13 Corporation on three parallel assignments, including the Public Service
14 Commission's Energy Efficiency Portfolio proceeding to establish programs for
15 Consolidated Edison's customers to reduce by 15% the forecasted electricity and
16 gas requirements for 2015. I have also assisted the city in collaborative negotiations
17 concerning Consolidated Edison's gas DSM programs for 2009-2010, and in the
18 design and evaluation of its geographically targeted electric DSM program to defer
19 transmission and distribution (T&D) investment.

20 **Q. What experience do you have with energy efficiency investment in China?**

21 A. I have consulted on energy efficiency at the national and provincial levels in China
22 for several non-governmental organizations since 2003. Since 2007, I have
23 provided technical support on the economic and financial assessment of energy
24 efficiency investment projects in Guangdong Province for the Montpelier-based

1 Institute for Sustainable Communities. In that effort, I am currently working with
2 Chinese experts to train and technically support citizen groups in the economic and
3 financial analysis of community scale efficiency and renewable projects in three
4 cities in Guangdong.

5 For the Asian Development Bank in 2006-2007, I led a team of Chinese and
6 American experts in a pre-feasibility study of a 24-year, \$120 million loan to
7 Guangdong Province to establish a revolving financing facility for industrial and
8 commercial / institutional efficiency retrofit investments. This analysis included
9 technical, economic, and financial analysis of the “efficiency power plant”
10 portfolio, and of case studies of ten “subprojects.” ADB’s Board of Directors
11 unanimously approved the loan in June 2008.

12 From July 2003 through 2007, I was the consulting team leader for the
13 Natural Resources Defense Council on the development, assessment, and
14 implementation of Chinese demand side management investment portfolios. I led
15 the modification and application of U.S.-based program and portfolio economic
16 analysis tools for DSM planning in Jiangsu Province. There I assisted with the
17 design and planning for first-stage implementation of DSM programs investing \$12
18 million annually on high-efficiency retrofits to industrial motors and drives and
19 commercial lighting and cooling. I provided training and technical support on
20 economic and financial analysis of industrial retrofit projects for structuring and
21 negotiating financial incentive offers to customers in 2007 and 2008. My firm
22 continues to provide training in energy efficiency investment economic and
23 financial analysis to Chinese experts for NRDC.

24 Finally, I was on the consulting team that drafted a national DSM
25 implementation manual last year, sponsored by the PRC’s National Development

1 and Reform Commission. Working with California’s investor-owned utilities and
2 American and Chinese experts, I wrote chapters concerning performance indicators
3 and cost-effectiveness analysis. The Chinese central government approved and
4 issued the national DSM manual in April of this year.
5

6 ***B. Summary of Rebuttal Testimony***

7 **Q. What is the purpose of your testimony?**

8 A. I rebut the direct testimony of witnesses for the Vermont Department of Public
9 Service (“DPS” or “the Department”), International Business Machines Corporation
10 (“IBM”), Associated Industries of Vermont (“AIV”), Vermont Electric Power
11 Company (“VELCO”) and Green Mountain Power Company (“GMP”). In doing
12 so, I also refer to the testimony by witnesses for CVPS and the Conservation Law
13 Foundation (“CLF”).

14 **Q. Summarize your testimony.**

15 A. Contrary to the testimony of witnesses Poor, Fratto, Martin, Frankel Aldrich, and
16 Driscoll, I find that it is in the public interest for Vermont to move from the current
17 3-year contractual model for energy efficiency portfolio administration to a 12-year
18 Order of Appointment, as recommended by VEIC witness Hamilton and CLF
19 witness Steinhurst. Doing so will not only directly address the list of concerns put
20 forward by the Board when it opened this investigation two years ago; it will also
21 restore and strengthen three essential capabilities that were lost in the transfer of
22 program design and implementation responsibilities from Vermont’s distribution
23 utilities to an independent contractor:

- 1 • Long-term efficiency resource planning and acquisition, integrated with the
2 planning horizons for competing supply resource investment;
- 3 • Long-term presence in the marketplace both to transform efficiency markets and
4 to build and maintain durable relationships with customers to help them
5 optimize their investment in the myriad efficiency opportunities arising over
6 time; and
- 7 • Arms-length regulatory relationship with the Board, paralleling that of
8 Vermont's providers of generation, transmission, and distribution services.

9 I conclude that the Department's proposal for what amounts to a three-year
10 Order of Appointment would be a serious step backward in Vermont's efforts to
11 improve the integration of demand-side resource planning and acquisition to
12 minimize the long-term costs of providing reliable energy service. It would retain
13 the short-term focus of the contractual model and all its attendant disadvantages
14 while imposing significant additional costs.

15 According to the Department's own testimony, engaging in the triennial
16 performance assessments recommended by DPS witnesses Poor and Fratto,
17 VELCO witness Frankel, and GMP witness Martin, would increase staffing and
18 consulting requirements of the EEU and the Department, not to mention those of
19 the Board, utilities, and other stakeholders. These additional costs would be
20 detrimental to ratepayers in either or both of two ways: (1) They would divert
21 funds that otherwise would be available for efficiency investment, and thereby
22 would reduce cost-effective resource acquisition; and / or (2) they would increase
23 the amount of ratepayer funding required to achieve a given level of efficiency
24 resource acquisition. Neither is in the public interest. Consequently, I recommend
25 that the Board reject the Department's proposal for a 3-year reconsideration of the

1 choice of appointee and a 6-year Order of Appointment in favor of the term and
2 performance review provisions developed in the 2007-2008 Workshop process, as
3 summarized by VEIC witness Hamilton.

4 Testimony by IBM and AIV in opposition to the 12-year Order of
5 Appointment likewise ignores its lower costs and greater benefits to Vermont
6 ratepayers, compared to the current 3-year contract model they recommend
7 retaining. For example, AIV witness Driscoll's testimony in favor of long-term
8 market transformation is inconsistent with the requirements for achieving it: a
9 sustained presence in the marketplace with long-term relationships built and
10 maintained with all market actors. In opposing the change to a 12-year Order of
11 Appointment, Mr. Driscoll, like IBM witness Aldrich, also ignores the substantial
12 costs to the Board and to the Department of potentially conducting a competitive
13 solicitation every three years.

14 Contrary to the testimony of DPS witness Poor, I further conclude that it is in
15 the public interest for the Board to grant VEIC an initial Order of Appointment
16 beginning in January 2010—without the exhaustive performance review, called for
17 by the DPS, of the current contractor. As VEIC witness Hamilton amply
18 demonstrated in his direct testimony, and as both DPS witnesses acknowledge,
19 VEIC has an unbroken track record of meeting and / or exceeding the most
20 ambitious energy efficiency performance targets in America for almost a decade,
21 under one of the most rigorous and transparent verification regimes I know of.

