

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Case No. 22-5085-PET

Petition of Vermont Gas Systems, Inc., pursuant to 30 V.S.A. § 218d, for authority to implement an Alternative Regulation Plan	
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INITIAL BRIEF OF VERMONT GAS SYSTEMS, INC.

INTRODUCTION

Vermont Gas Systems, Inc. (“VGS” or the “Company”) submits the following post-hearing brief in support of the Vermont Public Utility Commission’s (“Commission”) approval of an Alternative Regulation Plan pursuant to 30 V.S.A. § 218d. In this proceeding, VGS proposes an Alternative Regulation Plan (the “Proposed Plan”)¹ that would govern both VGS’s gas costs (as provided under VGS’s Current Plan²) as well as VGS’s non-gas rates, which are currently set through traditional rate cases. The Department of Public Service has undertaken a review of the Proposed Plan, and with the very few exceptions discussed herein, the Department supports approval of the Proposed Plan and agrees that it meets the statutory criteria under Section 218d. Because VGS and the Department are largely in agreement that the Proposed Plan should be approved, VGS respectfully requests that the Commission approve the Plan.

This brief is divided into three sections.

Section I: This section provides a summary of the major features of the Proposed Plan as summarized by VGS witness Andrea McNeil.

Section II: This section addresses the two narrow disputed issues regarding the Proposed Plan: (1) whether it should include a provision that enables an extension of the Proposed Plan for

¹ Exhibit VGS-ALM-4 (Second Amended Proposed Plan) (May 19, 2023).

² Case No. 19-3529-PET, Exhibit VGS-JMP-5 (approved Aug. 11, 2021).

one year beyond the original three-year term, as proposed by the Department, or two years, as proposed by VGS, and (2) whether the Proposed Plan should require VGS to provide notice to the Department and Commission prior to undertaking any level of Climate Action and Innovation Budget spending that involves a non-gas customer.

Section III: The third section provides a review of the relevant evidentiary record under each of the 30 V.S.A. § 218d criteria. This includes brief statements of fact relating to each of the Section 218d factors, along with a citation to the Department or VGS witness that provided related testimony.

SECTION I: SUMMARY OF MAJOR FEATURES OF PROPOSED PLAN

The Proposed Plan would govern VGS’s non-gas rates and continue to set the Natural Gas Charge based on the Purchased Gas Adjustment (“PGA”) for a three-year term that includes the FY2024, FY2025, and FY2026 rate years. The Plan also provides a mechanism to extend the Plan for an additional two years. The major features of the Plan, as discussed in the Direct Testimony of Andrea McNeil, include the following:

- **Base Rates:** Under the Proposed Plan, VGS’s non-gas rates, or “Base Rates,” would be governed by the terms of the Plan. The initial Base Rates are established based on a fully-litigated rate case for the FY2024 Cost of Service, which is before the Commission currently in Case No. 23-0561-TF. The Plan mitigates the impact of expected FY2024 rates (approximately 10.44% base rate increase³) through a Rate Smoothing Adjuster, which defers recovery of a portion of FY2024 rates to the later years of the Plan (FY2025 and FY2026). Additionally, for FY2025 and FY2026, the Plan sets base rates based on

³ Case No. 23-0561-TF, Exhibit VGS-ALM-2 (Cost of Service) (filed June 28, 2023).

(1) an indexed inflation adjustment to operating costs, (2) a fixed 3-Year Rate Base Plan, and (3) identified updates to non-operating costs.

