STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 18-1633-PET

Petition of Green Mountain Power Corporation for approval of a multi-year regulation plan pursuant to 30 V.S.A § 209, 218, and 218d	Hearings at Montpelier, Vermont April 2, 2019

Order entered: 05/24/2019

PRESENT: Anthony Z. Roisman, Chair
Margaret Cheney, Commissioner
Sarah Hofmann, Commissioner

APPEARANCES: Daniel C. Burke, Esq.
Vermont Department of Public Service

Geoffrey Hand, Esq., Elizabeth Miller, Esq., and Victoria Westgate, Esq.
Dunkiel Saunders Elliot Raubvogel & Hand, PLLC
for Green Mountain Power Corporation

Kimberly K. Hayden, Esq.
Paul Frank + Collins PC
for Renewable Energy Vermont

Richard H. Saudek, Esq.
Diamond & Robinson, P.C.
for Vermont Fuel Dealers Association

Shapleigh Smith, Jr., Esq., Kendall Hoechst, Esq., and Justin Barnard, Esq.
Dinse, Knapp & McAndrew, P.C.
for GlobalFoundries U.S. 2 LLC

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I. Introduction

This case concerns a petition filed by Green Mountain Power Corporation ("GMP" or the "Company") for approval of a multi-year regulation plan pursuant to 30 V.S.A. §§ 209, 218, and 218d (the proposed "Plan"). Traditionally, electricity rates are set using a cost-based approach, providing regulated utilities an opportunity to earn a fair return on investments used to serve the public as well as to recover prudently incurred operating costs. Utilities cannot change their rates without following numerous procedural requirements, including those specified in Sections 225, 226, 227, and 229 of Title 30. So-called "alternative regulation plans," like the one under consideration in this case, can allow changes in certain costs to flow through to ratepayers without following these traditional rate case procedures. This can benefit ratepayers and the Company by avoiding the expense of litigated rate proceedings. Alternative regulation can also align utility incentives with customer interests and specified policy goals by creating a balanced set of risks and rewards that drive utility performance. For example, alternative regulation can disconnect a utility's financial performance from its sales of electricity, thereby removing disincentives to innovation and creating a mechanism to share savings with ratepayers. Alternative regulation can foster innovation and support State policy goals by allowing utilities to develop new products and services that reduce greenhouse gas emissions.

After a nearly year-long investigation, including three public hearings, a workshop, multiple rounds of discovery, and an evidentiary hearing, the Vermont Public Utility Commission (the "Commission") finds that the Plan, subject to certain changes, will create a fair and transparent process to set GMP's rates for the next three years. The Plan will also encourage GMP's efforts to innovate and implement Vermont's ambitious renewable energy and greenhouse-gas-reduction goals. GMP and Renewable Energy Vermont ("REV") have entered into a memorandum of understanding that will encourage GMP to collaborate with local energy companies to develop new products and services that reduce greenhouse gas emissions.

The Plan contains several new features that GMP and the Vermont Department of Public Service ("DPS or the "Department") agree will improve the effectiveness and transparency of the Plan. We have reviewed these portions of the Plan and find that they meet the statutory criteria of Section 218d. GMP and the Department disagree about whether the Plan fairly allocates risks between the Company and ratepayers. GMP contends that GMP's proposal to fix its capital investments and other expenses for the three-year term of the Plan creates new risks for the Company. As a result, GMP has advocated for certain features in the Plan intended to mitigate the Company's risk. In contrast, the Department asserts that the Plan protects GMP from risk at the expense of ratepayers. The Department proposes to address this balance of risk by modifying the Plan to: (1) use a different formula for adjusting the authorized rate of return on equity using publicly accessible data; (2) reduce the number of cost components included within the proposed

Power Supply Adjustor; (3) include an asymmetric "efficiency band" within the Power Supply Adjustor; and (4) include an asymmetric Earnings Sharing Adjustor.

The Commission agrees with Department that the balance of risk between the Company and ratepayers under the Plan should be improved. In this Order, the Commission adopts the Department's recommendations for an asymmetric Power Supply Adjustor efficiency band and for the formula for adjusting GMP's return on equity. The Commission also adopts the Alternative Earnings Sharing Adjustor proposed by GMP. The Commission does not adopt the Department's recommendation to exclude certain costs from the calculation of the Power Supply Adjustor. Subject to these changes, the Commission finds that the Plan will meet the criteria of 30 V.S.A § 218d(a)-(b) and (m).

II. <u>PROCEDURAL HISTORY</u>

On June 4, 2018, GMP filed a petition with the Commission requesting approval of a Multi-Year Regulation Plan pursuant to 30 V.S.A. §§ 209, 218, and 218d. A copy of the Petition was sent to the Department. Notice of the filing and public hearings were provided to the public in seven publications around the state and on GMP customers' bills.

Public hearings were held on July 26 and 30 and August 1, 2019, in Brattleboro, Rutland, and St. Albans, respectively.

Motions to Intervene were filed by GlobalFoundries U.S. 2 LLC ("GF" or "GlobalFoundries") on July 24, 2018, REV on July 31, 2018, Sunrun Inc. on August 2, 2018,[1] and the Vermont Fuel Dealers Association ("VFDA") on August 3, 2018.

On August 3, 2018, a prehearing conference was held. All four motions to intervene were granted at the prehearing conference.

Also on August 3, 2018, a workshop was held with the Commission and its staff. At that workshop, the Commission posed a series of questions to GMP. GMP filed responses to those questions, in addition to the materials presented at the workshop, on August 13, 2018.

[1] Sunrun withdrew from the case on August 14, 2018.

On September 12, 2018, discovery commenced. All parties had the opportunity to participate in discovery, which included three rounds of questions to GMP and two rounds of questions to other parties after their testimony was filed.

A status conference was held on September 20, 2018.

On October 9, 2018, GMP filed supplemental testimony from witnesses Edmund Ryan and Kristin Carlson, covering the effect in this proceeding of a separate Memorandum of Understanding and Term Contract between GMP and GlobalFoundries ("GMP-GlobalFoundries Term Contract").

On December 14, 2018, REV and the Department each filed direct testimony and exhibits.

On February 2, 2019, GMP filed rebuttal testimony and exhibits.

On March 11, 2019, the Department and REV each filed surrebuttal testimony.

On March 14, 2019, the Commission issued further information requests to GMP and the Department.

On March 27, 2019, GMP filed an MOU between GMP and REV ("GMP-REV MOU"), settling the parties' dispute with respect to this proceeding and agreeing to terms regarding cooperative steps between GMP and REV.

On March 28, 2019, GMP filed supplemental testimony including additional proposed revisions to the Plan, which clarified how certain adjustors proposed in the Plan would be collected.

An evidentiary hearing was held on April 2, 2019.

GMP and the Department filed post-hearing briefs on April 19, 2019.

GMP and the Department filed reply briefs on April 26, 2019.

III. PUBLIC COMMENTS

The Commission held public hearings in Brattleboro, Rutland, and St. Albans, Vermont. No members of the public attended the hearing in St. Albans. One member of the public spoke at each of the hearings in Brattleboro and Rutland. In addition, the Commission received 8 written public comments.[2] The Commission requested that the Company respond to the issues raised in the comments and considered the comments that it received before the evidentiary hearing in developing questions to ask GMP at the evidentiary hearing.

One member of the public was interested in using solar and storage devices and expressed hope that GMP's "bring your own device" pilot would offer compensation to customers using storage devices based on ISO-New England's market rates.

Several written comments were critical of the Plan and of Vermont's regulatory apparatus. One comment alleged that the Plan "is extremely favorable to [GMP] at the expense of the rate payers." The comments did not specifically say which provisions of the plan were favorable to the Company at the expense of ratepayers. One comment called for "a more robust rate case that places more authority with the PUC and is more transparent to the public."

IV. STATUTORY STANDARD

The Commission is authorized by 30 V.S.A. § 218d to approve alternative regulation plans for electric and natural gas companies. Furthermore, the Commission, on its own motion or the motion of the Department or a company operating under an alternative regulation plan, may investigate any alternative regulation plan that is in effect and, following notice and an opportunity for hearing, may terminate or modify the alternative regulation plan upon a finding of good cause.[3]

In order to rule favorably on requests to establish or amend an alternative regulation plan, we must find that the proposed form of alternative regulation will:

> (1) establish a system of regulation in which . . . companies have clear incentives to provide least-cost energy service to their customers;
>
> (2) provide just and reasonable rates for service to all classes of customers;
>
> (3) deliver safe and reliable service;
>
> (4) offer incentives for innovations and improved performance that advance state energy policy such as increasing reliance on Vermont-based renewable energy and decreasing the extent to which the financial success of distribution utilities between rate cases is

[2] Several of these comments also addressed issues relevant to GMP's last rate case. A summary of those comments and the Commission's discussion of those issues can be found in the final order, dated December 22, 2018, in Case No. 18-0974-TF.

[3] 30 V.S.A. § 218d(i).