22 The model recommended by VEIC witness Hamilton contains clear
23 safeguards that maintain strong pressure on VEIC to perform in the meantime, since
24 any party can request at any time that the Board initiate an overall performance
25 assessment for any reason.

1 Witnesses for the DPS and GMP testify that VEIC should be the presumptive
2 initial appointee. Before making the initial appointment, however, the
3 Department's witnesses urge the Board to call for an Overall Performance
4 Assessment ("OPA") in the next eighteen months, as an act of due diligence, given
5 the total amount of the funds involved over the appointment term.

6 Such an exercise is unnecessary, and would be an untimely and unproductive
7 expenditure of ratepayer and other limited public resources by the DPS, the EEU,
8 and the Board. It is unnecessary not only because of VEIC's demonstrated success
9 in meeting Board goals, but also because, as I demonstrate below and in Exhibit
10 VEIC-JJP-2, its performance compares very favorably with contemporaneous
11 results of efficiency portfolio administrators in neighboring jurisdictions that have
12 achieved deep savings over the past few years. Given both past performance and
13 many opportunities for future performance review, there is no basis for concluding
14 that VEIC's continued stewardship of Vermont's efficiency portfolio will cause the
15 state to lag behind its cohorts if the Board, DPS, and other parties forgo an initial
16 OPA. Given the high probability that an initial OPA would provide no additional
17 insight or information to the Board about the fitness of VEIC to implement the
18 Order of Appointment, it would be a waste of money and time to embark on the
19 initial OPA recommended by the DPS. Should future comparisons reveal any
20 deterioration in Vermont's comparative performance over time, the Department or
21 other parties are free to use it to support a call for an Overall Performance
22 Assessment in the process recommended by VEIC, CVPS, and CLF. For now, I
23 recommend that the Board reject the Department's recommendation for what would
24 be nothing more than an expensive distraction and a resulting delay in
25 implementing the new structure.

1 IBM's claim that VEIC's costs are laden with excessive overhead has no basis
2 in fact. It is also in direct conflict with the world-class performance VEIC has
3 displayed since 2000. IBM witness Aldrich simplistically declares that any money
4 that isn't given back to customers in the form of incentives is wasted. This narrow
5 interpretation ignores the lessons learned from more than a generation of program
6 experience: that best practices in DSM program design and implementation require
7 a combination of tools beyond incentives; these include marketing, technical
8 assistance, and project management to persuade customers to invest their own
9 money in energy efficiency improvements. It also ignores the true test of
10 performance: the extent to which VEIC delivers savings at or below the contract
11 budgets approved in advance by the Board.

12 If the Board decides to transform Vermont's energy efficiency portfolio
13 administration from a contractual model to an Order of Appointment, many
14 valuable functions currently carried out by the current EEU Contract Administrator
15 will still need to be performed, contrary to the direct testimony of DPS witness
16 Poor. These include facilitating the resolution of technical issues arising during
17 routine EEU operations; and managing issues in planning, reporting, and evaluation
18 involving the EEU, the Department, and other stakeholders, including the
19 distribution utilities and VELCO. These functions should be transferred to the EEU
20 Facilitator, as recommended by VEIC witness Hamilton. It would be a mistake to
21 eliminate these critically important duties as Vermont moves to the next generation
22 of efficiency portfolio administration, a possibility suggested by the direct
23 testimony of DPS witness Poor.

24 Finally, it has always been the responsibility of the EEU to seek and secure as
25 much funding for Efficiency Vermont operations as it can from sources inside and

1 outside Vermont, and to use this funding to leverage additional efficiency
2 investment in Vermont. There is no valid reason for this policy and these practices
3 to change now, as proposed by DPS witness Poor and AIV witness Driscoll.
4 Substantial additional funding for expanded efficiency investment is imminent from
5 the federal government under the American Recovery and Reinvestment Act
6 (“Recovery Act”) signed by President Barack Obama. This money should not be
7 used to displace funding already committed through the EEC. It should instead be
8 directed to increase cost-effective efficiency investment, as the legislation
9 envisioned. This will further advance Vermont’s progress toward an affordable
10 energy future, enhance Vermonters’ energy independence, and help widen
11 Vermont’s regional competitive advantage in the cost of electric service.

12 **Q. How have you organized the rest of your testimony?**

13 A. I further substantiate the main advantages of moving to a 12-year Order of
14 Appointment in the next section. Then I address other parties’ testimony regarding
15 the length of appointment. This is followed by testimony on the initial Order of
16 Appointment in Section IV. I testify on the need for the EEU Facilitator,
17 recommended in the Draft of a Recommendation for a New Energy Efficiency
18 Utility Structure (“Draft Recommendation,” June 16, 2008) and the disposition of
19 any additional outside efficiency investment funding in Sections V and VI,
20 respectively.
21

22 **II. Energy Efficiency Utility Order of**
23 **Appointment**
24

1 **A. A 12-Year Order of Appointment to Vermont Energy**
2 **Investment Corporation Is in the Public Interest**

3 **Q. Why is it in the public interest for the Board to switch from the contract model**
4 **of energy efficiency utility portfolio administration adopted in Docket 5980 to**
5 **an Order of Appointment in this docket?**

6 A. It is time to put the “utility” back into the Energy Efficiency Utility as Vermont’s
7 model for efficiency investment portfolio administration. In Vermont’s transition
8 from the first generation of distribution utility demand-side program administration,
9 Vermont sacrificed three essential capabilities that Vermont’s leading electric utility
10 administrators not only possessed, but used, to the advantage of ratepayers in the
11 1990s.

12 **Q. What DSM responsibilities did the Board initially assign to Vermont’s electric**
13 **distribution utilities?**

14 A: In 1990, the Board charged Vermont’s distribution utilities with carrying out the
15 policies established in the Board’s investigation into demand-side management,
16 energy efficiency, and integrated least-cost resource planning. The prime directive
17 of the Board’s decision in Docket 5270 was for all the State’s electric utilities to
18 design and implement energy-efficiency program plans to acquire as much cost-
19 effective electricity savings as possible. The Board also ordered the utilities to
20 integrate their long-range energy-efficiency investment plans into their supply
21 planning. The practical effect of this directive was to obligate utilities to
22 demonstrate that their long-range resource plans contained all the efficiency savings
23 that could be achieved for less than the cost of supply sources included in the plans.