- **Exogenous Events:** Consistent with VGS alternative regulation plans in place prior to 2016, the Proposed Plan provides a mechanism to propose adjustments to base rates based on exogenous events during the term of the Plan.
- **Earning Sharing Mechanism:** In order to ensure that the forecasted rate path and indexed adjustments to VGS's rates maintain just and reasonable rates, the Plan contains an earning sharing mechanism that provides an incentive for the Company to manage costs consistent with its fixed rate path. The ESM shares over- or under-earnings beyond a symmetrical 50-basis-point dead band with customers.
- **Return on Equity:** The Plan indexes VGS's return on equity ("ROE") to a formula that ties VGS's ROE to the change in the 10-Year Treasury Note Rate, which is consistent with how the Commission has established VGS's ROE in prior rate cases, including in FY2021, FY2022, and FY2023. VGS has proposed the same indexing method in the pending FY2024 rate case, which method the Department has agreed upon.⁴
- **Purchased Gas Adjustment:** The Plan establishes rates for the natural gas charge based on a Purchased Gas Adjustment ("PGA"), which has been approved by the Commission in substantially the same form since 2006. The Plan includes a modification to the PGA to implement VGS's Alternative Supply Feature, which expands renewable fuel options beyond Renewable Natural Gas ("RNG") alone to include other forms of alternative supply such as hydrogen or district heat. The Plan also modifies the annual cap of an additional 2% of RNG in the PGA in the Current Plan to instead allow for a 6% increase

⁴ Case No. 23-0561-TF, Zhu pf. at 44 (filed May 19, 2023).

over the three-year term. This modification provides additional flexibility to VGS with respect to incorporating alternative supply in the PGA during the term of the Plan.

- **Climate Action and Innovation:** The Plan continues VGS's successful Climate Action and Innovation Budget, with a \$2 million annual allocation, revised parameters around reporting and notice to the Commission and the Department, and other minor changes that will streamline the process around VGS's climate action initiatives.
- **Other Provisions:** The Plan also maintains other aspects of VGS's Current Plan, including performance reporting, safety and service quality and reliability reporting, management of gas supply, dispute resolution, and the process for amending the Plan.

SECTION II: ISSUES IN DISPUTE

There are only two issues in dispute between the parties in this case: (1) the duration for which VGS may request extension of the Proposed Plan, and (2) the form of notice required for VGS to expend Climate Action and Innovation Budget funds for projects, programs, and services outside of its current natural gas service area, and how that area should be defined for purposes of this notice.

A. Potential Extension of the Plan

The Commission should approve the Proposed Plan as drafted with an option to extend the term of the Plan for an additional two years for several reasons. First, this provision of the Plan leaves valuable options on the table for VGS customers, the Department, and the Commission. By allowing for an extension of the Plan for two years, the Proposed Plan opens the door to a regulatory process that is efficient, cost-effective, and transparent. VGS's capital spending and earnings will be reviewed annually under the Plan and the overall effectiveness of

the Plan will be assessed as part of any extension request. Because this process offers both transparency and cost savings, the Commission should approve a two-year extension option.

Second, the extension option is only an option. It is not mandatory or pre-determined. Accordingly, limiting the potential extension to only one year as advocated by the Department unnecessarily takes a transparent and cost-effective regulatory option off the table. In the event that it does not make sense to extend the Plan for two years, VGS can decline to request an extension, the Department can oppose an extension, and the Commission can simply deny an extension (or limit any such extension to one year).

Additionally, taking the two-year extension option off the table now will accelerate the timeframe for two significant regulatory proceedings that have meaningful accompanying costs: (1) a full traditional rate case either two years or three years from now, and (2) a new alternative regulation plan proceeding, which will be needed at the least to extend the Purchased Gas Adjustment feature beyond the term of the Plan. Since extension of the Plan provides both a robust and transparent process for assessing how well the Plan is working, and also promotes efficiency and lower costs, the Commission should retain the two-year extension option in the Plan.

B. Notice of Climate Action Spending Outside of VGS's Current Service Area

The second issue in dispute pertains to when VGS should file notice of its intent to spend Climate Action and Innovation Budget funds on projects, programs, and services focused outside of its current natural gas service area. The parties agree that the notice filing threshold in the Current Plan for Climate Action and Innovation Budget spending of \$25,000 should be increased

to \$100,000.⁵ The parties have differing proposals, however, regarding innovation programs undertaken “outside” of VGS’s current natural gas service area. The Department is taking the position that spending in any amount for projects, programs, or services for customers outside VGS’s current service area would trigger notice filing;⁶ VGS is willing to consider a different notice requirement for such spending, but advocates for a clear delineation of what projects, programs, and services would fall under this greater notice requirement.⁷ For the reasons set forth in Mr. Morse’s testimony, the Commission should approve a clear regulatory requirement that is easy to follow and allows VGS to develop sufficient information for these notice filings.