> linked to increased sales to end use customers and may be threatened by decreases in those sales;
>
> (5) promote improved quality of service, reliability, and service choices;
>
> (6) encourage innovation in the provision of service;
>
> (7) establish a reasonably balanced system of risks and rewards that encourages the company to operate as efficiently as possible using sound management practices; and
>
> (8) provide a reasonable opportunity, under sound and economical management, to earn a fair rate of return, provided such opportunity must be consistent with flexible design of alternative regulation and with the inclusion of effective financial incentives in such alternatives.[4]

In the case of an investor-owned company, such as GMP, the Commission will approve an alternative regulation plan only if we find that the plan "will not have an adverse impact on the electric company's eligibility for rate-regulated accounting in accordance with generally accepted accounting standards if applicable; and reasonably preserve the availability of equity and debt capital resources to the company on favorable terms and conditions."[5]

Finally, alternative regulation may include changes or additions to, waivers of, or alternatives to traditional ratemaking procedures, standards, and mechanisms, as long as the Commission finds that such alternative regulation will promote the public good and will support the required findings in 30 V.S.A. § 218d(a).[6]

V. Positions of the Parties

All parties to this proceeding agree that the Commission should approve a multi-year regulation plan for GMP. The parties also largely agree on the content of that plan, with only four contested issues remaining. The descriptions of the parties' positions below focus on the remaining contested issues.

[4] 30 V.S.A. § 218d(a)(1-8).
[5] 30 V.S.A. § 218d(m).
[6] 30 V.S.A. § 218d(d).

A. **Department of Public Service**

The Department argues that "[a]lternative regulation does not, and should not, guarantee utility profitability."[7] According to the Department, the "Plan prioritizes shareholder protections to the detriment of ratepayers and the furtherance of state energy goals."[8] The Department proposes to address these issues by modifying the Plan to: (1) include an asymmetric Earnings Sharing Adjustor; (2) reduce the number of cost components included within the proposed Power Supply Adjustor; (3) include an asymmetric efficiency band within the Power Supply Adjustor; and (4) use a more simplified formula for adjusting the authorized rate of return on equity that relies on publicly accessible data.

The Department contends that there is a disparity between the ability of GMP's management and the ability of its customers to control costs. The Department asserts that GMP's management has considerable control over the operations of the Company and opportunities for cost containment, including those available through strategic placement of plant. The Department's position is that the Earnings Sharing Adjustor should be modified to include a 50-basis-point "deadband" around earnings on the upside and 100 basis points on the downside. The Department proposes a second "sharing band" that would fall between 50 basis points and 100 basis points on the upside, and 100 and 200 basis points on the downside. The Department recommends that GMP's earnings should never exceed 75 basis points above the Company's authorized return on equity and never be more than 150 basis points less than the authorized return on equity. According to the Department, the asymmetrical deadband will provide additional incentives for GMP to operate efficiently and will represent the proper assignment of risk and reward, which is a statutory mandate set out in 30 V.S.A. § 218d(7).

While the Department maintains that its recommendation for the asymmetrical Earnings Sharing Adjustor is appropriate, the Department states that the "Alternative Earnings Sharing Adjustment Mechanism Option" included within Exhibit GMP-CROSS-2 is more reasonable than the mechanism in GMP's proposed Plan. The Department requests that if the Commission

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[7] Department brief at 3.
[8] *Id*. at 2.

rejects the Department's proposed modifications to the Earnings Sharing Adjustor, then the Commission should adopt GMP's proposed Alternative Earnings Sharing Adjustor.

The Department generally supports the proposed Power Supply Adjustor contained in the Plan because the Power Supply Adjustor "strengthens the connection between retail rates and actual power costs while creating an incentive for GMP to minimize power costs and reduce the risk associated with costs that are not within its control." However, the Department recommends removing several cost categories from the Power Supply Adjustor because they are either: (1) within GMP's control, (2) immaterial, or (3) predictable. According to the Department, removing these costs from the Power Supply Adjustor will create more incentives for GMP to control its power costs and to conduct more accurate power cost forecasting.

The Department recommends that the Power Supply Adjustor include an asymmetrical efficiency band, meaning that GMP would absorb up to $307,000 of power cost overruns and keep $150,000 of power cost savings per quarter. The Department's rationale for this recommendation is that GMP's management, not its customers, has control over its power supply decisions. The Department argues that GMP should be held more financially accountable for adverse outcomes resulting from poor forecasting or management of the Company's power costs.

The Department recommends that the Commission reject GMP's proposed mechanism for adjusting its authorized ROE. The Department argues that GMP's proposed formula is complex and relies on proprietary data that is not publicly available. The Department contends that GMP's proposed formula was adopted by Canadian regulators for utilities with significantly different risk profiles compared to GMP. The Department recommends an ROE formula based on movement in the rate of the 10-year Treasury notes. The Department states that it would accept a full quarter as the period for calculating the change of the average daily yield of Treasury notes.

Finally, the Department recommends that the Commission require that the Emerald Ash Borer and Major Storm Adjustor be non-bypassable charges for net-metering customers. The Department states that treating these adjustors as non-bypassable is consistent with the legislative mandate set out in § 8010(c)(1)(C).

B. GMP

GMP opposes the Department's proposed modifications to the Plan. GMP argues that the Department's recommendation to remove certain costs from the Power Supply Adjustor will increase the Company's risk compared to previous plans and will make the implementation of the Power Supply Adjustor more complex. GMP asserts that the largest category of costs identified by the Department, which includes operation and maintenance of GMP's wholly owned facilities, represents $8-10 million in annual power costs. According to GMP, these costs have historically been included in Component B of the Power Supply Adjustor because GMP has some, but not complete, control over these costs.

GMP supports its proposed method of indexing the Company's return on equity based on a mix of Treasury yields and corporate bonds. However, GMP states that it would not oppose the Department's proposed return on equity methodology, provided that the measurement period for determining the average daily yield was increased to a quarter year.

GMP disputes the Department's proposal to exclude several categories of "immaterial" costs from the Power Supply Adjustor because GMP does not have control over those costs, which have previously been included in Component A.

GMP acknowledges that unit resales can be reliably estimated but states that GMP might enter into other "unit contingent arrangements during the term" of the Plan. According to GMP, removing "unit resales" from the Power Supply Adjustor will potentially create a mismatch between the costs and benefits from these transactions and increase the complexity of the administration of the Plan.

GMP also contests the Department's proposal to create an asymmetrical efficiency band in the Power Supply Adjustor. GMP asserts that the Power Supply Adjustor, coupled with the proposed Retail Revenue Adjustor, would cause the Company to assume a greater magnitude of dollar variance if the quarterly efficiency bands were set at the same level as under the previous Plan (+/- $307,000). Therefore, GMP proposes a reduced, symmetrical efficiency band of +/- $150,000.

GMP contends that its proposed Earnings Sharing Adjustor is based on previous regulation plans. GMP has proposed a symmetrical dead band of +/-50 basis points and then a symmetrical sharing band of +/- an additional 50 basis points. GMP acknowledges that the mechanism is smaller in magnitude as compared to those in previous plans but argues that this limits overall risk and encourages cost savings that can benefit both customers and GMP.[9] GMP argues that the smaller magnitude of the Earnings Sharing Adjustor is warranted because there is a greater risk that the Company could face a decrease of up to $6.1 million in net income because of its proposal to fix non-power costs for the Plan's three-year term.

In the alternative, GMP states that it could support a modified Earnings Sharing Adjustor that has a symmetrical dead band of +/-50 basis points, and an asymmetrical sharing band in which customers share 75% of any returns between +50 and +125, and 50% of any returns that are between -50 basis points and -150 basis points. GMP represents that it would support this alternative approach if adopted by the Commission but asserts that the risk presented by the alternative proposal is "high" considering the other areas of risk built into the plan.

C. REV and GlobalFoundries

REV and GlobalFoundries have resolved their issues in this case through separate agreements with GMP. No party has raised concerns about those agreements, and their terms are discussed in Section VI, below.

VI. FINDINGS

A. Summary of the Plan

1. The Plan will take effect 30 days after the date of this Order pursuant to 30 V.S.A. § 218d(g), sets rates effective October 1, 2019, and terminates on September 30, 2022, without provision for extension.[10] The term of the Plan is broken down into three rate periods aligned with GMP's fiscal year calendar: Fiscal Year 2020 (October 1, 2019–September 30, 2020), Fiscal Year 2021 (October 1, 2020–September 30, 2021), and Fiscal Year 2022 (October 1, 2021–September 30, 2022). Exh. GMP-ER-1 (Rev. 3) at 3.

[9] GMP Brief at 21.

[10] GMP proposed that the Plan take effect on June 1, 2019. However, 30 V.S.A. § 218d(g) states that an alternative regulation plan "shall take effect not sooner than 30 days following its approval by the Commission."

2. GMP will file the initial annual base rates for FY20 with the Commission within two weeks of the date of this Order. This filing will provide the projected, smoothed base rate for all three years of the Plan, based on a three-year forecast of all costs. The projected, smoothed base rate is the projected average rate for each fiscal year in the Plan that would be required to collect the then-forecasted revenue requirement at a uniform projected rate change percentage over all three years. This rate will be used to set the annual base rate for FY20 and to provide the projected rates for FY21 and FY22, which will still be subject to any annual adjustments authorized under the Plan for those years. Exh. GMP-ER-1 (Rev. 3) at 12-14.

