

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 22-2230-PET

Petition of Vermont Gas Systems, Inc., pursuant to 30 V.S.A. § 248(i), for approval of an out-of-state renewable gas purchase contract with a term exceeding five years	
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Order entered: 08/15/2022

**ORDER DENYING MOTION TO INTERVENE**

**I. INTRODUCTION**

This case involves a petition filed by Vermont Gas Systems, Inc. (“VGS”) with the Vermont Public Utility Commission (“Commission”) seeking approval of an out-of-state renewable gas (“RNG”) purchase contract with Archaea Energy Marketing LLC (“Archaea”) under 30 V.S.A. § 248(i) (the “Contract”). In this Order, I deny Catherine Brock’s motion to intervene (the “Motion”) because Catherine Brock’s stated interests in the outcome of this case are similar to those of VGS’s ratepayers generally and also because those interests will be adequately represented by an existing party to this proceeding. Therefore, under applicable Commission rules, there is not an adequate basis to approve the Motion and allow for the requested intervention. However, I encourage Catherine Brock and any other interested members of the public to participate in this case by filing detailed public comments with the Commission. The Commission will investigate and consider any relevant issues and information raised by Catherine Brock or other commenters as part of its review of the Contract.

**II. PROCEDURAL HISTORY**

On June 13, 2022, VGS filed the Contract for review by the Commission under 30 V.S.A. § 248(i).

On July 5, 2022, the Vermont Department of Public Service (“Department”) filed a recommendation requesting that the Commission open an investigation into the Contract.

On July 11, 2022, the Commission issued an Order opening an investigation into the Contract and appointing me as hearing officer. The Commission’s order noted that 30 V.S.A. § 248(i) requires that the investigation into the Contract be completed within 120 days.

On July 29, 2022, Catherine Brock filed the Motion.

On August 5, 2022, VGS and the Department responded to the Motion. Neither VGS nor the Department objected to the Motion.

### **III. POSITIONS OF THE PARTIES**

Catherine Brock seeks permissive intervention in this case under Commission Rule 2.209(B). In support of the request for intervenor status, the Motion states that:

I am a [VGS] customer. My interest in seeking permissive intervention is to ensure that I will not have to pay extra because of rate increases resulting from a claimed benefit that does not actually exist. VGS makes the claim that ‘the Contract aligns with State . . . climate goals in a cost-effective manner that benefits VGS customers’, a claim which I dispute. . . . I intend to show that the [C]ontract will provide no benefit to me as a VGS ratepayer and, furthermore, that it does not align with Vermont’s climate goals or allow VGS “to contribute to the State’s Global Warming Solutions Act requirements.”<sup>1</sup>

Catherine Brock also asserts a need to have access to confidential materials filed by VGS in this case to “be able to make my case that VGS’s claim of cost-effectiveness is incorrect.”<sup>2</sup> The Motion further states that “the [Department’s] overriding interest in this case is whether the contract under consideration is as fully consistent as possible with the statutory least cost standard” and that “[t]he [greenhouse gas] emissions reduction benefits of the contract are assumed by the [Department].”<sup>3</sup>

VGS and the Department filed separate responses stating that they do not object to the Motion.

### **IV. LEGAL STANDARD**

Commission Rule 2.209(B) reserves to the Commission the power to grant intervenor status on a permissive basis when an applicant “demonstrates a substantial interest which may be affected by the outcome of the proceeding.” In exercising its discretionary authority under this provision, the Commission considers three factors:

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<sup>1</sup> Attachment to the Motion.

<sup>2</sup> *Id.*

<sup>3</sup> *Id.*

- (1) whether the applicant's interest will be adequately protected by other parties;
- (2) whether alternative means exist by which the applicant's interest can be protected; and
- (3) whether intervention will unduly delay the proceeding or prejudice the interests of existing parties or of the public.

