

**STATE OF VERMONT  
PUBLIC UTILITY COMMISSION**

Case No. 22-2230-PET

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Petition of Vermont Gas Systems, Inc., for approval of an out-of-state renewable gas purchase contract with a term exceeding 5 years pursuant to 30 V.S.A. § 248(i)	
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**VERMONT GAS SYSTEMS, INC.’S MOTION TO STRIKE PREFILED  
TESTIMONY OF GEOFFREY GARDNER**

By this filing, Vermont Gas Systems, Inc. (“VGS”) moves, pursuant to PUC Rule 2.216(C), to strike the September 2, 2022 “Direct Testimony of Geoffrey Gardner.” First, Mr. Gardner cannot offer testimony as a fact witness because he does not offer any basis for his personal knowledge about any asserted facts. Second, there is no basis to admit Mr. Gardner’s testimony as expert testimony. For these reasons, Mr. Gardner’s testimony should be stricken and resubmitted as public comment.

Mr. Gardner is not a party to this proceeding. He offers only that he is testifying “as a concerned and relatively well-informed citizen,” and “in support of the position of the intervenor in this case, Catherine Bock.” Mr. Gardner, however, did not move to intervene and is not a party to this case. As the Commission has repeatedly stated, pursuant to 3 V.S.A. § 809(g), “the Commission must make findings of fact in contested cases based on ‘evidence.’ ”<sup>1</sup> Mr. Gardner’s testimony is not admissible as a fact witness under V.R.E. 701 because he does not offer testimony necessary to determine a fact in the case, he does not offer any facts based on personal knowledge, and his testimony is otherwise based on “opinions or inferences” that involve

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<sup>1</sup> *Pet. of Otter Creek Solar LLC*, Docket No. 8797, 2017 WL 4841505, at \*1 (Vt. P.S.B. Oct. 20, 2017).

scientific, technical, or other specialized knowledge that falls within the scope of V.R.E. 702, which is prohibited under Rule 701.<sup>2</sup>

Additionally, Mr. Gardner's opinion testimony is not admissible as expert testimony under V.R.E. Rule 702, which provides that a witness may only offer opinion testimony if he or she is "qualified as an expert by knowledge, skill, experience, training, or education" and "(1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case."<sup>3</sup>

Mr. Gardner does not even attempt to meet this standard. He states only that he is a concerned citizen and is "relatively well-informed." He does not identify any knowledge, skill, experience, training, or education that would qualify him as an expert regarding natural gas, renewable natural gas, application of the Global Warming Solutions Act, quantification of greenhouse gas emission reductions, energy transportation, environmental attributes, or any other issue about which he offers his opinion. Moreover, Mr. Gardner seeks admission of a map he states was provided to him by someone from Thetford, VT, but does not even attempt to provide basic information about the qualifications, knowledge, or education of that individual or the information Mr. Gardner alleges the map shows.

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<sup>2</sup> V.R.E. 701 (prohibiting opinion testimony of a lay witness that is based on "scientific, technical, or other specialized knowledge within the scope of Rule 702"); *See also*, Gardner pf. at 5 (opining on the chemical makeup of RNG and fossil gas); *id.* (discussing the science behind landfill RNG production); *id.* at 6 (opining on the "optimum" use of captured methane); *id.* (discussing methane leaks without any personal knowledge); *id.* (parroting academic work from experts); *id.* at 7 (citing pipeline leakage rates with no personal knowledge); *id.* (opining about better method for dealing with landfill gas); *id.* at 8 (describing facts with no basis for personal knowledge); *id.* (parroting newspaper articles);

<sup>3</sup> *Pet. of Dairy Air Wind, LLC*, Docket No. 8887, 2018 WL 1805913, at \*3 (Vt. P.S.B. Apr. 12, 2018) (quoting V.R.E. 702).

While VGS appreciates Mr. Gardner's interest in this matter and has no objection to Mr. Gardner's testimony and exhibit being considered as a public comment, there is no basis under the Vermont Rules of Evidence to admit either document into evidence.

DATED at Burlington, Vermont, on this 15th day of September, 2022.

**VERMONT GAS SYSTEMS, INC.**

By: /s/ Owen J. McClain

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