3. The non-power costs contained in the initial annual base rate filing will be fixed for the term of the Plan. The Plan provides for annual adjustments to the Company's power supply costs, revenue forecasts, and return on equity. The Plan also allows for adjustments to the Company's expenses for (1) income tax flowing from changes in return on equity and (2) the derivative impact the overall annual change in the Company's revenue requirement has on gross revenue and fuel gross receipts taxes. Any other changes to GMP's base rates during the term of the Plan would have to be specifically authorized by the Commission. Prefiled Rebuttal Testimony of Edmund Ryan ("Ryan"). at 12.

4. Subsequent base rate filings will be made on June 1 of each year and will include the expected base rate adjustments for the following year of the Plan, based on the annual adjustments authorized under the Plan. Exh. GMP-ER-1 (Rev. 3) at 12.

5. The annual base rate filing will be posted on GMP's website at the time of filing, and GMP will provide individual customer notice through bill notification of each period's base rate annual adjustment when GMP files the annual adjustment with the Commission. Exh. GMP-ER-1 (Rev.3) at 12.

6. Beginning on January 30, 2021, GMP will file an annual report with the Commission and Department for each year of the Plan, evaluating the effectiveness of the Plan's performance with respect to the goals in 30 V.S.A. § 218d. A schedule of all other required filings under the Plan is set forth in Attachment 8 to the Plan. Exh. GMP-ER-1 (Rev. 3) at 32, Attachment 8.

7. Rates will be set under the Plan based on the following components: (1) locked non-power costs, including capital expenditures, which will be fixed for the term of the Plan based on

a forecast at the beginning of the Plan (subject to certain exceptions, if approved by the Commission); (2) forecasted power supply expenses and revenue, which will be refreshed annually and will be subject to a quarterly power supply and a Retail Revenue Adjustor to collect or return variances to customers; (3) a mechanism for adjusting return on equity during the term of the Plan to track market conditions, coupled with an earnings sharing adjustor mechanism, which will share over- or under-earnings with customers. Exh. GMP-ER-1 (Rev. 3).

8. GMP's capital expenditures during the Plan period will be locked, meaning that GMP will limit capital expenditures closed to plant in service during the term of the Plan to $256.5 million, or approximately $85 million per year, subject to limited exceptions under the Plan. Exh. GMP-ER-1 (Rev. 3) at 14-17.

9. Rates will be subject to several other periodic adjustments during the term of the Plan, including (1) a rate smoothing adjustor, which will reduce rate variability over the term of the Plan, providing customers greater certainty; (2) an Exogenous Change and Major Storm Adjustor, which addresses costs associated with increasingly frequent significant storms; (3) continuation of the merger savings adjustor, which passes savings associated with the GMP/Central Vermont Public Service Corporation merger to customers, consistent with the Commission's order in Docket 7770; and (4) a time-limited adjustor to address the emerald ash borer infestation. These adjustments are described in more detail in Section VI. C, below. Exh. GMP-ER-1 (Rev. 3) at 23-28.

10. The Plan also continues GMP's existing innovative pilot program, to encourage further transformative energy efforts that reduce carbon and costs for customers. Exh. GMP-ER-1 (Rev. 3) at 11, Attachment 2.

11. The Plan also continues GMP's existing service quality and reliability performance monitoring and reporting requirements, and GMP's least-cost integrated planning ("IRP") obligations. Exh. GMP-ER-1 (Rev. 3) at 31,32.

12. The Plan requires GMP to file a traditional cost-of-service rate case no later than January 15, 2022, for rates for Fiscal Year 2023. This rate case will provide an opportunity to review all of GMP's individual capital investments that were made during the term of the Plan.

Exh. GMP-ER-1 (Rev.3) at 3 Attachment 8; Supplemental Joint Prefiled Testimony of Ryan and Brian Otley ("Otley") at 10.

13. The Plan authorizes GMP to seek approval of a Climate Resiliency Plan. A Climate Resiliency Plan would be intended to address threats to GMP's system from more frequent and intense storm events related to climate change, and to accelerate the pace of GMP's current storm-hardening measures to maintain service quality. Prefiled Rebuttal Testimony of Mary Powell ("Powell") at 12; tr. 4/2/19 at 103 (Otley).

B. <u>Return on Equity</u>

14. The Plan proposes that the ROE be indexed every year using a formula that would track the change in ROE to a mix of U.S. government bonds and utility bonds. Exh. GMP-ER-1 (Rev. 3) at 6.

15. The formula proposed in the Plan would require the use of data derived from sources that have proprietary protections and cannot be readily obtained without an access fee. Prefiled Testimony of Riley Allen ("Allen") at 34.

16. The Plan's proposed formula is a variation of an ROE adjustment model adopted by Canadian regulators in Ontario and British Columbia; however, the methodology has not yet been adopted by a jurisdiction within the United States. Tr. 4/2/19 at 156 (Coyne).

17. Vermont has historically used an indexing formula to adjust ROE. The ROE adjustment formula in GMP's previous alternative regulation plan adjusted ROE by 50% of the change in 10-year government bond yields. Prefiled Testimony of James Coyne ("Coyne") at 43.

18. Information on the movement in 10-year Treasury bond notes is publicly accessible. Using only this information to adjust the ROE results in a more transparent process for the year-to-year adjustment of the ROE. Allen pf. at 34-35.

19. GMP will fix its overall debt to equity ratio at 50/50, +/- 1% in each year over the life of the Plan. Exh. GMP-ER-1 (Rev. 3) at 6.

20. GMP's ROE for FY20 will be indexed using the ROE established for the 2019 rate period in Case No. 18-0974-TF; at that time the ROE was set by the Commission at 9.3%. In each ensuing year, indexing will occur based on the ROE in effect for the current year. Calculations showing the appropriate adjustment will be filed annually with the annual base rate filing. Exh. GMP-ER-1 (Rev. 3) at 19, Attachment 3.

Discussion

GMP and the Department agree that the ROE should be calculated using a market performance index and be adjusted formulaically. GMP and the Department also agree that the baseline rate for determining the ROE for FY20 should be the 9.3% ROE that was authorized by the Commission for FY19 in Case No. 18-0974-TF. The parties disagree on the appropriate bond index used to calculate the adjustments.

GMP has presented an ROE adjustment formula that relies on changes in both the 10-year U.S. Treasury notes and corporate utility bonds. GMP asserts that "[i]ncorporating corporate bonds into the formula tends to act as a moderating measure, reducing the magnitude in changes in rates, whether up or down."[11] GMP states that this approach is appropriate because it includes changes in actual utility bonds as a component and therefore leads to a "better representation of actual capital conditions for similarly situated utilities."[12]

The Department raises concerns about relying on an ROE formula that was developed for Canadian utilities because those utilities have "substantially different debt-to-equity ratios than GMP and are much more highly leveraged than GMP."[13] The Department also opposes GMP's methodology because the data required to make the calculation is not publicly available and cannot be readily evaluated without payment of an access fee. The Department recommends that the ROE be adjusted annually using an indexing method based on a 50% change in the yield of 10-year U.S. Treasury bonds. The Department asserts that this approach, which has "functioned

[11] GMP Brief at 23.
[12] GMP Brief at 24.
[13] Department Brief at 11.

well in prior alternative regulation plans," is a more simple and transparent method of adjusting the ROE.[14]

Maintaining accessibility to information relevant to the implementation of a utility's alternative regulation plan is very important to the Commission because the path to effective regulatory oversight and meaningful participation should not be burdensome. Accordingly, we agree with the Department that it is more appropriate to use an ROE formula that relies on data that is publicly and readily available rather than data that is available only for a fee. GMP suggests that the accessibility issue could be resolved by including a filing requirement in the Plan to provide the relevant underlying data to interested parties. However, GMP also recognizes the Department's concerns regarding "availability and clarity" and states that the Department's approach "could be a reasonable method so long as it is revised to extend the measurement period for determining the average daily yield from 20 days to a full quarter." The Department accepts GMP's proposal to adjust the time period for the calculation to be a full quarter. We find this to be an acceptable resolution. Therefore, we require that GMP's Plan be amended to include the ROE adjustment methodology proposed by the Department, using a full quarter as the measurement period.

C. <u>Adjustment Mechanisms</u>

21. Rates set under the plan will be subject to six adjustors, including: (1) a Power Supply and Retail Revenue Adjustor; (2) an Exogenous Change Adjustment; (3) an Earnings Sharing Adjustor; (4) an Emerald Ash Borer Adjustor; (5) a Rate Smoothing Adjustor, and (6) the Merger Savings Adjustment. Exh. GMP-ER-1 (Rev. 3) at 20-28.

