



FILED VIA E-PUC

December 4, 2020

Ms. Judith C. Whitney, Clerk
VERMONT PUBLIC UTILITY COMMISSION
People's United Bank Building, 4th Floor
112 State Street
Montpelier, VT 05620-2701

Re: Case No. 20-2369-RULE, Proposed Revisions to Vermont Public Utility Commission Rule 2

Dear Ms. Whitney:

Vermont Gas Systems, Inc. ("VGS") appreciates the thoughtful comments submitted by interested participants regarding the Public Utility Commission's ("Commission") draft changes to Commission Rule 2. The following reflects VGS's response to some of the issues raised by other participants. VGS looks forward to further discussion regarding these matters.

General Comments: VGS agrees with the Department of Public Service ("Department"), Agency of Natural Resources ("ANR"), and others who recommend that bulleted lists within the rule be changed to specific identifiers like lowercase letters or Roman numerals for easier reference.

Rule 2.103: Several commenters recommended discontinuing use of the Vermont Rules of Civil Procedure or adopting specific language from the rules into Rule 2. In VGS's experience, incorporation of the V.R.C.P., where appropriate, provides helpful guidance and a related body of precedent applying those rules. Incorporation by reference rather than adoption of specific language also allows for efficient incorporation of improvements to the V.R.C.P. when they occur without requiring a rulemaking. While a more selective adoption of specific rules could be practical, VGS would not recommend ending the Commission's long-standing practice of incorporating applicable civil rules by reference.

Rule 2.201(E)(2): Several commenters sought more clarity about the *ex parte* communication rules. The bar against *ex parte* communications is well established legal precedent that allows for standard interactions with a court or the Commission's staff to address a variety of technical questions and administrative matters that arise during a case (e.g., regarding e-PUC issues). VGS agrees with the Commission's proposed language clarifying that such communications are allowed and do not require disclosure.

Ms. Judith C. Whitney, Clerk

December 4, 2020

Page 2

Rule 2.204(E): VGS agrees with commenters, including the Department and ANR, that express concern about the proposed page limitation on filings, which may not fit the needs of many cases. If page limitations are imposed generally, VGS would also support an exclusion or clarification regarding proposed findings of fact, statements of undisputed/disputed fact submitted pursuant to V.R.C.P. 56, or technical matters like EEU proceedings that can require more extensive factual information.

Rule 2.206: VGS agrees with the Department, ANR, and others who have expressed concern about the language that states, “the Commission may decline to consider a motion not made within 30 days after the facts that form the basis for the motion first arose.” VGS agrees with the Department that the Commission has considerable authority—without this language—to ensure parties do not abuse motion practice, and recommends further discussion about whether this language is necessary or could have unintended consequences.

Rule 2.214(A): VGS agrees with the Commission’s effort to put some limitations on discovery, however, it shares concerns expressed by the Department, ANR, and others who noted that the proposed limitation on written discovery could have the unintended effect of requiring more depositions or increase the need for motions to waive the limitation requirement. Accordingly, VGS recommends further discussion and clarification about this proposed revision.

Rule 2.226: VGS agrees with the Department’s recommendation to revise the confidential information requirements to clarify that only parties that have executed a confidentiality agreement are entitled to be served with allegedly confidential documents, and that confidential documents may be exchanged in hard copy rather than electronically.

Thank you for the opportunity to participate in this matter. VGS looks forward to continued participation in this process.

Sincerely,

/s/ Jill Pfenning

Jill Pfenning

VP, Regulatory Affairs & General Counsel