By way of background, this issue pertains to a provision in the Climate Action and Innovation Budget section of the Proposed Plan that expressly contemplates that VGS will pursue climate action measures for “Vermont customers” rather than only customers who could or do take natural gas service from VGS. See Exhibit VGS-ALM-4 (Second Amended Proposed Plan) at Paragraph 9. The purpose of this language is to “make it clear that VGS intends to pursue carbon reduction projects and programs that could serve all Vermont customers, whether they are current natural gas customers, potential natural gas customers, or other Vermont customers that would benefit from our experience and expertise regarding thermal energy and carbon reduction.”⁸

⁵ Jacobs pf. at 3 (“The Department is generally supportive of VGS’s request to increase the notice threshold from \$25,000 to \$100,000 for projects within their existing gas service territory. A higher threshold will give VGS more discretion to study, test, and pilot various technologies without incurring what can become significant administrative expense.”).

⁶ Jacobs pf. at 5 (“Thus, the Department recommends that VGS be required to provide notice to the Commission and Department for all Climate Action and Innovation expenditures to be made outside of VGS’s existing natural gas system service territory, regardless of price.”).

⁷ Morse pf. at 6 (“To achieve some regulatory clarity regarding when a proposed project, program, or service is ‘outside’ of VGS’s current footprint, we would propose that such projects, programs, or services serve customers located more than five miles from the nearest natural gas distribution line.”).

⁸ Morse pf. at 6.

The Department supports this change in the Proposed Plan, but proposes that VGS be required to provide notice under Paragraph 9(e) and (f) if (1) VGS is providing a service “outside of VGS’s existing natural gas system service territory,” and (2) it involves any level of spending under the Climate Action and Innovation Budget.⁹ In essence, the Department proposes a \$100,000 notice threshold for projects, programs, and services pursued “inside” VGS’s natural gas service area, and a \$0 notice threshold for any projects, programs, or services pursued “outside” of VGS’s natural gas service area.

VGS does not believe these additional requirements are necessary and would support approval of the plan as filed in Exhibit VGS-ALM-4, namely, a \$100,000 notice threshold for spending on any projects, programs, or services funded through VGS’s Climate Action and Innovation Budget. That said, VGS does not strongly oppose the general distinction urged by the Department with respect to projects, programs, and services directed to customers outside VGS’s current service area. If such a distinction is to be made, however, VGS advocates for two changes to the Department’s proposal.

First, there should be some allowance for spending prior to filing notice because it is “nearly impossible to develop the kind of information needed for a notice filing without spending any money at all.”¹⁰ Accordingly, to the extent the Commission requires the Plan to include a different notice threshold for projects, programs, and services directed to customers outside of VGS’s current natural gas service area, it should either provide an exception (e.g., “except for spending required to evaluate and develop information necessary to provide adequate notice,” Morse pf. rb. at 5) or it should set a \$25,000 threshold for this specific notice requirement.

Second, the Commission should apply this notice requirement to a clearly defined geographical area so that VGS can operate under clear guidance. As set forth in Mr. Morse’s

⁹ Jacobs pf. at 5.

¹⁰ Morse pf. rb. at 5.

testimony: “VGS’s current natural gas service area includes customers that are currently connected to [VGS’s] distribution system and customers that could connect to [VGS’s] distribution system subject to [VGS’s] general terms and conditions. To achieve some regulatory clarity regarding when a proposed project, program, or service is ‘outside’ of VGS’s current footprint, [VGS] would propose that such projects, programs, or services serve customers located more than five miles from the nearest natural gas distribution line.”¹¹

This clear rule will make it easier to distinguish between customers that are “inside” versus “outside” of VGS’s service area, and will avoid creating new administrative requirements for carbon reduction efforts that VGS is undertaking inside its current natural gas service area. Accordingly, if a unique form of notice is required for spending directed at climate action initiatives “outside” of VGS’s current natural gas service area, that requirement should establish a clear geographic distinction, such as five miles from existing natural gas infrastructure.