1 **Q. How did the decision in Dockets 5980 and 6890 change the assignment of DSM**
2 **responsibilities?**

3 A. The Board divided DSM responsibilities among the EEU, the distribution utilities,
4 and the Department. It assigned responsibility for statewide “core” DSM program
5 design and implementation to the Energy Efficiency Utility. Two new constraints
6 were established for the EEU that distribution utilities were not subject to.
7 Investment levels henceforth were limited to a budget cap established annually, and
8 investment plans would be restricted to a 3-year planning horizon, due to the 3-year
9 contract cycle with a one-time renewal option.

10 The distribution utilities were left with the obligation to identify and pursue
11 any additional economically achievable DSM savings in their respective service
12 territories, to the extent they could substitute for or defer new distribution
13 infrastructure. Docket 6890 established mechanisms for the distribution utilities to
14 conduct preliminary “scoping” assessments to identify potential DSM resources,
15 and charged the EEU with responding to any requests for additional efficiency
16 resource acquisition. This new regime effectively broke the direct link between: (1)
17 the responsibility for long-range DSM resource planning and acquisition, and (2)
18 the responsibility for long-term supply planning.

19 The responsibility for DSM program evaluation was transferred from the
20 distribution utilities to the Department of Public Service, subject to Board oversight
21 managed by the Contract Administrator. The EEU was supposed to use the results
22 of DPS program evaluation activities to inform DSM program design and planning.
23 The distribution utilities were left with the responsibility for translating the EEU’s
24 projected short-term electricity savings into long-range savings forecasts, and
25 integrate them into their long-term resource planning.

1 **Q. Were any critical advantages lost in the transfer of responsibilities for**
2 **statewide energy efficiency portfolio administration from Vermont’s**
3 **distribution utilities to the EEU in Dockets 5980 and 6890?**

4 A. Yes. Three shortcomings have become apparent in the decade since Vermont
5 entered its second generation of efficiency portfolio administration.

6 First, the EEU’s 3-year horizon for DSM resource acquisition is too short,
7 compared to the 20-year planning period for supply resources. This leaves a large
8 gap that prevents the EEU from taking responsibility for long-term demand-side
9 resource acquisition consistent with the utilities and VELCO’s long-term supply
10 plans.

11 Second, the 3-year contract cycle is not long enough for the EEU to develop a
12 sustained presence in the marketplace. This prevents the EEU from undertaking
13 activities up and down the supply chain in efficiency markets; these activities have
14 the potential for changing long-term market behavior. It also precludes the EEU
15 from building and maintaining lasting relationships with individual customers,
16 which is essential for forging long-term efficiency investment plans with business
17 customers.

18 Finally, the EEU lacks the same kind of arms-length relationship with the
19 Board that the supply-side energy service providers operate under. This regulatory
20 imbalance weakens the competition between demand- and supply-side resources in
21 the regulatory process. In the tussle between transmission and competing non-
22 transmission alternatives—generation and demand-side—the EEU needs to be
23 capable of preparing and presenting evidence of the same caliber as the suppliers.

1 **Q. Would a 12-year Order of Appointment remedy these major shortcomings in**
2 **Vermont’s current system for efficiency investment portfolio administration?**

3 A. Yes, it would.

4 **Q. How?**

5 A. The 12-year Order of Appointment will enable the EEU to make, commit to, and be
6 held accountable for long-range efficiency resource acquisition plans. It would also
7 enable the EEU to establish truly strategic partnerships with local, regional, and
8 national businesses in order to transform markets over the long term and to realize
9 the ensuing savings. It would better enable the EEU to work with unique
10 investment and capital budgeting cycles of Vermont’s diverse businesses, and to
11 make long-term commitments for customized incentives and other services. And it
12 would level the playing field for providers of competing electricity resources in
13 Vermont’s continuing effort to minimize the cost of providing reliable electric
14 service to its ratepayers.

15 **Q. Is there any direct testimony that corroborates your conclusions on the length**
16 **of appointment?**

17 A. Yes. In his testimony, CLF witness Steinhurst proposed that “the Board find that an
18 indefinite term is the preferred structure,” and that to the extent that
19 recommendation is not authorized under current law, the Board “issue an Order of
20 Appointment for the maximum term allowed by Vermont law” (i.e., 12 years) as a
21 “second-best outcome.” Further, witness Steinhurst proposed that the Board direct
22 interested Parties to recommend revisions to Vermont law authorizing an indefinite
23 Order of Appointment. (Steinhurst, Direct Testimony, Page 10, Lines 7 – 16).

1 **Q. Why do you disagree with DPS witness Poor on whether the Board should**
2 **issue an Order of Appointment to the incumbent EEU?**

3 A. VEIC has already proved beyond any reasonable doubt to be a national leader in the
4 administration of energy efficiency portfolios. Neither witness Poor nor any other
5 Party has offered any credible evidence that the incumbent EEU's performance
6 might degrade. It is therefore in the public interest for the Board to make the initial
7 appointment to VEIC without delay.

8 **Q. Substantiate this claim.**

9 A. As noted in VEIC witness Hamilton's direct testimony, both the Board and DPS
10 have repeatedly reaffirmed the choice of VEIC to deliver Efficiency Vermont
11 services—most recently in 2008, when the Board decided to extend the current
12 contract a third time for three more years (2009-2011). VEIC Exh. BH-2 documents
13 in detail VEIC's success in meeting or exceeding almost every single performance
14 goal ever set for it in its previous nine years of operation. Several other witnesses
15 in this case have testified on direct that VEIC's performance qualifies it as the best
16 candidate for the initial appointment for the EEU.

17 The following passages from several witnesses recommending VEIC as the
18 initial appointee support this point:

19 **CVPS:** ... "CVPS does not believe that it is necessary to conduct a request for proposal
20 or other process to determine the parties to be awarded Orders of Appointment at this
21 time. Both VEIC and BED have been serving in the role of an EEU and significant
22 performance failures have not been identified. Vermont has made substantial investment
23 in these entities to build the capabilities necessary to perform as EEUs and these
24 investments will be stranded if they are not transitioned into the new EEU structure.

1 Moreover, the cost and time necessary to conduct a request for proposal or other
2 processes can be significant. Rather than devote time and resources to these processes,
3 CVPS believes that customers would be better served by swiftly transitioning to the new
4 EEU structure. This includes the development of budgets, goals and QPIs for the
5 appointed entities. CVPS suspects that the benefits to customers and the electric system
6 that are expected to arise under the new structure outweigh the potential benefits that
7 could be garnered through a costly and lengthy selection process that is unlikely to yield
8 different appointees.” (Bentley Direct Testimony, Page 19, Line 6 – Page 20, Line 2.)