Power Supply and Retail Revenue Adjustor

22. The Power Supply Adjustor "trues up" actual power supply costs against forecasted costs on a quarterly basis. The Power Supply Adjustor will compare actual power costs during the quarterly measurement period against the forecasted power costs that were included in rates

[14] *Id*. at 12.

in the relevant quarterly period, and then will collect or return any difference that is outside of the amount GMP is required to absorb. Exh. GMP-ER-1 (Rev. 3) at 7, 20-22.

23. The power costs that are recovered through the Power Supply Adjustor are separated into two categories, Component A and Component B. The primary distinction between these costs is the relative degree of influence that GMP can exert on the costs in the short-term (e.g., during a quarter or rate year). Component A is made up of costs that are largely outside GMP's ability to materially influence in the short-term. Component B is made up of costs that GMP does have some control over, although many short-term variances are driven by factors that are outside of GMP's ability to influence. A list of the Component A and Component B costs are provided in Attachment 4 to the Plan. Smith pf. at 5-7; exh. GMP-ER-1 (Rev. 3) at Attachment 4.

24. Non-fuel expenses associated with GMP's wholly-owned generating plants represent approximately $8-10 million in annual power costs and are presently included in GMP's Component B costs. Exh. PSD-MRF/EM-2; tr. 4/2/19 at 208 (Fischer).

25. Some power cost components that the Department recommends removing from the power cost adjustor appear to be stable but, based on recent history, may still be subject to changes of much greater magnitude from time to time. Prefiled Rebuttal Testimony of Douglas Smith ("Smith") at 9.

26. Under the Plan, GMP would collect from ratepayers or return to ratepayers 100% of the difference in Component A costs. Exh. GMP-ER-1 (Rev. 3) at 21.

27. The Plan includes a proposed "efficiency band" for Component B power costs. GMP would absorb or retain all variances in Component B power costs that are within this band, plus 10% of any additional variation in Component B costs. Exh. GMP-ER-1 (Rev. 3) at 22.

28. The larger the efficiency band, the higher the level of risk faced by GMP under the Plan. An asymmetrical efficiency band that would require GMP to absorb a larger amount of power cost overruns than it could keep in power cost savings per quarter would further increase the level of risk faced by GMP under the Plan. Tr. 4/2/19 at 216 (Fischer); exh. GMP-CROSS-4.

29. In addition to the Power Supply Adjustor, the proposed Plan includes a Retail Revenue Adjustor that will decouple GMP's financial results from short-term changes in retail

sales by tracking variances in GMP's retail revenue compared to those allowed in rates and returning or collecting the difference to or from customers. Smith pf. at 13.

30. The Retail Revenue Adjustor functions by tracking actual retail revenue every quarter against the forecasted amount for that quarter. Any variations between the forecasted retail revenue and the actual quarterly results are reported as an over- or under-collection at the end of each quarter, and then collected or returned to customers through an adjustment in the next quarter. Exh. GMP-ER-1 (Rev. 3) at 7, 20.

31. The addition of this Retail Revenue Adjustor addresses uncertainty in retail revenues, as well as the associated utility incentives, in a way that is transparent and direct, and will reduce the extent to which GMP's financial performance between rate cases is linked to increased electricity sales or threatened by decreases in such sales. Smith pf. at 14.

32. The calculated collection or return resulting from both the Retail Revenue Adjustor and the Power Supply Adjustor will be netted against each other on a quarterly basis, and the resulting return or collection from both Adjustors will be set out as a separate line item on customer bills. Exh. GMP-ER-1 (Rev. 3) 7-8.

33. The Retail Revenue Adjustor and Power Supply Adjustor will be applied to all kWhs billed by GMP for every customer of every rate class except street lighting rate classes and GlobalFoundries. Exh. GMP-ER-1 (Rev.3) at 22-23, Attachment 5.

34. GMP would experience a greater magnitude of variance in net-income under the new Power Supply Adjustor if the efficiency bands were set at the same level as under the prior plan (+/- $307,000). Tr. 4/2/19 at 213-216 (Fischer); exh. GMP-CROSS-4.

35. Analysis of historical power-cost variation shows that GMP would have absorbed an additional $1.2 million in power costs over the past five years if the new Power Supply Adjustor had been in place and the efficiency band had remained at the prior level of +/- $307,000. Exhibit GMP-CROSS-4; tr. of 4/2/19 at 213-216 (Fischer).

<u>Discussion</u>

The Department and GMP disagree about two issues related to the Plan's Power Supply Adjustor: (1) the costs included in the Power Supply Adjustor, and (2) the allocation of risk under the Power Supply Adjustor. We address these issues in that order.

The Department has recommended removing three categories of costs from the Power Supply Adjustor: non-fuel operation and maintenance associated with GMP's wholly-owned generation facilities, unit resales, and "immaterial costs." The Department contends that the disputed costs are either within GMP's control, predictable, or immaterial. Removing these costs from the Power Supply Adjustor would mean that GMP would absorb any cost overruns or savings if GMP's actual costs varied from the forecasts provided in the annual base rate filing.

The Commission does not adopt the Department's recommendation because the rationale for removing these costs from the Power Supply Adjustor is not persuasive. Non-fuel operation and maintenance expenses associated with GMP's wholly owned generation facilities are somewhat within GMP's control, but this characteristic does not distinguish those expenses from the other line items in Component B. Component B is designed to encourage GMP to manage those costs *because* GMP has some control over those costs. Therefore, the Department hasn't identified a persuasive reason to treat non-fuel operation and maintenance expenses differently from other power costs that GMP has some control over.

We find persuasive GMP's contention that removing unit resales will unnecessarily complicate the implementation of the Power Supply Adjustor. The Commission acknowledges that including these costs in the Power Supply Adjustor insulates GMP from the risk of unit resales varying from the amount forecasted in the Company's annual base rate filing. However, as discussed below, the Commission finds that the efficiency band will provide an adequate incentive for GMP to accurately forecast and manage these costs.

We are also not persuaded that the line items identified by the Department as "immaterial" should be excluded from the Power Supply Adjustor. The Department agreed that these line items have the potential to vary significantly from year to year.[15] The Department conceded that it would be necessary to revaluate the exclusion of these line items periodically. We find that including the disputed line items will not have a significant effect on ratepayers[16] and that removing them has the potential to complicate the implementation of the Plan by

[15] Tr. 4/2/19 at 211-212 (Fischer).

[16] Prefiled Joint Surrebuttal Testimony of Maria Fischer ("Fischer") and Edward McNamara ("McNamara") pf. at 4.

necessitating future reviews and revisions of the Plan in the event these line items change.[17] Therefore, we do not adopt the Department's recommendation to exclude the line items that it identified as immaterial.

Next, we turn to the design of the Power Supply Adjustor efficiency band. The design of the efficiency band determines the extent that variances in the Company's power costs and sales affect the Company's profits or are passed on to ratepayers. Under traditional regulation, electricity rates are based on the power supply expenses that are forecast for the rate period. There is no true-up mechanism, and the utility absorbs all cost-overruns or savings due to variations in its power costs and sales. This provides significant incentive for a utility to work to reduce its power costs, but it also exposes a utility to significant risk. A well-designed Power Supply Adjustor will reduce a utility's risk due to variable power costs while still providing an incentive for the company to reduce power costs. Any resulting savings can be shared with ratepayers, but ratepayers also assume some risk if the Company's power costs significantly exceed projections.

GMP's current regulation plan contains an efficiency band of +/-$307,000.[18] GMP argues that the efficiency band in the Plan should be revised to +/- $150,000. GMP gives three reasons for this change. First, GMP states that the efficiency band on Component B will apply only to changes in GMP's net power costs. GMP asserts that the "volume variance adjustment," which is a component of GMP's current regulation plan, sometimes offsets the effect of power cost changes. The Plan does not include a volume variance adjustment for Component B, so GMP believes that the Plan could shift significant financial risk to GMP compared to its current regulation plan.

Second, GMP asserts that the recent reduction in the federal corporate tax rate will magnify the effect of variances in power supply expenses on GMP's after-tax net income. Finally, GMP states that its exposure to Component B cost variances is greater under the Plan than under the efficiency band because the 10% sharing provision extends beyond the efficiency band range.

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[17] Tr. 4/2/19 at 211-212 (Fischer).
[18] This plan was approved in Case No. 17-3232-PET.

The Department argues that GMP's management, not its customers, has control over its power supply decisions. The Department argues that GMP should be held more financially accountable for adverse outcomes resulting from poor forecasting or management of the Company's power costs.

The Commission agrees that GMP has more control over its power supply costs and, therefore, should have more at stake in managing these costs than customers. We do not find that the additional exposure faced by GMP under an asymmetrical efficiency band is undue. GMP calculates that it would have lost $1,295,294 in net income over the past five years if GMP's proposed Power Supply Adjustor, including a symmetrical +/- $307,000 efficiency band, had been applied.[19] This averages to only $64,764 dollars per quarter. GMP stated that an asymmetrical efficiency band would increase the risk faced by the Company, but did not quantify the difference between maintaining a symmetrical efficiency band of +/- $307,000 versus the Department's proposed asymmetrical efficiency band.[20]

The Commission recognizes the incremental exposure faced by the Company under an asymmetrical efficiency band but finds that this additional risk will provide more incentive for GMP to manage its power supply costs. This limited additional risk related to power costs is warranted considering the other provisions of this Plan that will reduce GMP's overall financial risk. The Plan's numerous adjustment mechanisms, including complete revenue decoupling, mean that GMP has a reasonable opportunity to earn its authorized rate of return. Accordingly, the Commission finds that it is appropriate to adopt the Department's proposal for an asymmetrical efficiency band.