SECTION III: DISCUSSION OF SECTION 218D FACTORS

To assist the Commission in reviewing the evidence relevant to each of the Section 218d factors, this Section summarizes the relevant evidence under each statutory factor and provides citations to Department and VGS testimony that supports approval of the Proposed Plan.

A. Section 218d(a)(1)

1. The Proposed Plan incentivizes least-cost service under Section 218d(a)(1) through the PGA, formulaic base rate changes that limit rate changes to inflation, and the ESM, under which VGS recovers prudently incurred costs more efficiently than under traditional regulation. VGS is incentivized to maintain least-cost operations through clear financial incentives to realize savings under the Proposed Plan. McNeil pf. at 18.

¹¹ Morse pf. rb. at 6.

2. Additionally, the PGA Alternative Supply Feature of the Proposed Plan allows VGS to increase alternative supply as a percentage of its overall retail supply portfolio by 6% over the term of the Proposed Plan, while also requiring VGS to consider environmental benefits “compared to the Vermont Climate Action Plan’s established value of the social cost of carbon when considered in aggregate on a portfolio-wide basis.” See Proposed Plan, Paragraph 8(d); Morse pf. rb. at 7.

3. This recommended language was added by the Department to implement a condition similar to one imposed by the Commission in connection with its approval of the Archaea RNG contract. Jacobs pf. at 5 (“Embedded in the Certificate of Public Good for the Archaea Seneca Landfill Renewable Natural Gas (‘RNG’) contract in Case No. 22-2230-PET, VGS must endeavor to keep the cost of avoided emissions below the Vermont Climate Action Plan’s established value of the social cost of carbon.”).

4. VGS agrees with this provision so long as the referenced social cost of carbon (“SCC”), which is currently \$141 per metric ton, Tr. 06-19-23 (Morse) at 33, is considered on a portfolio-wide basis consistent with the order in the Archaea proceeding. This means that some resources may cost more, and other resources may cost less, but the cost of avoided carbon of the portfolio on an aggregate basis would be at or below the SCC (\$141 per metric ton). Morse pf. rb. at 6 (“This would be measured on a portfolio-wide basis, in the aggregate, under which the target would be to achieve an average cost of avoided emissions across the portfolio that reflects the SCC. We agree with this approach, which is consistent with the condition imposed in Case No. 22-2230-PET relating to the Commission’s approval of an RNG contract with Archaea Energy Marketing LLC.”).

5. The Earning Sharing Mechanism (“ESM”) incentivizes VGS to provide least-cost service to its customers. The ESM:

- (i) Encourages Efficiency: The ESM incentivizes VGS to operate efficiently. The utility will try to minimize its costs and maximize its earnings to avoid sharing under earnings with customers. By operating efficiently, the utility can also earn over-earnings, which can be shared with customers. This creates an incentive for the utility to provide least-cost service to its customers.
- (ii) Aligns Utility and Customer Interests: Sharing of over- and under-earnings aligns the interests of the utility and its customers. The utility is incentivized to reduce costs and operate efficiently, as any over earnings can be shared with customers. This creates a win-win situation where the utility earns a fair return on its investments while providing affordable service to its customers.
- (iii) Provides Predictability: The ESM provides predictability for VGS. VGS knows that it will earn a fair return on its investments, but any over earnings will be shared with customers. This provides an incentive for the utility to invest in cost-effective measures to improve efficiency and reduce costs.
- (iv) Encourages Investment: The ESM encourages investment in natural gas infrastructure. VGS knows that it can earn a fair return on its investments, but any over-earnings can be shared with customers. This creates an incentive for the utility to invest in infrastructure improvements that can reduce costs and improve service.

