

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Case No. 22-2230-PET

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)	
---	--

**VERMONT GAS SYSTEMS, INC.’S MOTION TO MODIFY BRIEFING SCHEDULE
AND EXTEND THE STATUTORY REVIEW PERIOD BY TWO WEEKS**

By this filing, VGS proposes an alternative to the briefing schedule ordered by the hearing officer at the conclusion of the September 20, 2022 evidentiary hearing in the above-captioned matter. Pursuant to that Order, initial briefs are currently due on October 7, 2022 and reply briefs are due on October 14, 2022.

The Department and other parties expressed their support for a more extended briefing schedule, however, the Hearing Officer stated that the schedule was constrained by the statutory review period under 30 V.S.A. § 248(i), which would require a Proposal for Decision shortly after the October 14, 2022 reply deadline and a final order by November 8.

By this filing, VGS moves to extend the deadline for the filing of initial briefs to October 14, 2022 and the deadline to file reply briefs to October 21, 2022. Additionally, VGS waives any rights under the statutory deadline of November 8, 2022 for a period of two weeks, resulting in an extension of that statutory deadline until November 22, 2022. The Commission has ample legal authority—with the parties’ stipulation—to extend the statutory review period and has extended similar statutory review periods under Title 30 on many occasions.¹ Based on the

¹ See, e.g., *Tariff Filing of the City of Burlington Elec. Dep’t Requesting A 7.5% Rate Increase Effective on A Serv.-Rendered Basis As of Aug. 1, 2021*, No. 21-2186-TF, 2021 WL 4073103, at *2 (Sept. 2, 2021) (“At the scheduling conference, BED agreed to waive the seven-month statutory deadline to receive an order from the Commission pursuant to 30 V.S.A. § 227.”); *Investigation of New Eng. Tel. and Tel. Co.*, Docket No. 5700, 1994 WL 905777 (Vt.P.S.B. May 11, 1994) (“We conclude that it is consistent with Vermont law to . . . to waive for a defined period each of the statutory deadlines involved in these proceedings. This ruling is consonant with established precedent with respect to utility rate cases.”); *id.* (explaining that the statutory review period under 30

parties' discussion at the evidentiary hearing, no party objects to the extension of the statutory review period in this case.

For the above reasons, VGS moves to modify the briefing schedule such that initial briefs are due on October 14, 2022 and reply briefs are due on October 21, 2022.

DATED at Burlington, Vermont, on this 21st day of September, 2022.

VERMONT GAS SYSTEMS, INC.

By: /s/ Owen J. McClain

Owen J. McClain, Esq.
SHEEHEY FURLONG & BEHM P.C.
30 Main Street, 6th Floor
P.O. Box 66
Burlington, Vermont 05402-0066
(802) 864-9891
omclain@sheeheyvt.com

V.S.A. §226b is waivable); *id.* (explaining that a petitioner under 30 V.S.A. §227(b) “can choose to waive the seven-month deadline for final Board action”); *Central Vermont Public Service Corporation*, Docket No. 5132, 1986 WL 360967 (Vt.P.S.B. July 10, 1986)(explaining the parties could negotiate “a further extension of the date by which a final order must be entered in this case.”); *In Re Investigation of Washington Elec. Co-Op., Inc.*, 6315, 1999 WL 33117286 (Vt.P.S.B. Dec. 30, 1999)(“The parties also agreed to waive the seven-month statutory deadline for the completion of a rate case.”); *Joint Petition of Village of Morrisville Water and Light Department*, Docket No. 8186, 2014 WL 576193, at *1 (Vt.P.S.B. Feb. 7, 2014)(“Petitioners waive the ninety-day statutory deadline under 30 V.S.A. § 108(c) for the Board to issue a decision regarding Johnson's petition to obtain financing.”); *Tariff Filing of Citizens Utilities Co.*, Docket No. 5809, 1995 WL 899081 (Sept. 1, 1995) (ordering an investigation into the rates based on the statutory deadlines “in the absence of a waiver”).

Courts treat waiver of statutory deadlines in a similar manner. See, e.g., *Burton v. Town of Salisbury*, 173 Vt. 177, 790 A.2d 394 (2001) (“Taxpayers waived compliance with statutory deadlines for board of civil authority to act on taxpayers' 1994 appeal of property appraisal.”); *State v. Hawkins*, 2013 VT 5, ¶ 12, 193 Vt. 297, 303, 67 A.3d 230, 235 (2013) (“Defendant's proposed reintroduction of the statutory deadline after his waiver is declined.”); *State in interest of M.H.*, 2014 UT 26, ¶ 23, 347 P.3d 368, 371 (“[B]ecause all parties stipulated to extension of the sixty-day deadline prescribed by statute, we conclude that the statutory deadline was off the table.”).