Under this standard, the Commission has consistently required that potential intervenors demonstrate a sufficiently “particularized” interest that is different from the general interests of other similarly situated ratepayers, whose interests are represented by the Department in proceedings before the Commission.<sup>4</sup> As the Commission has noted in previous orders, the “particularized interest” intervention standard has been reviewed with approval by the Vermont Supreme Court in the context of a Section 248 petition, with the Court concluding that “[a person’s] interests as a ratepayer did not constitute a substantial, particularized interest, because [the person’s] position was not distinct from that of any other generic, individual ratepayer.”<sup>5</sup> The Vermont Supreme Court, however, further noted that “there is not necessarily a *per se* rule barring a ratepayer or group of ratepayers from articulating a substantial, particularized interest that would set them apart from generic ratepayers to a degree sufficient to allow them to intervene in a CPG proceeding.”<sup>6</sup> The Commission has also allowed for permissive intervention under Rule 2.209(B) where intervenors have shown that they are in a “position to contribute insights over the course of the proceeding that will assist [the Commission] in developing a full record.”<sup>7</sup>

## **V. DISCUSSION AND CONCLUSION**

Catherine Brock’s Motion presents two general arguments in support of permissive intervention: (1) the Contract will result in increased rates for VGS customers; and (2) the asserted environmental benefits of the Contract are inconsistent with Vermont’s climate goals and the recently enacted Global Warming Solutions Act. The Motion further argues that no party to this proceeding, including the Department, will adequately address these issues.

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<sup>4</sup> See *Petition of Green Mountain Power for approval of a multi-year regulation plan pursuant to 30 V.S.A. §§ 209, 218, and 218d*, Case No. 18-1633-PET, Order of 9/24/18, at 3 (citing *Tariff Filing of Green Mountain Power Corp.*, Docket 5532, Order of 11/21/1991).

<sup>5</sup> Case No. 18-1633-PET, at 3 (quoting *In re Petition of Green Mountain Power Corporation*, 2018 VT 97, ¶ 16).

<sup>6</sup> *Id.*

<sup>7</sup> *Petition of Vermont Gas Systems*, Case No. 7970, Order of 4/12/2013, at 12.

Having reviewed the Motion and all filings made by parties in this case to date, I conclude that there is not an adequate basis to grant Catherine Brock's request for permissive intervention under Rule 2.209(B). First, I note that the Motion raises only general interests that affect all similarly situated customers of VGS equally. Although cost-effectiveness and environmental impacts are issues that will likely be germane to the Commission's review of the Contract, the applicable standard under Rule 2.209(B) requires a showing of a particularized interest. Second, filings made by the Department to date in this case, including the Department's recommendation for an investigation and the discovery requests it served on VGS, indicate that the Department is conducting a thorough examination of the cost-effectiveness and environmental attributes of the Contract. I note that the Department's written discovery requests include numerous, detailed requests for data sets regarding not only the rate impacts of the Contract, but also seek granular specificity on the asserted environmental benefits of the Contract. Therefore, I conclude that the interests presented in the Motion are being adequately addressed by the Department, consistent with the Department's obligation under 30 V.S.A. § 2(b) to represent the interests of the people of Vermont in cases before the Commission.

In summary, although VGS and the Department have not opposed the Motion, I conclude that the Motion does not raise a particularized interest specific to the movant and that the interests presented in the Motion are being adequately protected by the Department. Therefore, the Motion and request for permissive intervention under Rule 2.209(B) are denied.

However, I strongly encourage Catherine Brock to participate in this proceeding by filing public comments with the Commission. Public comments that raise issues germane to the Contract or direct the Commission to sources of information that might assist the Commission in its review of the Contract can provide a foundation for future written information requests to parties or questions to witnesses at an evidentiary hearing. The Commission will review all public comments and carefully consider any issues or information included in those comments in reviewing the Contract and resolving this case.

**SO ORDERED.**


Dated at Montpelier, Vermont, this 15th day of August, 2022.



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Dan Burke, Esq.  
Hearing Officer

OFFICE OF THE CLERK

Filed: August 15, 2022

Attest:   
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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](mailto:puc.clerk@vermont.gov))*

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