Exogenous Change Adjustment

36. The proposed Exogenous Change Adjustment has three components: (1) Non-Storm Exogenous Changes, (2) Exogenous Major Storm Changes that occur during the Plan, and (3) collection of previous Major Storm costs that were incurred before the start of the Plan. Exh. GMP-ER-1 (Rev.3) at 23.

[19] GMP CROSS-4.
[20] *Id.*

37. Non-Storm Exogenous Changes include material cost or revenue changes from the annual base rate filing generally related to regulatory, accounting, judicial, or legislative changes. These costs are measured over each fiscal year and are considered material if the aggregate amount in any measurement period exceeds $1.2 million. Exh. GMP-ER-1 (Rev.3) at 23-24.

38. Exogenous Major Storm Changes consist of increased costs related to Major Storms, which are defined as a storm that causes GMP to incur incremental maintenance expenses in excess of $1.2 million. This per-storm $1.2 million in maintenance costs is a threshold, which defines what qualifies as a "Major Storm," and is not a per-storm deductible. Exh. GMP-ER-1 (Rev.3) at 24.

39. In the event that GMP experiences one or more Major Storms in a fiscal year, GMP may recover those costs from customers, minus a one-time annual $1.2 million deductible that is deducted from the total aggregate cost associated with all qualifying Major Storms in the fiscal year, except that the deductible shall not be applied twice to costs associated with any individual storm in the event that collection of those costs extends into a second fiscal year. Exh. GMP-ER-1 (Rev.3) at 24.

40. Once this annual $1.2 million deductible is met in any fiscal year, GMP will collect costs associated with Major Storms that occur during that year on a quarterly basis. In the quarter following the qualifying storm, GMP will file a report documenting the invoiced costs associated with all Major Storm costs above the $1.2 million annual deductible that occurred in that quarter, and will propose a line item charge based on a percentage of revenue sufficient to collect those invoiced costs in the next quarter (second quarter after the storm(s)). Subject to Department review and Commission approval, the line item surcharge will go into effect in the second quarter after the report on invoiced storm costs is filed, unless otherwise ordered by the Commission. Exh. GMP-ER-1 (Rev.3) at 24-25.

41. The Plan proposes a quarterly adjustment for Exogenous Major Storm Changes, which will increase transparency by eliminating the stacking of these types of Major Storm costs that has occurred because reporting and approval have significantly lagged the occurrence of the storms themselves, and will result in a closer to real-time collection period for customers. Ryan rebuttal pf. at 25.

42. For previous Major Storm costs, GMP will collect $8 million annually from customers in all customer classes through a separate line item on the bill on a surcharge percentage basis. This will enable GMP to retire the existing balance of approximately $24 million in previously incurred major storm costs by the end of the three-year Plan. Exh. GMP-ER-1 (Rev.3) at 25.

43. GMP's accumulated incremental major storm costs, net of the $1.2 million deductibles, are about double the amount it had when it initially filed the Plan. Ryan rebuttal pf. at 24.

Discussion

In response to questions posed by the Commission at the evidentiary hearing, GMP adressed whether Major Storm costs (both previous storms and those incurred under the Plan) should be identified as "non-bypassable" charges in GMP's net-metering tariff.[21] Non-bypassable charges are those line items on a customer's bill that may not be offset by net-metering credits. GMP stated that it was not clear whether the Commission's regulations allowed for Major Storm costs to be non-bypassable charges. GMP also stated that "adjusting the billing process to collect these charges as non-bypassable may be technically possible, but would be very complex, and could require essentially re-constituting a hypothetical bill for net-metering customers to determine what amount they should have paid on a surcharge basis prior to application of any net-metering credits."[22] GMP represented that even assuming that net-metering customers avoided all Major Storm costs with net-metering credits, this would represent a relatively minor cost-shift between customers who net-meter and those who do not net-meter.

The Department responded that the text of the Commission Rule 5.103 and the history of the rule's adoption show that Major Storm costs may be designated as a non-bypassable charge because the Commission intended to allow utilities to propose non-bypassable charges other than those listed in the rule. The Department recommended that the Commission require the Major Storm costs to be treated as non-bypassable charges because net-metering customers benefit

[21] GMP Response to PUC Questions, dated 04/19/2019.
[22] *Id* at 3.

from the repair of Major Storm damage. Alternatively, the Department suggested that the Commission could take this issue up in its pending review of Rule 5.100.[23]

The Commission agrees with the Department's interpretation of Commission Rule 5.103. All customers, including net-metering customers benefit from GMP's efforts to repair damage from Major Storms. Net-metering customers, should contribute to these extraordinary expenses. Therefore, the Commission directs GMP to file a revised net-metering tariff within 90 days of this Order that makes Major Storm costs non-bypassable. The Commission recognizes that there may be implementation issues if GMP needs to reconstruct customer bills. Therefore, if GMP determines that it would be unreasonably difficult to determine the amount that a net-metering customer should have paid on a surcharge basis before the application of any net-metering credits, GMP may propose a tariff that includes a non-bypassable Major Storm surcharge that is assessed after the application of any net-metering credits.

The Commission notes that historically any special recovery of Major Storm costs took place over a longer period of time than is contemplated under the Plan. These longer recovery periods were consistent with one of the fundamental principles of ratemaking – that rates should be stable, predictable, and understandable.[24] However, the Commission recognizes that Major Storms are occurring more frequently, and as a result, spreading the recovery of those costs out over time can lead to large balances of uncollected storm costs, such as the approximately $24 million in prior Major Storm costs that will be collected over the three-year term of the Plan. Nevertheless, the Commission is sensitive to the potential effect that recovering the entire cost of a Major Storm in one quarter could have on customers' rates and bills. For this reason, it is appropriate for the Plan to allow the Commission to determine that the Major Storm costs incurred in one quarter should be recovered over a longer period of time than one quarter. We encourage GMP to propose a longer cost recovery period when appropriate.

[23] The review of the net-metering program is being conducted in Case No. 19-0855-RULE.

[24] BONBRIGHT, JAMES C. PRINCIPLES OF PUBLIC UTILITY RATES 78, 208 (New York: Columbia University Press) (1961).

Earnings Sharing Adjustor

44. The Plan uses an Earnings Sharing Adjustor to share with customers actual earnings above or below the approved rate of return on equity. Exh. GMP-ER-1 (Rev. 3) at 9.

45. The Plan, as proposed, provides a limited “dead band” for small changes in the earnings that do not result in any adjustment, and then a symmetrical “sharing band” of over- or under-earnings between GMP and its customers. All earnings above or below the sharing band will be refunded to or recovered from customers. Exh. GMP-ER-1 (Rev. 3) at 9.

46. The Earnings Sharing Adjustor measurement periods are the rate periods under the Plan: Fiscal Years 2020, 2021, and 2022. For each of these measurement periods, GMP’s actual return on equity is calculated in the same manner as a cost-of-service filing. Rate adjustments are then made, based on how far GMP’s actual return on equity falls above or below its approved return. Ryan pf. at 15.

47. On or before December 1, 2020, 2021, and 2022 (within 60 days of each fiscal year close), GMP will file with the Commission and the Department its complete financial results for the preceding fiscal year, with calculations and documentation supporting the Earnings Sharing Adjustor. Actual earnings will be calculated on a regulatory basis (i.e., excluding disallowed costs and the results of unregulated operations). Actual earnings will include the earnings impact of the Power Supply Adjustor, Revenue Adjustor, and Exogenous Change Adjustor, but will not include the earnings impact of shareholder merger-related adjustments to Base O&M Costs. The Earnings Sharing Adjustor adjustment will be a separate line item on the customer’s bill. Ryan pf. at 16; GMP-ER-1 (Rev. 3) at 26-27.

48. GMP proposed the Earnings Sharing Adjustor to be symmetrical, meaning that GMP and its customers would share equally the effect of lower earnings and the benefit from higher earnings, outside a dead band. GMP-ER-1 (Rev. 3) at 9, 26-27

49. The Earnings Sharing Adjustor allows GMP to provide support for low-income customers. GMP will contribute up to 5% of excess net utility income above allowed income, if any, through existing programs, as designed in consultation with the Department and its Consumer Affairs division. GMP-ER-1 (Rev. 3) at 32.

50. The revenue impact of the variance between target and actual earnings then will be divided by the retail revenue projected for the 12-month period that the Earnings Sharing Adjustor will be in effect to yield a total refund or surcharge to be paid to or assessed from customers over the collection period. Ryan pf. at 16; GMP-ER-1 (Rev. 3) at 26-27.