Foley supp. pf. at 3.

B. Section 218d(a)(2)

6. The Proposed Plan provides just and reasonable rates because the initial rates will be set through a traditional rate case in Case No. 23-0561-TF, which will ensure the baseline for the Proposed Plan is just and reasonable as determined by the Commission. McNeil pf. at 19.

7. Other features of the Proposed Plan, including annual ESM calculations; PGA quarterly adjustments that include weather normalization; and significant annual reporting related to service quality, climate action and innovation performance metrics, gas purchases, capital spending, and financial performance also ensures that rates will be just and reasonable. McNeil pf. at 19.

8. The Proposed Plan establishes not only just and reasonable rates, but also sets a predictable and smooth rate path for three years. McNeil pf. at 19.

9. The Rate Smoothing Adjuster provides a path to terminate the System Expansion and Reliability Fund (“SERF”) in a manner that will not cause an abrupt swing in rates. Without the Rate Smoothing Adjuster, VGS rates are expected to see a significant increase in FY2024 followed by lesser increases in FY2025 and FY2026 that track expected inflation. Accordingly, the Proposed Plan offers a much better rate path for customers over the term than under traditional regulation. McNeil pf. at 19.

10. Additionally, the Proposed Plan continues the feature of weather normalization within the PGA quarterly adjustments.¹² These adjustments ensure that customers’ bills are more

¹² Under VGS’s current PGA, the inputs for the weather normalization are updated when the Company makes its Annual Rate Filing and uses the billing determinants (e.g., degree days, use per degree day by rate class) from that Annual Rate Filing. Since the Proposed Plan does not contemplate such a filing, under the Proposed Plan, the weather normalization inputs will be updated once annually with the August PGA filing, which covers VGS’s fiscal year of October to September. See Proposed Plan, Paragraph 8(c). This will allow VGS to use consistent weather normalization values for a full fiscal year and will ensure that changes in customer usage are reflected in the weather normalization in a timely manner.

stable over time and avoid Company windfalls caused by cold snaps and shortfalls caused by decreased usage in more temperate weather. McNeil pf. at 19-20.

11. Just and reasonable rates are also secured through the Earning Sharing Mechanism (“ESM”), which holds the Company accountable to meet its original cost projections by tracking financial performance against those forecasts annually. McNeil pf. at 19-20.

12. The Department is currently reviewing VGS’s proposed non-gas rates in Case No. 23-0561-TF. During this process, the Department thoroughly reviews VGS’s proposed rates to ensure they are just and reasonable for VGS ratepayers. In this alternative regulation proceeding, the Department has determined that the Proposed Plan’s mechanisms for adjusting rates over the term of the Proposed Plan are reasonable. Foley supp. pf. at 4.

C. Section 218d(a)(3)

13. The Proposed Plan contains robust reporting requirements related to service quality and supports VGS’s continued investment in safe and reliable service. The Proposed Plan requires compliance with VGS’s existing Service Quality and Reliability Plan. See Docket Nos. 7803/7843 at 23 (“[T]he Company’s Service Quality Plan, which measures the Company's performance against numerous safety and reliability standards, will remain in effect. Failure to achieve the benchmarks established in the Service Quality Plan will result in negative financial consequences to the Company.”). McNeil pf. at 20.

14. The Proposed Plan (1) requires compliance with VGS’s current Service Quality and Reliability Plan, and (2) continues VGS’s mechanism for swift cost recovery if faced with an exogenous event. Foley supp. pf. at 5.

15. These factors coupled with VGS's demonstrated commitment to providing safe and reliable service establish the Proposed Plan's compliance with § 218d(a)(3). Foley supp. pf. at 5.

D. Section 218d(a)(4)

16. The Proposed Plan promotes innovation and advancement of state energy policy in several ways. First, it establishes a framework to gradually increase RNG and other alternative supply as a percentage of VGS's overall retail supply portfolio while ensuring VGS remains a competitive heating services company as we reduce carbon emissions. McNeil pf. at 20-21.

