

PROPOSED STATUTORY CHANGES TO 30 V.S.A. §209 TO ALLOW OMYA TO PARTICIPATE IN THE EXISTING SELF MANAGED ENERGY EFFICIENCY PROGRAM (SMEEP) CURRENTLY USED BY GLOBAL FOUNDRIES. THE LANGUAGE ALSO PROPOSES TO AMEND THE SMEEP STATUTES TO ALLOW FOR EFFICIENCY FUNDS TO BE USED FOR INVESTMENTS THAT REDUCE THE AMOUNT OF ENERGY REQUIRED TO PRODUCE A UNIT OF A PRODUCT.

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HIGHLIGHTED EDITS ARE THOSE THAT WOULD ALLOW OMYA TO PARTICIPATE IN THE SMEEP PROGRAM. OTHER EDITS ARE RELATED TO THE ADDITION OF PRODUCTIVITY PROGRAMS AND MEASURES.

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Title 30 : Public Service

Chapter 005 : State Policy; Plans; Jurisdiction And Regulatory Authority Of Commission And Department

Subchapter 001 : General Powers

(Cite as: 30 V.S.A. § 209)

- **§ 209. Jurisdiction; general scope**

(j) Self-managed energy efficiency programs.

(1) There shall be a class of self-managed energy efficiency programs for transmission and industrial electric ratepayers only.

(2) The Commission, by order, shall enact this class of programs.

(3) Entities approved to participate in the self-managed energy efficiency program class shall be exempt from all statewide charges under subdivision (d)(3) of this section that support energy efficiency programs performed by or on behalf of Vermont electric utilities. If an electric ratepayer approved to participate in this program class also is a customer of a natural gas utility, the ratepayer shall be exempt from all charges under subdivision (d)(3) of this section or contained within the rates charged by the natural gas utility to the ratepayer that support

energy efficiency programs performed by or on behalf of that utility, provided that the ratepayer complies with this subsection.

(4) All of the following shall apply to a class of programs under this subsection:

(A) A member of the transmission or industrial electric rate classes shall be eligible to apply to participate in the self-managed energy efficiency program class if the charges to the applicant, or to its predecessor in interest at the served property, under subdivision (d)(3) of this section were a minimum of:

(i) \$1.5 million during calendar year 2008; or

(ii) \$1.5 million during calendar year 2017.

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(B) A cost-based fee to be determined by the Commission shall be charged to the applicant to cover the administrative costs, including savings verification, incurred by the Commission and Department. The Commission shall determine procedures for savings verification. Such procedures shall be consistent with savings verification procedures established for entities appointed under subdivision (d)(2) of this section.

(C) An applicant shall demonstrate to the Commission that it has a comprehensive energy management program with annual objectives. Achievement of certification of ISO standard 14001 shall be eligible to satisfy the requirements of having a comprehensive program.

(D) An applicant eligible pursuant to subdivision (j)(4)(A)(i) shall commit to an annual average energy efficiency investment in energy efficiency and productivity programs and measures during each three-year period that the applicant participates in the program of ~~not~~ less than \$1 million. An applicant eligible pursuant to subdivision (j)(4)(A)(ii) shall commit to an annual average investment in energy efficiency and

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productivity programs and measures during each three-year period that the applicant participates in the program of not less than \$500,000.

To achieve the exemption from energy efficiency charges related to natural gas under subdivision (3) of this subsection (j), ~~an~~the applicant shall make an additional annual energy efficiency investment in an amount not less than \$55,000.00. As used in this subsection (j), “productivity programs and measures” means investments that reduce the amount of energy required to produce a unit of product.

(E) Participation in the self-managed program includes efficiency and productivity programs and measures applicable to electric and other forms of energy. A participant may balance ~~efficiency~~ investments in such programs and measures across all types of energy or fuels without limitations.

(F) A participant shall provide to the Commission and Department annually an accounting of ~~energy~~ investments in energy efficiency and productivity programs and measures and the resultant energy savings in the form prescribed by the Commission, which may conduct reasonable audits to ensure accuracy of the data provided.

(G) The Commission shall report to the General Assembly annually by April 30 concerning the prior calendar year's class of self-managed energy efficiency programs. The report shall include identification of participants, their annual investments, and resulting savings, and any actions taken to exclude entities from the program.

(H) Upon approval of an application by the Commission, the applicant shall be able to participate in the class of self-managed energy efficiency programs.

(I) On a determination that, for a given three-year period, a participant in the self-managed efficiency program class did not

meet or has not met the commitment required by subdivision (4)(D) of this subsection, the Commission shall terminate the participant's eligibility for the self-managed program class.

(i) On such termination, the former participant will be subject fully to the then existing charges applicable to its rate class without exemption under subdivision (3) of this subsection, and within 90 days of such termination shall pay:

(I) the difference between the investment it made pursuant to the self-managed energy efficiency program during the three-year period of noncompliance and the full amount of the charges and rates related to energy efficiency it would have incurred during that period absent exemption under subdivision (3) of this subsection; and

(II) the difference between the investment it made pursuant to the program within the current three-year period, if different from the period of noncompliance, and the full amount of the charges and rates related to energy efficiency it would have incurred during the current period absent exemption under subdivision (3) of this subsection.

(ii) Payments under subdivision ~~(4)(I)~~(i) of this ~~subdivision (4)(I) subsection (j)~~ shall be made to the entities to which the full amount of charges and rates would have been paid absent exemption under subdivision (3) of this subsection ~~(j)~~.

(iii) A former participant may not reapply for membership in the self-managed program after termination under this subdivision (4)(I).

(J) A participant in the self-managed program class may request confidentiality of data it reports to the Commission if the data would qualify for exemption from disclosure under 1 V.S.A. § 317. If such confidentiality is requested, the Commission shall disclose the data only in accordance with a protective agreement

approved by the Commission and signed by the recipient of the data, unless a court orders otherwise.

(K) Any data not subject to a confidentiality request under subdivision ~~(4)~~(J) of this subdivision (4) subsection will be a public record.

(L) A participant in the self-managed program class may submit projects to the independent system operator of New England, including through recognized aggregators, for payments under that operator's forward capacity market program, and shall invest such payments in electric or fuel efficiency.

(M) A participant in the self-managed program class may receive funding from an energy program administered by a government or other entity which is not the participant but may not count such funds received as part of the annual commitment to its self-managed energy efficiency program.

(N) If, at the end of every third year after an applicant's approval to participate in the self-managed efficiency program (the three-year period), the applicant has not met the commitment required by subdivision (4)(D) of this subsection, the applicant shall pay the difference between the investment the applicant made while in the self-managed energy efficiency program and the full amount of charges and rates that the applicant would have incurred absent the exemption under subdivision (3) of this subsection. This payment shall be made no later than 90 days after the end of the three-year period to the entities to which the full amount of those charges and rates would have been paid absent the exemption.

(5) This subdivision applies to a transferee of all or substantially all of the assets at the served property of an entity approved to participate in the self-managed energy efficiency program. The Commission shall allow the transferee to continue

as a participant in the self-managed energy efficiency program class in the same manner and under the same terms and conditions that the transferor participant was authorized to participate, provided:

(A) the transferor participant met the requirements of subdivision (4)(A) of this subsection (j) and the transferee otherwise meets the requirements of this subsection; and

(B) the transferee assumes the obligation to fulfill any outstanding commitment of the transferor participant under subdivision (4)(D) of this subsection.