51. The Plan provides that the Commission may open an investigation into the accuracy of the Earnings Sharing Adjustor calculation and, to the extent it finds that the calculation was inaccurate, require a modification of the associated rate adjustment to correct the inaccuracy. The Earnings Sharing Adjustor will be implemented by a positive or negative surcharge to each rate element for each rate class, reflecting a uniform percentage rate change. Ryan pf. at 17.

52. The Earnings Sharing Adjustor essentially provides an incentive for good management by GMP and distributes the risk that GMP's actual ROE varies significantly from the Commission-approved ROE during the term of its regulation plan. It does so by sharing some over- or under-recoveries between GMP and its customers. Ryan pf. at 14.

53. Given the other Plan features proposed by GMP, including complete revenue decoupling, GMP does not expect the Earnings Sharing Adjustor to create a significant cost or benefit during the Plan. Ryan pf. at 14.

54. GMP's Alternative Earnings Sharing Adjustor option has a symmetrical dead band of +/- 50 basis points, and an asymmetrical sharing band. For any earnings between +50 and +125 basis points, customers would get 75% of the over-earnings and GMP would keep 25%. Above +125 basis points, all over-earnings would go to customers. On the downside, there would be 50/50 sharing between customers and GMP between -50 and -150 basis, and then any amounts below that would be assigned to customers. Exh. GMP-CROSS-2.

55. The Department proposes that the Earnings Sharing Adjustor should be asymmetrical with a 50-basis point dead band around earnings on the upside and 100 basis points on the downside. The Department proposes a further asymmetrical sharing band that would fall between 50 basis points and 100 basis points on the upside, and 100 and 200 basis points on the downside. Under this proposal, the Department states that GMP's earnings would never exceed 75 basis points above the targeted ROE on the upside and never fall below 150 basis points on the downside. Allen pf. at 36.

56. GMP's current regulation plan contains an Earnings Sharing Adjustor Mechanism. Under this mechanism, GMP has a maximum net-income exposure of $6,516,634 on the upside and $10,025,590 on the downside. Exh. GMP-CROSS-2.

57. The Department's proposal would result in more volatility in the Company's net income compared to the Earnings Sharing Adjustor Mechanism contained in GMP's current regulation plan. GMP's maximum net-income exposure would be $6,015,354 on the upside and $12,030,708 on the downside. Exh. GMP-CROSS-2.

58. GMP's proposal would result in less volatility in the Company's net income compared to the Earnings Sharing Adjustor Mechanism contained in GMP's current regulation plan. GMP's maximum net-income exposure would be $6,015,354 on the upside and $6,015,354 on the downside. Exh. GMP-CROSS-2.

59. The Alternative Earnings Sharing Adjustor proposed by GMP would result in less volatility in the Company's net income compared to the Earnings Sharing Adjustor Mechanism contained in GMP's current regulation plan and the Department's proposal, but more volatility than GMP's original proposal. Exh. GMP-CROSS-2.

Discussion

The Earnings Sharing Adjustor is intended to act as a backstop for both customers and GMP, ensuring that any significant over- or under-earnings are shared between customers and the Company. However, GMP does not expect the Earnings Sharing Adjustor to create a significant cost or benefit during the Plan because of the other Plan features, including complete revenue decoupling. GMP also argues that the Plan increases GMP's risk overall because of its proposal to fix non-power costs for the term of the Plan.

The Department states that it stands by its recommended design. However, in the event that the Commission rejects the Department's proposed asymmetric efficiency band, the Department recommends that the Commission adopt the Alternative Earnings Sharing Adjustor proposed by GMP.

The Commission does not agree with GMP's contention that the locking of non-power costs for the term of the Plan and the Plan's various adjustment mechanisms warrant decreasing

GMP's overall level of financial exposure compared to its previous regulation plans. In contrast, the Commission finds that the various mechanisms in the Plan provide ample opportunities for GMP to quickly flow through its actual costs to rates, which reduces the Company's risk. The Commission also notes that while GMP has pledged to fix its capital spending for the next three years, the Plan also provides GMP opportunities to request permission for additional capital spending, notably through the proposal of a Climate Resiliency Plan. For these reasons, the Commission finds that GMP's proposed Earnings Sharing Adjustor, which would reduce the variability in GMP's net income by $4 million on the downside, should be modified to better balance risk between the Company and its customers.

The Commission finds that the Alternative Earnings Sharing Adjustor is more reasonable than the Department's proposal or GMP's original proposal. The Alternative Earnings Sharing Adjustor would still reduce the variability in GMP's net income by $2 million on the downside, but this reduction in risk is appropriate considering the Commission's changes to the Power Supply Adjustor, which incrementally increase GMP's power supply risk.

Emerald Ash Borer Adjustor

60. The Plan incorporates an assessment and associated adjustor to address costs related to the invasive emerald ash borer, which has recently been found in Vermont. Exh. GMP-ER-1 (Rev. 3) at 9.

61. GMP states that there are two areas in its territory with active, significant infestation that will require targeted work to avoid harm to GMP's transmission and distribution system. Once infested by the borer, ash trees rapidly decline and die in three to five years. These are mature trees that would cause significant damage if allowed to decline, die, and fall on power lines. Ryan rebuttal pf. at 26.

62. The Emerald Ash Borer Adjustor covers the cost of proactive removal of ash trees in power line corridors in infested areas or areas with a high risk of infestation. Anticipated costs will be forecast for the three-year term of the Plan and included in a separate line item assessment on bills, collected as a surcharge based on revenue. This assessment will be subject to an adjustor to true up to actual costs incurred during the term of the Plan, based on any

changes in the infestation spread rate. The annual assessment to cover this work will be $1.2 million in each fiscal year. Exh. GMP- ER-1 (Rev. 3) at 9-10, 27-28.

Discussion

The Commission finds that the Emerald Ash Borer Adjustor contained in the Plan should be classified as a non-bypassable charge for the same reasons discussed above regarding Major Storm costs. Like the Major Storm Adjustor, GMP may propose to apply the adjustor as a surcharge after the application of any net-metering credits. This will ensure that the Plan results in just and reasonable rates pursuant to 30 V.S.A. § 218d(a)(2) by avoiding or minimizing the cost shift between net-metering and non-net-metering customers.

The Commission also finds that the Emerald Ash Borer Adjustor, which is a new provision compared to GMP's previous plans, reduces the Company's risk because GMP will be able to true up its actual expenses for protecting its transmission and distribution system from tree hazards caused by the emerald ash borer. The presence of the emerald ash borer will increase GMP's expenses for tree clearing. Under traditional regulation, GMP would experience a lag between when it incurred these increased costs and when those costs were recovered in rates. Also, GMP would have risk associated with estimating its anticipated tree-maintenance costs. The Emerald Ash Borer Adjustor reduces this lag and risk by allowing GMP to true up its actual expenses. Accordingly, the Commission finds that the inclusion of this provision in the Plan supports the changes we are requiring to the Power Supply Adjustor and the Earnings Sharing Adjustor to maintain an appropriate balance of risk between GMP and its customers.

Rate Smoothing Adjustor

63. The Rate Smoothing Adjustor will be established at the beginning of the Plan based on a three-year forecast of (1) non-power costs, (2) power supply costs and revenue, (3) income taxes, and (4) an estimated return on equity for each year of the Plan. Based on this forecast, the RSA will establish an annual amount that is either added to or subtracted from the forecasted revenue requirement for FY20, FY21, or FY22, in order to set a Projected Smoothed Base Rate for each fiscal year. Exh. GMP-ER-1 (Rev. 3) at 28.

64. Together with the Rate Smoothing Adjustor, a regulatory asset or liability account will be established at the beginning of the Plan based on this forecast to account for any adjustments to the forecasted costs or revenues in each fiscal year that are necessary to establish the Projected Smoothed Rate. The regulatory asset or liability will reverse over the term of the Plan and will be zero at the end of the Plan. There will be no later adjustments to the smoothing of regulatory assets and liabilities set at the inception of the Plan. Exh. GMP-ER-1 (Rev. 3) at 10, 28.

Merger Savings Adjustment

65. The merger savings adjustment ensures that savings resulting from the GMP/CVPS merger continue to benefit customers, as required pursuant to the Commission's final order in Docket 7770. Ryan pf. at 32.

D. <u>New Initiatives and Innovative Pilots</u>

66. The Plan provides for GMP to offer "New Initiatives." These projects shall be limited to transformative, customer-facing energy projects that require an initial upfront capital investment by GMP and are forecasted to contribute a net positive benefit to non-participating customers through new sources of revenue or cost savings over the life of the program. They may include investments in programs authorized as an Innovative Pilot, traditional tariffed offerings, or other capital projects that qualify under this provision. Exh. GMP-ER-1 (Rev. 3) at 15.

67. Innovative Pilots are products or services, beyond the sale of basic electric service, that: (1) provide shared access to GMP's system, (2) comply with the Renewable Energy Standard's Tier III requirements, and (3) advance achieving the goals of Vermont's Comprehensive Energy Plan of meeting 90% of energy supply with renewable resources by 2050 and reducing fossil fuel consumption and greenhouse gas emissions 75% below 1990 levels by 2050. Exh. GMP-ER-1 (Rev. 3), Attachment 2.