17. It also improves the existing PGA RNG Feature by allowing VGS to incorporate other forms of alternative renewable supply into its overall retail supply to further reduce customers' carbon emissions. The Proposed Plan will promote significant carbon reductions over time while also ensuring that VGS has the flexibility needed to balance its interest in increasing alternative supply with its priority to do so at the least cost possible.¹³ McNeil pf. at 21.

18. Second, the Proposed Plan includes a flexible, modest budget for investment in innovation and climate action initiatives. The Climate Action and Innovation Budget is incorporated into rates under the Proposed Plan and provides the flexibility needed to pursue the kind of existing, nascent, and future technologies and services that will play a key role in VGS's future as a climate-forward energy utility. McNeil pf. at 21.

¹³ The annual gas supply plan is also a required component of the Proposed Plan and will be filed by July 1 of each year. The Company will include in that supply filing both the RNG reporting requirements contained in the Commission's Order in Docket No. 8667, as well as its plans and progress towards incorporating increasing amounts of RNG into its overall supply portfolio.

19. It also promotes investment in Vermont-based projects that could increase supply of renewable fuels, whether through RNG, hydrogen projects, or other innovation opportunities. McNeil pf. at 21.

20. Third, the Proposed Plan's Climate Action and Innovation Performance Metrics provide the kind of accountability and incentives contemplated by Section 218d(a)(4). These Metrics do not impose financial incentives or penalties during the term of this Plan, but they are an appropriate starting point for performance metrics that could ultimately provide far more robust information about efforts to decarbonize customers' heating supply as well as financial incentives and penalties as VGS continues to learn more about evolving technologies displacing traditional fossil fuel. McNeil pf. at 21-22.

21. Ultimately, VGS's Climate Action Plan in furtherance of state climate goals will likely mean decreased sales of traditional natural gas and, potentially, the kind of decoupling expressly contemplated by this statutory criteria. In the near term, this Plan will provide the opportunity for VGS to invest in innovation and climate action while also tracking performance so that VGS can further develop sustainable long-term strategies. McNeil pf. at 22.

22. The Department agrees that, subject to the Department's recommendations in Mr. Jacob's prefiled testimony, the Proposed Plan generally complies with § 218d(a)(4). Jacobs supp. pf. at 2-3.

23. Moreover, the Proposed Plan can be modified if needed to incorporate new requirements that may be imposed on VGS, for example, under the Affordable Heat Act. Morse pf. rb. at 9.

E. Section 218d(a)(5)

24. The Proposed Plan promotes service quality, reliability, and service choices in several ways. First, it provides for the Company's performance to be measured and evaluated against the terms of its separate Service Quality and Reliability Plan, which creates an incentive for VGS to deliver a high level of customer service and reliability.¹⁴ McNeil pf. at 22.

25. Second, the PGA Alternative Supply Feature expands renewable services offerings while maintaining affordable service. McNeil pf. at 22.

26. Third, the Plan promotes reliability by establishing a sound financial platform for providing safe, reliable service. McNeil pf. at 22.

27. Fourth, the Plan promotes innovation by establishing a Climate Action and Innovation Budget, which promises to expand VGS's scope of energy services through a variety of initiatives. McNeil pf. at 22.

28. The Proposed Plan maintains VGS's existing Service Quality and Reliability Plan and continues the implementation of RNG and investment in innovative programs including electrification offerings through technologies such as heat pump water heaters and hybrid heating systems, thereby providing VGS customers with several service choices over the term of the Proposed Plan. Jacobs supp. pf. at 3.

F. Section 218d(a)(6)

29. The Proposed Plan supports and encourages innovation that will help VGS pursue substantial carbon reductions through the PGA Alternative Supply Feature, the Climate Action and Innovation Budget, and the Climate Action and Innovation Performance Metrics. Through these mechanisms, VGS can look beyond the traditional natural gas utility platform and begin

¹⁴ *Petition of Vermont Gas Systems, Inc.*, Docket Nos. 7803/7843, 2012 WL 3637763 (Vt. Pub. Serv. Bd. Aug. 21, 2012) (the "2012 ARP Order") at 24.

exploring new ways to reduce carbon emissions through emerging technologies, service offerings, and renewable supply. McNeil pf. at 23.