9 **GMP:** ... “My sense is that that during this transition from the contract model to the
10 appointment model, the benefits of putting the appointment out to bid would be
11 outweighed by the incremental complexities and transaction costs that would be
12 introduced. There are enough safety nets built into the appointment model as
13 contemplated. The Vermont Energy Investment Corporation should be awarded the initial
14 appointment.” (Martin Direct Testimony, Page 4, Line 19 – Page 5, Line 4.)

15 **CLF:** ... “VEIC has operated Efficiency Vermont with a high level of achievement and
16 effectiveness since 1999. They have been recognized as a national model for effective
17 delivery of energy efficiency services. To the best of my knowledge, they have never
18 missed a contractual requirement, and have met or exceeded nearly all of their
19 Performance Indicators.” (Steinhurst Direct Testimony, Page 12, Lines 13-19.)

20 Even the Department testifies that VEIC should be the presumptive initial
21 appointee. DPS “supports the presumption that the current efficiency program
22 administrators” be given the initial appointment (Poor Direct Testimony, Page 18,
23 Lines 11-12) and that the current contractor “is performing well” (Page 18, Line
24 15). This is strikingly at odds with the Department’s recommendation to embark on

1 an expensive and time-consuming public display of “due diligence,” when it calls
2 for an Overall Performance Assessment in advance.
3

4 ***B. Opposing Proposals***

5 **1. Appointment Term and Performance Review Cycle**

6 **Q. Why do you disagree with the DPS proposal for appointment length and**
7 **performance review cycle?**

8 A. The alternative proposal put forward by the Department (Poor and Fratto Direct
9 Testimony) and supported by GMP (Martin Direct Testimony) and VELCO
10 (Frankel Direct Testimony) represents no significant improvement over the current
11 structure. The structure proposed by the Department maintains the presumption of a
12 triennial proceeding that could result in the solicitation of a new appointee. This
13 model is functionally identical to the current one, and would inevitably retain many
14 of its shortcomings.

15 The DPS concedes that achieving “program stability” could take in excess of
16 six years (Fratto Direct Testimony, Page 9, Lines 19-20). The DPS allows that it is
17 “difficult to precisely determine how long the term of the Order of Appointment
18 needs to be to achieve all of the benefits” that their own consultant describes (Fratto
19 Direct Testimony, Page 9, Lines 12-13). DPS does inventory the many significant
20 “end of cycle problems” associated with the current short-term EEU contract
21 structure, noting that such problems occur “less frequently” with longer terms of
22 appointment (Fratto Direct Testimony, Page 10, Lines 6-17). The DPS further offers
23 that “any significant extension of the current contract term will result in a reduction
24 of the number of costly solicitations that will be required and improve the ability of

1 the EEU to hire and retain the best talent” (Fratto Direct Testimony, Page 9, Lines
2 25-27).

3 DPS testifies that it proposed its alternative Order of Appointment structure
4 solely on the unsupported assertion that the 12-year term length in the Draft
5 Recommendation “did not create a structure that reasonably mitigated the potential
6 risk to ratepayers created by the lack of competition for efficiency services” or
7 “adequately safeguard the risk to ratepayer funds” (Poor Direct Testimony, Page 13,
8 Lines 17-18, 21). DPS does not address how an appointment structure fails to
9 protect ratepayers if it allows for any party—including the DPS—to petition, if
10 cause is shown, for the removal of the current appointment holder at any time. The
11 DPS similarly does not address with any specificity how any aspect of the 12-year
12 term length might permit such an outcome to occur.

13 **Q. Do you find other weaknesses in the Department’s rationale in support of the**
14 **6-year appointment with a 3-year performance review cycle?**

15 A. Yes. It is remarkable that the DPS evidently fully expects to shrink from its
16 responsibility to exercise continued oversight of the EEU unless it is forced to do
17 so. The DPS notes in its own Direct Testimony, “While under any of the pending
18 proposals the Department has the opportunity to initiate review and request that the
19 Board conduct an OPA process at any time, it makes sense to take a frank, realistic
20 view of this situation, which is that *the Department is less likely to conduct a review*
21 *if it is not mandated to do so*. Furthermore, it is also conceivable that due to budget,
22 funding and staffing resource constraints, the Department would defer action until
23 the deadlines that accompany a mandatory OPA.” (Poor Direct Testimony, Page 17,
24 Line 24 - Page 18, Line 2; emphasis added.)

1 As a result, the DPS advocates an EEU structure that contains many of the
2 critical flaws identified in the current structure (e.g., an OPA cycle that includes the
3 presumption of a Board proceeding every three years) simply because it
4 acknowledges that the alternative of no action is more “realistic” than is its ability
5 to carry out its responsibilities as the ratepayer advocate, unless it is compelled by a
6 Board-ordered process to do so. This is a procedural problem of the Department’s
7 own manufacture; it is not a valid basis for major, long-term decision-making by
8 the Board.

9 GMP’s testimony on the entire matter merely endorses the DPS proposal and
10 observes, by way of support, “In my view this approach to the term length is
11 reasonable” (Martin Direct Testimony, Page 4, Lines 15-16). Similarly, VELCO’s
12 testimony in support of the DPS proposal is based on an unsubstantiated opinion
13 that it is a “balanced and workable approach” (Frankel Direct Testimony, Page 2,
14 Line 24). Such testimony offers no evidence, rationale, or other basis for the Board
15 to make a determination regarding the DPS recommendation.

16 **Q. Summarize the main defects you find in the Department’s proposal for the**
17 **length of appointment and performance review cycle.**

18 A. The Department’s proposal replicates the shortcomings of the current three-year
19 contract structure, while increasing the overall costs of energy efficiency service
20 delivery to ratepayers.

21 **Q. How does the Department’s “rolling appointment” model replicate the**
22 **shortcomings of the current contract model?**

23 A. The 6-year appointment with 3-year performance assessments mirrors the
24 performance review cycle of the current structure. After three years, the

1 Department proposes that it first conduct a preliminary performance assessment, the
2 scope and methodology of which are as yet completely undefined. Based on the
3 results of this assessment, the DPS could recommend that the Board not conduct an
4 OPA midway through each 6-year term of appointment. However, the presumption
5 under the DPS proposal is that such an OPA would be recommended, unless the
6 preliminary assessment suggested otherwise.

7 This two-stage process introduces a new element of uncertainty not present
8 under the current contract model. For planning purposes, the EEU, the Board, and
9 the other parties would have to expect and prepare for a two-stage review cycle
10 every three years. Further compounding the uncertainty, the DPS proposes that the
11 Board conduct a full OPA prior to the initial EEU appointment, as discussed below
12 in Section B.