68. GMP may not spend more than $5 million on New Initiatives during the term of the Plan without seeking approval from the Commission as one of the allowed exceptions to the

capital spending cap. Changes in revenue or power supply cost that result from New Initiative programs will be included in adjustments made pursuant to the Retail Revenue Adjustor or the Power Supply Adjustor. Exh. GMP-ER-1 (Rev. 3) at 11, 15.

69. New Innovative Pilots developed during the term of the Plan that are not already included in base rates (whether as an existing pilot or subsequent tariff) will not result in plant additions that result in any rate adjustments under this Plan, except insofar as they are specifically requested to be included in base rates under the Plan's New Initiatives exception. Exh. GMP-ER-1 (Rev. 3) at 4, 11.

70. GMP must reflect the estimated costs and revenues of Innovative Pilots developed under the Plan in any annual base rate filing during the term of the Plan if those costs are not already included in rates at the start of the Plan. GMP is required to include a schedule setting forth the costs and revenues of all Innovative Pilots offered as well as known and measurable information supporting the addition to rate base, which will be subject to Department review and Commission approval. Exh. GMP- ER-1 (Rev. 3) at Attachment 2.

71. Capital spent on Innovative Pilots will be treated differently from all other capital spending under the Plan. All Innovative Pilot capital spending will be reviewed and approved by the Commission on an annual basis as part of the annual base rate filing before being added to rates. Tr. 4/2/19 at 114 (Castonguay); exh. GMP-ER-1 (Rev. 3) at Attachment 2.

72. In addition, the Plan requires GMP to petition the Commission, file supporting documentation, and receive approval before spending more than $5 million on any individual Innovative Pilot that involves an anticipated commitment of capital it intends to include in rate base. Exh. GMP-ER-1 (Rev. 3) at 16.

73. Under the terms of the Plan, any spending on an Innovative Pilot before receiving approval is at GMP's risk until the next annual base rate filing when GMP can seek approval for including pilot costs in GMP's rate base. Exh. GMP-ER-1 (Rev. 3) at Attachment 2; Tr. 4/2/19 at 116 (Castonguay).

E. Innovation and Performance Metrics

74. The Plan includes 26 new "innovation and performance metrics" that will measure GMP's performance in the following areas: capital expenses, exogeneous storm costs, power portfolio, distributed generation, other distributed energy resources, electric vehicles, and customer relationship automation. Exh. GMP-ER-1 (Rev. 3) at 31 and Attachment 7.

75. Under the Plan, GMP will measure these metrics on a fiscal-year basis and annually report on them. The reports will be due by January 30 of each year, starting in 2021. Exh. GMP-ER-1 (Rev. 3) at 31-32.

76. Tracking the innovation and performance metrics over the term of the Plan will establish baselines for GMP's performance in several categories that can be used in the future to help design further performance incentives. Otley pf. at 28-29.

77. There will be no penalties or incentives associated with GMP's performance on these metrics during the term of the Plan. Exh. GMP-ER-1 (Rev. 3) at 31.

78. It is appropriate to gain experience with these new innovation and performance metrics before linking them to financial incentives or penalties. Allen pf. at 13; Otley pf. at 28-29.

Discussion

The parties to this proceeding have agreed upon a set of innovation and performance metrics to be used to collect data on GMP's performance during the Plan's term. Many of these metrics focus on areas in which GMP can contribute to the achievement of State policy goals, such as reducing carbon emissions (including in the transportation sector) and increasing the use of renewable energy. Other metrics will provide data on certain types of costs incurred by GMP or on information related to interconnection of distributed generation facilities in GMP's service territory.

We continue to encourage innovation by utilities to help the State meet its ambitious energy policy goals.[25] Tracking and reporting on the agreed-upon innovation and performance metrics during the Plan's term will provide data that will help GMP, other stakeholders, and regulators better understand GMP's progress toward its stated goals of reducing carbon

[25] *See*, e.g., Case No. 17-3142-PET, Order of 7/23/18 at 1.

emissions, fostering innovation, and encouraging the transformation of Vermont's energy system.[26] At the same time, we are persuaded that because these innovation and performance metrics are new, it is appropriate that they are not linked to financial penalties or incentives at this time.

F. Climate Resiliency Plan

79. A Climate Resiliency Plan would likely involve capital spending targeted at increased storm hardening as well as newer techniques, such as strategic undergrounding, along with additional expenses for corridor maintenance and targeted non-poles-and-wires alternatives where appropriate. Powell rebuttal pf. at 16.

80. Any Climate Resiliency Plan filed during the term of the Plan must be supported by analysis demonstrating why any proposed additional expenditures are necessary, appropriate, and in the best interests of customers. Exh. GMP-ER-1 (Rev. 3) at 17.

G. GMP-REV MOU

81. The GMP-REV MOU provides that, no later than July 15, 2019, GMP and REV will convene a working group whose mission will be to identify opportunities to work together to accelerate the pace of deployment of new in-state renewable generation and the transformation of the electric grid in Vermont, including third-party opportunities for energy supply, services, and products for the cost-effective benefit of all of GMP's customers. The working group will also evaluate options for addressing grid constraints on GMP's system with the goal of identifying strategies that can be implemented to facilitate interconnection of distributed energy resources. GMP-REV MOU at ¶ 1.

82. The GMP-REV MOU also provides that GMP and REV will share information on GMP's power procurement strategies and how GMP addresses its open power positions, existing grid constraints on GMP's system, and options for addressing those constraints. GMP-REV MOU at ¶ 3.

83. Under the GMP-REV MOU, GMP and REV will meet at least annually to discuss power procurement activities and plans as well as the net costs and benefits of net-metering and

[26] Powell pf. at 5-6.

the manner in which GMP accounts for net-metering in its power costs. GMP-REV MOU at ¶¶ 4 and 5.

84. None of the information shared under the MOU will be customer-specific or Critical Energy Infrastructure Information. Tr. 4/2/19 at 37 (Powell).

85. The GMP-REV MOU provides that GMP will provide certain data related to interconnection as part of its innovation and performance metrics. GMP-REV MOU at ¶ 8.

86. Under the GMP-REV MOU, for any new GMP tariff or pilot program introduced during the term of the Plan, GMP will provide a comparable, parallel third-party offering (either separate or incorporated in the same pilot or tariff) for any GMP pilot program offering where feasible. These third-party offerings may require connection to GMP's Distributed Energy Resource platform to ensure interoperability with utility grid management requirements and may include an option for customers to elect to pay for these third-party offerings through appropriate charges on their GMP bill. GMP-REV MOU at ¶ 10; exh. GMP-ER-1 (Rev. 3) at Attachment 2.

87. The GMP-REV MOU provides that GMP will formally consult with REV during the development of any future new pilots under the Plan, before filing them with the Commission. GMP-REV MOU at ¶ 11; exh. GMP-ER-1 (Rev. 3) at Attachment 2.

<u>Discussion</u>

The GMP-REV MOU resolves all disputes between GMP and REV in this proceeding.[27] The terms of the GMP-REV MOU provide for collaborative engagement between GMP and REV with the goal of transforming the electric grid and accelerating the deployment of new in-state renewable energy resources and other distributed energy resources. These steps will help the State meet its ambitious greenhouse-gas reduction goals. For this reason, we determine that it is appropriate to accept the GMP-REV MOU.

However, we note that not all third-party providers of renewable generation or other distributed energy resources are members of REV. To maximize the benefits of the information sharing provided for in the GMP-REV MOU, we direct GMP to make the information that it provides to REV under the GMP-REV MOU available to any renewable energy developer or

[27] Exh. GMP-REV MOU at p.1.

other distributed energy resource provider who requests it, even if that developer or provider is not a REV member.

H. GMP-GlobalFoundries Term Contract

88. On September 11, 2018, GMP requested approval of a Term Contract with GlobalFoundries. The Term Contract was approved by the Commission in Case No. 18-3160-PET. Under the Term Contract, GlobalFoundries will be exempt from charges or credits that are created by the Power Supply and Exogenous Change (Major Storm) Adjustors proposed by the Regulation Plan. Ryan pf. (10/9/18) at 2.

VII. Statutory Criteria

Incentives to Provide Least-Cost Service

[30 V.S.A. § 218d(a)(1)]

The Plan creates clear incentives for GMP to provide least-cost energy service to its customers. GMP has fixed a portion of its costs for the term of the Plan. Any requests for the Company to exceed those fixed costs will require Commission approval. The Power Supply Adjustor efficiency band and Earnings Sharing Adjustor will provide incentives for the Company to control its costs.

Just and Reasonable Rates

[30 V.S.A. § 218d(a)(2)]

The Plan has sufficient procedural protection, opportunity for review by the Department, and requirements for approval by the Commission that the setting and adjustment of rates under the Plan will result in just and reasonable rates. The adjustment mechanisms in the Plan will ensure that GMP does not significantly over- or under-collect on its actual cost of service. In addition, the Plan's provision that the Commission may order a longer recovery period for Major Storm costs allows the Commission to ensure that the Exogeneous Change Adjustor will not result in unjust or unreasonable rates. For these reasons, we find that the Plan meets the statutory requirement of Section 218d(a)(2).