30. The Proposed Plan continues VGS's Climate Action and Innovation Budget, which enables investment in initiatives to support Vermont's clean energy goals through activities that promote emission reductions. The Plan also contemplates that VGS will continue its use of RNG and other alternative supply that reduce emissions, which the Department supports, contingent on the Department's proposed social cost of carbon criteria. Thus, the Department maintains that the Proposed Plan encourages innovation in the provision of service. Jacobs supp. pf. at 4.

G. Section 218d(a)(7)

31. The Proposed Plan promotes least-cost operations through a formulaic three-year base rate plan, the PGA, and the ESM. The ESM creates a balanced system of risks and rewards that encourages efficiency because the three-year rate plan incentivizes cost reductions, penalizes cost increases, and creates a system of allocating risks and benefits between the Company and customers. McNeil pf. at 23.

32. Specifically, the ESM ensures that savings, if any, are shared with customers pursuant to Section 218d(b). Additionally, the Proposed Plan's formulaic Base Rate changes, with only limited ability to seek exceptions, places more risk upon the Company to perform as forecasted while protecting customers from greater rate volatility. McNeil pf. at 23.

33. The approved ROE [in Case No. 23-0561-TF] will serve as the ROE for FY2024 of the Proposed Plan. For FY2025 and FY2026, VGS would then adjust the ROE at one-half the change in the composite 10-Year Treasury Note Rate for each date between March 1 and June 1 as compared to the same time period during the following year. The Department does not find

this proposal to be unreasonable. Ultimately, the Proposed Plan satisfies 30 V.S.A. § 218d(a)(7).
Foley supp. pf. at 5.

H. Section 218d(a)(8)

34. The Proposed Plan would establish a baseline ROE as approved by the Commission in Case No. 23-0561-TF. Thereafter, ROE would be adjusted pursuant to Paragraph 6 of the Proposed Plan based on 50% of the change in 10-year U.S. Treasury Note rates from the period March 1 to June 1 for each Plan year. McNeil pf. at 24.

35. By utilizing an ROE initially set through a fully litigated rate case and adjusted through a transparent, simple method in later years, the Proposed Plan creates a reasonable opportunity for VGS to earn a fair rate of return.¹⁵ As long as annual Base Rate adjustments established under the Proposed Plan reflect a reasonable forecast of VGS's overall cost of service, the Company will have a fair opportunity to earn a fair return. McNeil pf. at 24.

36. The Base Rate changes forecast under the Plan on Attachment 4,¹⁶ combined with the ESM and indexed ROE as set forth in the Proposed Plan, will also provide the Company a reasonable opportunity to earn a fair rate of return. The stability and transparency of the PGA further helps preserve the availability of equity and debt capital resources because past experience has shown that recovery of natural gas costs is important to capital providers. McNeil pf. at 24.

37. The Proposed Plan includes provisions that provide both (1) exposure to risks, and (2) safeguards that will allow VGS to earn a fair rate of return. Foley supp. pf. at 6.

¹⁵ 2012 ARP Order at 25 (finding that prior plan provided “a reasonable opportunity, under sound economic management, for VGS to earn a fair rate of return consistent with flexibility in the design of, and the inclusion of effective financial incentives”).

¹⁶ Exhibit VGS-ALM-4 (Second Amended Proposed Plan) (May 19, 2023).

38. The Proposed Plan provides the Department with adequate time to review VGS's annual compliance tariffs. Accordingly, the Proposed Plan is consistent with Section 218d(a)(8).
Foley supp. pf. at 6.

CONCLUSION

For the foregoing reasons, the Commission should approve VGS's Proposed Plan as set forth herein.

DATED at Burlington, Vermont on this 30th day of June 2023.

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