13 Seen in this light, the term “six-year rolling appointment” is really a
14 misnomer. What the Department witnesses recommend is actually a 3-year
15 reconsideration of the choice of appointee. Functionally, it is identical to the
16 current 3-year contract with a one-time option for the Board to renew and extend it
17 for a further three years without a public solicitation for bids. The Board exercised
18 this option twice (2002 and 2008), and in both instances, an extensive review of
19 previous performance was conducted, along with a lengthy negotiation of future
20 performance goals. The activities for each of these events consumed hundreds of
21 person-hours on the part of the Board, the DPS, and VEIC staff and consultants.

22 Indeed, the Department’s designation of its proposal as a “rolling”
23 appointment, as a means of differentiating it from the 12-year appointment model
24 recommended by VEIC witness Hamilton, is really a false distinction. The 12-year
25 proposal likewise anticipates the Board taking action prior to the expiration of the

1 appointment period, either to select a new appointee or to roll over the appointment
2 to the incumbent.
3

4 **Q. Do you oppose the Department's recommendation to conduct an Overall**
5 **Performance Assessment halfway through the appointment period?**

6 A. No. My objection is to the frequency with which the OPA would be conducted
7 under the DPS proposal for a shorter appointment period. This part of the DPS
8 proposal essentially doubles its cost, compared to the 12-year appointment period
9 proposed by VEIC witness Hamilton.

10 **Q. How do you know that the DPS appointment model will be more expensive**
11 **than the 12-year model that VEIC and CLF recommend?**

12 A. Implementing the DPS proposal will clearly cost more than the 12-year
13 appointment, and almost certainly more than the current system with which the
14 Department, VEIC, and the Board already have plenty of experience. Cutting the
15 term of appointment in half simply doubles the number of times the Board will have
16 to undertake an end-of-cycle appointment review process outside the parallel
17 resource planning processes already established under Docket 7081. Introducing the
18 preliminary stage of the Department's proposed assessment not only adds risk; it
19 also adds more costs, since there is no guarantee that ratepayers would not end up
20 paying for both the preliminary and the overall assessments.

21 Shouldering all of this additional responsibility would require more staff and
22 consultant time and money for the Department. It would also impose higher costs
23 on the EEU, which would have to devote significant staff and consultant resources
24 to participate in the process. This would range from providing input on the

1 Department's proposed assessment methodology, responding to DPS inquiries,
2 preparing written reactions to DPS findings, and possibly testifying before the
3 Board regarding this assessment. Moreover, all of these activities would have to be
4 paid for out of EEC funds, just as electric utilities' regulatory costs are recoverable
5 through rates.

6 Finally, compared to both the 12-year appointment and the present 3-year
7 contract model, the Department's proposal will require more involvement from the
8 Board to adjudicate the performance assessment process.

9 **Q. Do you agree with the Department's assertion that their proposal would offer**
10 **"greater stability" to the entity appointed to administer the EEU?**

11 A. No. In his testimony, DPS witness Poor contends that the "rolling" nature of the
12 Department's proposal "offers the appointee greater stability" (Poor Direct
13 Testimony, Page 16, Line 10), compared with the 12-year Order of Appointment
14 proposal, presumably because if the entity running the EEU is performing well
15 there exists the potential for the appointment to roll over indefinitely. To support
16 this contention, Mr. Poor misreads the end-of-cycle provisions of that proposal,
17 incorrectly stating that the 12-year Appointment proposal requires the Board to
18 "initiate a competitive bid process at the end of cycle" (Poor Direct Testimony,
19 Page 16, Lines 12-13).

20 **Q. What is wrong with this reading of the 12-year Appointment proposal?**

21 A. The 12-year proposal actually calls for the Board to retain "considerable flexibility
22 to undertake a process that takes into account the performance of the incumbent
23 contractor and that considers the costs and benefits of different appointment
24 processes ... that could range from re-appointment of the incumbent contractor to a

1 solicitation of interest, to a Request for Qualifications to a full Request for
2 Proposals with a competitive bidding process” (Hamilton Direct Testimony, Page
3 28, Lines 17-23). As Mr. Hamilton notes in his testimony, this reflects the end-of-
4 cycle process suggested in the Draft Recommendation: “The Board shall retain the
5 option to defer the implementation of a competitive solicitation if it finds, after
6 notice and opportunity for comment and through application of established criteria
7 (to be determined), that the benefits in performance likely to result from the process
8 are not worth the cost of going to the market at the specified time” (Hamilton Direct
9 Testimony, Page 28, Line 23 – Page 29, Line 28).

10 Such an end-of-cycle process offers far more stability to the EEU than the
11 process put forth by the Department. Indeed, as described elsewhere in my
12 testimony, the Department’s proposal would offer significantly less stability for the
13 EEU, due to its triennial performance review, which includes the presumption of a
14 contested proceeding before the Board that could lead to the selection of a new
15 contractor.

16 **Q. You testified earlier that adopting the Department’s proposal would be a step**
17 **backward. Are you testifying that it would be in the public interest for the**
18 **Board to leave the present contractual model in place, rather than change to**
19 **the rolling Order of Appointment recommended by the DPS and GMP?**

20 A. Yes, I am. Paradoxically, in that one respect my testimony is in accord with the
21 primary positions of witnesses for IBM and AIV, who recommend that the Board
22 leave the current contractual model intact. Where I differ with these witnesses is on
23 the costs and benefits of moving from the current system to a longer Order of
24 Appointment.

1 **Q. What do you find from your review of the direct testimony by AIV and IBM in**
2 **support of a 3-year Order of Appointment length?**

3 A. In its testimony supporting an even shorter 3-year Order of Appointment, AIV
4 states that longer terms of appointment would lead to contractor “complacency” and
5 other negative effects. In support of this argument, AIV argues that it is “not aware
6 of longer term contracts” and would “speculate” that comparable private sector
7 contracts are three years or shorter. (Driscoll Direct Testimony, Page 5, Lines 11-
8 19). AIV’s self-described speculation and lack of knowledge fail to provide grounds
9 for the Board to consider that part of their testimony persuasive.

10 To support its proposal for a 3-year term length, AIV complains about “how
11 politicized debates over Efficiency Vermont and efficiency policies and programs
12 generally have sometimes appeared in Vermont” (Driscoll Direct Testimony, Page
13 5, Lines 21-22). These unsupported judgments by AIV’s witness are in direct
14 conflict with the extraordinary levels of performance VEIC has demonstrated in
15 administering Efficiency Vermont to date, and offer no substantive basis for support
16 by the Board.