Safe and Reliable Service

[30 V.S.A. § 218d(a)(3)]

The Plan will allow GMP to provide safe and reliable service. The Plan provides GMP with flexibility to adjust spending within the cap as needed to ensure safe and reliable service and includes the opportunity to petition the Commission for approval of additional investments on behalf of customers if unforeseen significant costs arise, which will also support safe and reliable service. The Major Storm cost provisions of the Exogeneous Change Adjustor and the Emerald Ash Borer Adjustor reduce GMP's risk associated with expenditures covered by those adjustors, and those expenditures will contribute to safe and reliable service. The Plan incorporates GMP's service quality and reliability performance monitoring and reporting requirements, and GMP remains obligated to meet and report on these safety and reliability standards.

State Energy Policy

[30 V.S.A. § 218d(a)(4)]

The Plan will offer incentives for innovations and improved performance that advance the State's energy policies. For example, the Plan provides a simplified, non-tariff alternative under which GMP can offer Innovative Pilots; these pilots must, among other requirements, advance the achievement of the renewable energy and greenhouse-gas-emission reduction goals included in Vermont's Comprehensive Energy Plan. In addition, the Retail Sales Adjustor will completely decouple GMP's net income from its sales, thereby decreasing the extent to which GMP's financial success between rate cases may be threatened by decreases in sales to end-use customers. Finally, the Plan includes 26 new "innovation and performance metrics" that will measure GMP's performance in the following areas: capital expenses, exogeneous storm costs, power portfolio, distributed generation, other distributed energy resources, electric vehicles, and customer relationship automation. Tracking and reporting on GMP's performance in these areas during the Plan's term will provide data that can be used in the future to help design further performance monitoring, including possibly linking GMP's performance in these areas to the establishment of financial incentives or penalties.

Service Quality, Reliability, and Service Choices

[30 V.S.A. § 218d(a)(5)]

The Plan will promote improved quality of service, reliability, and service choices because the Plan incorporates and continues GMP's obligations under its current service quality and reliability performance monitoring and reporting requirements. The Plan's Innovative Pilot provision expands service choices and promotes technologies that will lead to improved reliability. In addition, as modified by the GMP-REV MOU, the Plan explicitly expands opportunities for consumer product offerings by third parties, which further increases choices for consumers.

Innovation

[30 V.S.A. § 218d(a)(6)]

The Plan will encourage innovation in GMP's provision of service because the Innovative Pilot provision is designed to encourage and promote the use of innovative technologies in a way that ensures that only those that have lasting value for all customers will be advanced into mature programs. In addition, the Retail Revenue Adjustor reduces GMP's risk related to decreased retail sales. This allows GMP to propose more innovative pilots that explore newer technologies that offer greater potential for long-term benefits rather than focus on more proven technologies and services that could increase the Company's sales in the short term.

Balanced Risks and Rewards

[30 V.S.A. § 218d(a)(7)]

The Plan will establish a reasonably balanced system of risks and rewards that encourages GMP to operate as efficiently as possible using sound management practices. The Plan's Retail Revenue Adjustor reduces GMP's risk related to decreasing sales. The Plan's

Exogenous Change Adjustor and Emerald Ash Borer Adjustor reduce GMP's risk related to costs covered by those adjustors. At the same time, the Power Supply Adjustor, as modified by this Order, increases GMP's risk related to power costs over which it has some control. Both the Power Supply Adjustor and the Earnings Sharing Adjustor, as modified by this Order, will provide incentives for GMP to control its costs and will share those savings with customers.

Rate of Return

[30 V.S.A. § 218d(a)(8)]

The Plan will provide GMP, under sound and economical management, a reasonable opportunity to earn a fair rate of return. The adjustment mechanisms, in particular the Earnings Sharing Adjustor, will provide GMP with clear incentives to operate efficiently and will ensure that the Company will not significantly under- or over-earn its approved rate of return.

Reasonable Sharing of Savings with Customers

[30 V.S.A § 218d(b)]

Ratepayers will share in the savings resulting from the Plan. The Earnings Sharing Adjustor, as modified by the Commission, will share savings between GMP and customers in a fair manner. The other adjustors in the Plan will true up actual costs and share savings with customers as well. The continuation of the Merger Savings Adjustment through the term of the Plan will result in customers receiving an appropriate share of savings from the Company.

Rate-regulated Accounting

[30 V.S.A. § 218d(m)]

The Plan will not have an adverse impact on GMP's eligibility for rate-regulated accounting in accordance with generally accepted accounting standards and reasonably preserves the availability of equity and debt capital resources to the company on favorable terms and conditions.

VIII. CONCLUSION

In conclusion, after considering the evidence in this proceeding, the Commission finds that the Plan, subject to the modifications discussed in this Order, satisfies the statutory criteria contained in 30 V.S.A. § 218d, will provide GMP with flexibility to innovate while simultaneously providing consumer protections, and will promote the public good. For all of these reasons, we approve the Plan, as modified by this Order.

IX. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Vermont Public Utility Commission ("Commission") that:

1. The Multi-Year Regulation Plan (the "Plan") proposed by Green Mountain Power Corporation ("GMP"), subject to the modifications discussed in this Order, meets the criteria of 30 V.S.A. § 218d and is in the public good. The Plan is approved and will take effect 30 days from the date of this Order.
2. Within 14 days of this Order, GMP shall file in this case a final multi-year regulation plan that is consistent with the findings and discussion in this Order.
3. GMP shall revise the Earnings Sharing Adjustor in the Plan to be consistent with the findings and discussion in this Order.
4. GMP shall revise the Return on Equity Adjustor in the Plan consistent with the findings and discussion in this Order.
5. Within 30 days of this Order, GMP shall file in a new tariff proceeding a revised net-metering tariff that identifies the Emerald Ash Borer Adjustor and the Major Storm Adjustor as non-bypassable charges, consistent with the discussion in this Order.
6. The terms of the GMP-REV MOU are approved.

Dated at Montpelier, Vermont this 24th day of May, 2019.

Anthony Z. Roisman	)	PUBLIC UTILITY
Margaret Cheney	)	COMMISSION
Sarah Hofmann	)	OF VERMONT

OFFICE OF THE CLERK

Filed: May 24, 2019

Attest: Holly R. Anderson
Deputy Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Commission within 30 days. Appeal will not stay the effect of this Order, absent further order by this Commission or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Commission within 28 days of the date of this decision and Order.

PUC Case No. 18-1633-PET - SERVICE LIST

<u>Parties:</u>

Justin B Barnard, Esq. Dinse, Knapp & McAndrew, P.C. 209 Battery Street Burlington, VT 05401 jbarnard@dinse.com	(for GLOBALFOUNDRIES U.S. 2 LLC)
Daniel C. Burke, Esq. Vermont Department of Public Service 112 State Street Third Floor Montpelier, VT 05620-2601 dan.burke@vermont.gov	(for Vermont Department of Public Service)
Olivia Campbell Andersen Renewable Energy Vermont 33 Court St. Montpelier, VT 05602 olivia@revermont.org	(for Renewable Energy Vermont)
Matt Cota Vermont Fuel Dealers Association 963 Paine Turnpike North Berlin, VT 05602 matt@vermontfuel.com	(for Vermont Fuel Dealers Association)
Geoffrey Hand, Esq. Dunkiel Saunders Elliot Raubvogel & Hand, PLLC 91 College Street PO Box 545 Burlington, VT 05402 ghand@dunkielsaunders.com	(for Green Mountain Power Corporation)
Kimberly K. Hayden, Esq. Paul Frank + Collins PC One Church Street 05402 P.O. Box 1307 Burlington, VT 05401 khayden@pfclaw.com	(for Renewable Energy Vermont)

Kendall A Hoechst, Esq. (for GLOBALFOUNDRIES U.S. 2 LLC)
Dinse, Knapp & McAndrew, P.C.
209 Battery Street
Burlington, VT 05401
khoechst@dinse.com

Elizabeth Miller, Esq. (for Green Mountain Power Corporation)
Dunkiel Saunders Elliott Raubvogel & Hand, PLLC
P.O. Box 545
91 College Street
Burlington, VT 05401
emiller@dunkielsaunders.com

Richard H. Saudek, Esq. (for Vermont Fuel Dealers Association)
Diamond & Robinson, P.C.
15 E. State Street
P.O. Box 1460
Montpelier, VT 05601-1460
rhs@diamond-robinson.com

Shapleigh Smith, Jr. (for GLOBALFOUNDRIES U.S. 2 LLC)
Dinse, Knapp & McAndrew, P.C.
209 Battery Street
Burlington, VT 05401
ssmith@dinse.com

Victoria M. Westgate, Esq. (for Green Mountain Power Corporation)
Dunkiel Saunders Elliott Raubvogel & Hand, PLLC
91 College Street
P.O. Box 545
Burlington, VT 05402-0545
vwestgate@dunkielsaunders.com