17 In its testimony, IBM argues that a 3-year term “is a sufficient term length to
18 plan and implement projects, and evaluate results” (Aldrich Direct Testimony, Page
19 13, Lines 4-5). IBM is silent on the concerns articulated by the Board and numerous
20 other parties about the shortcomings of the current 3-year contract cycle. His
21 observations may be correct for individual efficiency investment projects at IBM’s
22 several plants. But they have no bearing on the far more complex, larger, and
23 longer resource planning and acquisition requirements of the State’s utilities with
24 whom the EEU works.

1 IBM further argues that the 3-year term is appropriate because of the “rapid
2 change” they predict to occur “in the next few years.” (Aldrich Direct Testimony,
3 Page 13, Lines 10-18). Mr. Aldrich offers no logical economic connection between
4 rapid market change and the short-term appointment he recommends. Efficiency
5 Vermont is the entity entrusted by the Vermont Systems Planning Committee and
6 the Board to anticipate and incorporate into its operations the rapid changes under
7 way in efficiency technologies in the next two and-a-half years, and to quantify how
8 these changes will influence efficiency savings over the next twenty years.

9 **Q. What is your response to testimony by AIV witness Driscoll concerning market
10 transformation?**

11 A. AIV’s goal of long-term market transformation is at odds with its recommendation
12 of a three-year appointment for the EEU. Mr. Driscoll posits that longer-term
13 contracts are contrary to the goal of market transformation (Page 6, Lines 5-9). His
14 statement displays a lack of understanding of how efficiency programs have
15 successfully transformed efficiency markets over the last twenty years.

16 Successful market transformation requires sustained effort over a long period,
17 with many players: (1) throughout the supply chains of a multitude of high-
18 efficiency products in local, state, regional, and national markets, and (2) including
19 numerous efficiency portfolio administrators in other jurisdictions. Maintaining the
20 current 3-year cycle prevents the EEU from making multi-year, multi-party
21 agreements that lead to “game-changing” adjustments to how and when which
22 efficiency products are brought to market, and at what cost to Vermont customers.

23 Perhaps the greatest drawback of the 3-year contract is how it affects
24 customers like AIV’s members. Under the current contract model, the longest

1 period to which the EEU can make commitments to a particular business is three
2 years. As each year of the contract passes—or each year since the previous
3 performance assessment, in the Department’s proposed model—the EEU’s
4 commitment horizon shrinks by a year. By each third year in the cycle, the length
5 of the EEU’s commitment to specific future investment shrinks to no more than two
6 years, assuming the EEU can count on receiving credit for committed savings after
7 its contract expires (or after the Department’s proposed appointment term is
8 terminated). This dynamic makes it nearly impossible for the EEU to synchronize
9 the timing of its efficiency investment recommendations and incentive offers with
10 the varying demands of Vermont businesses’ investment and budgeting cycles. Mr.
11 Driscoll’s testimony notwithstanding, failing to cure this shortcoming in the current
12 model and in the Department’s proposed model will continue to deprive Vermont’s
13 businesses of the economic benefits of the more enduring business relationship with
14 the EEU, regardless of the appointee.
15

16 2. Initial Appointment

17

18 **Q. Why does the Department recommend conducting an Overall Performance**
19 **Assessment prior to making the initial appointment to the incumbent EEU**
20 **contractor?**

21 A. DPS suggests an initial OPA to “build public confidence” and “create an up-to-date
22 public record” (Fratto Direct Testimony, Page 11, Lines 18-19). Perversely and
23 without further explication, the DPS also suggests that requiring an initial OPA will
24 “avoid an unnecessary and costly solicitation process.” (Fratto Direct Testimony,
25 Page 11, Lines 19-20).

1 DPS witness Poor has offered no basis for even contemplating how or why an
2 Overall Performance Assessment conducted now could possibly conclude that
3 Vermont would be best served by switching to another EEU service provider. Nor
4 has any other party advanced any credible evidence to support even a suspicion that
5 VEIC might not continue its superlative performance. Extensive reports,
6 evaluations, and audits of EEU performance are already present in abundance;
7 further supplementing that record now would be duplicative and wasteful.
8 Requiring an OPA—which could lead to a competitive solicitation—in order to
9 avoid a competitive solicitation from taking place—is an exercise in circular
10 reasoning.

11 A better route to avoid “an unnecessary and costly solicitation process” would
12 be to award the initial Appointment to VEIC, based on its exemplary performance
13 to date, which has been thoroughly documented in the Direct Testimony of Blair
14 Hamilton. The initial OPA, as proposed by the DPS, would extend for 18 more
15 months the structural difficulties that occasioned the Board’s memorandum of July
16 12, 2007, opening the Workshop process to consider changing the model in the first
17 place.

18 **Q: What are the advantages of quickly implementing the new EEU structure for**
19 **the 2010-2011 performance period, as recommended by VEIC, as opposed to**
20 **the multi-year transition process proposed by DPS?**

21 A: VEIC has proposed a prompt transition to the new EEU structure, including a
22 2010–2011 Performance Period. This differs from the DPS proposed timeline,
23 which does not implement the new structure until the 2012–2015 Performance
24 Period.

1 Generally speaking, the transition timeline proposed by VEIC will simply
2 result in ratepayers, regulators, and the other utilities realizing the benefits of the
3 new structure more quickly. Those benefits have been described in detail
4 throughout the testimony of VEIC, DPS, and other parties.

5 **Q. Can you give a concrete example of how making the initial appointment would**
6 **improve the ability of the EEU to perform functions entrusted to it under the**
7 **current contract model?**

8 A. Yes. I have had first-hand experience on three occasions working the VEIC to
9 formulate bids for delivering peak demand reductions into the regional Forward
10 Capacity Market, a year beyond VEIC's current contract term. Moving
11 immediately to the initial appointment would eliminate the disconnect between
12 VEIC's current responsibility for making long-term commitments on behalf of the
13 State, but without the authority to deliver on these commitments.

14 **Q. What evidence can you provide that compares VEIC's performance with other**
15 **efficiency portfolio administrators in the Northeast?**

16 A. Exhibit VEIC-JJP-2 presents VEIC's energy savings depth and its spending per
17 kWh of saved electricity with corresponding data from Connecticut, Massachusetts,
18 New York, Maine, New Hampshire, and Rhode Island, from 2008 back to 2000.
19 Aside from having high electricity rates relative to the national norm, the
20 Northeastern states all have efficiency portfolio administrators with different levels
21 of funding and savings goals. Efficiency portfolio administration is performed by
22 distribution utilities in Connecticut, Massachusetts, New Hampshire, and Rhode
23 Island. In addition to Vermont, third-party efficiency portfolio administration is
24 used in Maine and New York.

1 **Q. What do these data reveal?**

2 A. They show that among all the portfolio administrators in the Northeast, Efficiency
3 Vermont is the regional performance leader, in terms of the depth of savings
4 achieved. Focusing on the last three years, Efficiency Vermont achieved annual
5 savings ranging from 0.9 to 2.3 percent of total electric energy sales between 2006
6 and 2008. The closest runner-up was Connecticut, achieving roughly 1% savings in
7 each year, followed by the five Massachusetts utility administrators.

8 **Q. What do the data reveal about Efficiency Vermont's expenditures per kilowatt-**
9 **hour ("kWh") saved annually?**

10 A. Among its closest peers in terms of energy savings depth, Efficiency Vermont had
11 comparable costs per saved kWh. Efficiency Vermont's cost per first-year kWh
12 saved was \$0.31 in 2006, \$0.22 in 2007, and \$0.25 in 2008. By comparison,
13 Connecticut spent \$0.23, \$0.24, and \$0.21, respectively. Similarly, Massachusetts
14 utility administrators spent the same or more than Efficiency Vermont per kWh
15 saved in 2006 for roughly the same depth of savings. In 2007, NSTAR (serving
16 Boston) spent \$0.22 per first-year kWh saved to achieve a savings depth of 0.9%; in
17 the same year, National Grid (serving the Route 128 corridor between Boston and
18 western Massachusetts) spent \$0.22 per first year kWh saved to achieve savings of
19 1.1% of electricity sales. Considering the much higher population density, greater
20 commercial and industrial base, and the fewer supply-chain challenges in both
21 Connecticut and Massachusetts, Efficiency Vermont's kWh savings performance is
22 even more impressive than these numbers suggest

23 Another revelation is that some of Vermont's neighboring states spent
24 comparable amounts per kWh saved annually for far smaller energy savings. For

1 example, Rhode Island spent more than Vermont per kWh saved in 2007, and
2 realized significantly lower energy savings as a percentage of total sales.

3 **Q. Why aren't the costs of saved energy directly comparable for the other**
4 **jurisdictions?**

5 A. The depth of savings that New York, Maine, and New Hampshire pursued and
6 achieved is significantly less than that of Vermont, Connecticut, and Massachusetts.
7 For example, New York's statewide portfolio administrator saved only about 0.5
8 percent of total energy sales in 2007 and 2008, only a third to a quarter of what
9 Efficiency Vermont achieved then. Because of diminishing marginal returns, the
10 cost per saved kWh by the New York State Energy Research and Development
11 Authority ("NYSERDA") should be expected to be considerably lower.
12 Consequently, it would be unreasonable to compare the two jurisdictions' cost of
13 saved electricity directly.

14 **Q. Why do you confine direct comparisons to identical years?**

15 A. Prevailing conditions in efficiency markets have changed over time within the
16 region, especially during the last three years, so it would not be appropriate to
17 compare, for example, one administrator's results in 2006 with another's in 2008
18 without correcting for variation in factors that changed in the intervening years,
19 such as rapid growth in savings from residential lighting efficiency.

20 **Q. What can the Board conclude on the basis of these comparisons?**

21 A. The Board can logically conclude that VEIC's performance compares favorably
22 with the utility and non-utility efficiency portfolio administrators throughout the
23 region. Together with VEIC's proven ability to meet the performance goals set for
24 it by the State, this evidence clearly establishes that VEIC can be expected to

1 continue to do as well as or better than any other efficiency portfolio administrator
2 in the region.

3 **Q. Will an initial Order of Appointment remove VEIC's incentive to perform**
4 **under the current contract?**

5 A. No. On the contrary, under the Order of Appointment mechanism, the Board could
6 initiate a formal assessment of VEIC's performance at any time for any reason,
7 whether on its own motion or in response to a petition by any interested party.
8 Under-performance can reasonably be expected to be a trigger for re-opening the
9 appointment, and therefore VEIC would have a powerful incentive to strive to meet
10 its existing performance goals. This stimulus is in addition to the powerful
11 monetary incentive already built into the contract by way of the performance award.

12 **Q. How do you recommend that the Board reflect this conclusion in its decision in**
13 **this docket?**

14 A. I recommend that the Board make the Order of Appointment to VEIC, effective
15 January 1, 2010. VEIC's performance to date provides overwhelming evidence in
16 favor of granting it the initial appointment under the new structure. To conduct an
17 Overall Performance Assessment at this juncture, so soon after that recent
18 reaffirmation, would be time-consuming, expensive, and provide little new
19 information of material value.

20 **Q. What about the claim by IBM witness Aldrich that VEIC's overhead expenses**
21 **are so high that the Board should initiate a competitive selection process to**
22 **seek an alternative, lower-cost provider?**

23 A. The calculation used by IBM witness Aldrich for assessing Efficiency Vermont's
24 "overhead" costs is flawed and misleading.

1 **Q. On what do you base this conclusion?**

2 A. Bloomberg.com's financial glossary defines overhead as "The expenses of a
3 business that are not attributable directly to the production or sale of goods."
4 Financial incentives are but one of several tools DSM programs use to persuade
5 participants to invest in energy efficiency measures. Technical assistance,
6 promotional activities, and project management support are also essential
7 ingredients in making efficiency investments happen. These components are
8 directly attributable to the "sale" (or customer "buy-in") of efficiency services; that
9 is, they are the direct costs of initiating and completing a project. Thus they do not
10 constitute "overhead" costs; they directly contribute to the production of the desired
11 outcome.

12 IBM's testimony fails to acknowledge that Efficiency Vermont's
13 administrative costs—costs that more closely meet a reasonable definition of
14 "overhead"—have been capped at less than 2% in all three contracts between VEIC
15 and the Board, and are reflected in Efficiency Vermont's actual budgets.

16 **Q. How should the Board determine whether VEIC's costs of delivering EEU**
17 **services are reasonable?**

18 A. By looking at the total costs to deliver efficiency resources in specified quantities,
19 not how one cost component compares to others. This is how the Board has always
20 viewed the "bottom line" for competing resources, and how it should continue to do
21 so. Segregating incentives from all non-incentive costs, as Mr. Aldrich does in his
22 direct testimony, makes as much economic sense as segregating material costs from
23 non-material costs in IBM's semiconductor manufacturing process to determine
24 cost-effectiveness of its product, compared with competing suppliers of equivalent

1 technology. As I demonstrated earlier in my testimony, VEIC's costs of delivering
2 efficiency are competitive with utility and non-utility administrators in the rest of
3 the Northeast in providing comparable levels of savings.

4 **Q. If the Board makes VEIC the initial EEU appointee, will the Board, the**
5 **Department, and other parties receive timely information on EEU costs and**
6 **performance in the years ahead?**

7 A. Absolutely. The model recommended by VEIC witness Hamilton anticipates a
8 continuation of EEU annual savings claims with verification by the DPS; annual
9 reports filed by the EEUs; independent, third-party reviews of EEU performance as
10 required by the Vermont Legislature; and a triennial process for setting Quantifiable
11 Performance Indicators and setting budget and savings goals for the following 20-
12 year period.

13 In the calendar recommended by VEIC witness Hamilton, the first of these
14 triennial budget and goal-setting processes would be concluded prior to 2012,
15 presumably being conducted in 2010-2011. There will be ample opportunity in this
16 2010-2011 process for the DPS and other parties to identify any performance
17 concerns that might develop between now and then.

18 **III. Energy Efficiency Utility Facilitator**

19 **Q. Why do you disagree with DPS witness Poor regarding the role of an EEU**
20 **Facilitator reporting to the Board under the Order of Appointment you**
21 **recommend?**

22 A. The responsibilities outlined in VEIC Exh. BH-4 (page 23) of VEIC witness
23 Hamilton's direct testimony are valuable and appropriate under an appointment
24 model, inasmuch as they are a natural evolution of the Contract Administrator

1 (“CA”) function under the current model. The EEU Facilitator should be impartial
2 and independent in reporting to the Board, analogous to the Board’s practice of
3 occasionally engaging an outside witness to testify and / or advise it in adjudicating
4 regulatory proceedings. Having an agent of the Board acting in this capacity
5 relieves the Board itself from the burden of day-to-day monitoring of EEU
6 operations and reporting, coordinating activities between parties with different
7 EEU-related responsibilities, and reviewing and recommending resolution of
8 disputes. Like the present-day Contract Administrator, the EEU Facilitator can
9 continue to reduce the number and severity of disagreements that require action by
10 the Board. This is a responsible and cost-effective way to achieve accountability
11 between the Board and the EEU.

12 **Q. Do you agree with assertion by DPS witness Poor that the EEU Facilitator’s**
13 **position “may not be as critical in an Order of Appointment structure”?**

14 A. No, I do not. The position will continue to hold value for ratepayers by providing
15 timely financial, administrative, and programmatic oversight superior to that
16 provided by traditional utility regulation. Not only will the EEU Facilitator position
17 enhance EEU transparency and accountability, it will reinforce public confidence in
18 the Order of Appointment mechanism. In addition, there are functions of the current
19 CA position that are critical for the continued success and administrative efficiency
20 of the EEU.

21 **Q. Such as?**

22 A. The EEU Facilitator should continue to provide a monthly review of all EEU
23 invoices. The timeliness and extensiveness of this review is superior to that
24 provided as part of traditional utility oversight. Another example is having the EEU

1 Facilitator serve as the primary gatekeeper for withdrawals from the EEU Fund,
2 maintaining the current practice by the CA of reviewing and approving all invoices,
3 for payment. This fiscal oversight is part of the cash management function of the
4 Electric Energy Efficiency Fund.

5 **Q. Are there other types of accountability that would be lost without an EEU**
6 **Facilitator?**

7 A. Yes. Currently, the CA reviews all EEU achievement reports and summarizes
8 important elements in a bi-monthly report that is distributed to the Board, the EEU
9 Advisory Committee, and other interested parties. This independent review
10 provides a timely analysis of the EEU's progress and a high level of assurance that
11 the results reported are reliable. This independent bimonthly EEU review is not
12 replicated by Vermont's traditional utility regulation, and its loss would result in
13 lessened transparency and accountability.

14 **Q. Are there other critical functions currently performed by the EEU CA that**
15 **should be transferred to the EEU Facilitator because they require**
16 **independence from the DPS and the EEU?**

17 A. Yes. The CA reviews long-term monitoring and evaluation ("M&E") research plans
18 and budgets proposed by the Department, and makes independent recommendations
19 to the Board. Once the Board approves those plans and budgets, the CA monitors
20 their implementation, including interim draft reports. When the DPS evaluations
21 are concluded, the CA reviews and comments on the DPS's final report. This
22 review and comment function also applies to the DPS's annual savings verification
23 process. These are essential functions that help ensure that the statutory

1 requirement of annual independent verification of the EEU programs is
2 accomplished in an efficient and timely manner.

3 Moreover, Board Rule 5.300, which describes the process to set the Energy
4 Efficiency Charge, assigns to the CA several tasks that are independent of the
5 Board's contract for EEU services. Another example is the role that the Contractor
6 Administrator plays in facilitating the Customer Credit program. This role may
7 also be expanded when the Board approves the new Self-Managed Energy
8 Efficiency Program and Energy Savings Accounts.

9 **Q. If the Board decides not to transfer the CA responsibilities to a new EEU**
10 **Facilitator, do you have an alternative recommendation?**

11 A. Yes. In the event the Board decides against retaining an independent agent to carry
12 out these functions, then I recommend assigning these responsibilities to the EEU
13 itself. This has the advantage of precisely paralleling the assignment of similar
14 functions on the supply side to Vermont's distribution and transmission utilities. Its
15 only disadvantage would be to remove the independence currently provided by the
16 CA in performing these duties.

17 **IV. Disposition of Additional External EEU**
18 **Funding**

19 **Q. Do you agree with testimony by witnesses for AIV and IBM that any additional**
20 **funding obtained for EEU activities from sources such as the recent Recovery**
21 **Act should be used to reduce EEC collections?**

22 A. No.

23 **Q. Why not?**

1 A. The Board decides periodically how much ratepayer money is in the public interest
2 for the EEU to spend on acquiring a certain amount of efficiency resources over a
3 particular period. Most of the cost-effective, achievable efficiency savings in
4 Vermont and elsewhere are available as discretionary retrofits in the existing
5 building and equipment stock. Additional funding does not change the amount of
6 cost-effective efficiency potential available; rather, it makes it possible for the EEU
7 to increase the pace of retrofit investment. The more quickly energy efficiency
8 measures are installed in Vermont's residences and businesses, the sooner the
9 increase the net economic benefits from Vermont's efficiency investment can be
10 realized, thereby lowering the total resource cost of electric service to all customers
11 in the State.

12 Pursuant to its EEU contract, VEIC has followed this same approach since
13 2000 in pursuing third-party funding to increase the amount of efficiency
14 investment it can stimulate within the confines of its contractual budget. There is
15 no valid reason to change it in the future, regardless of which EEU model the Board
16 decides on.

17 **Q. Does this conclude your rebuttal testimony?**

18 A. Yes, it does.