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February 15, 2024

Holly R. Anderson
Clerk of the Commission
112 State Street
Montpelier, VT 05620-2701

Re: Case No. 23-2221-INV
Investigation into the Clean Heat Standard Default Delivery Agent Costs and Quantities

Dear Ms. Anderson:

On December 11, 2023, the Vermont Public Utility Commission issued an Order seeking comments addressing the number, geographic scope, responsibilities, and obligations of the Default Delivery Agent ("DDA") under Act 18 (the "Act").[1] Vermont Gas Systems, Inc. ("VGS") submitted comments on January 19, 2024.[2] These and other remarks were the subject of discussion at a January 25, 2024 workshop held by the Commission. We submit these reply comments for consideration.

Market-Based Approach Preserves Intent

The intent of Act 18 is to achieve the 2030 and 2050 thermal emissions reductions mandated by the Global Warming Solutions Act ("GWSA") in an efficient manner, which is why the Act specifies a technology-neutral approach within an equity-focused framework. The January 25, 2024 workshop included discussion of constructs that would limit the activities of a potential DDA based on geography, service, or population, or would require obligated parties to obtain certain types of credits from certain DDAs. Some examples raised by participants were: (a) a desire to link payments from Obligated Parties ("OPs") to physical proximity of projects or services, (b) exclusion of DDAs from certain emissions-reduction technologies that may serve similar populations as existing state-funded programs, (c) limitations to prevent competition among DDAs via direct regulation, and (d) procurement requirements for certain measure types that exceed those specified in the Act. VGS disagrees with such restrictions, which would serve to limit the potential pool of participants and create barriers to entry for any future DDAs.

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1 The Reply Comment deadline issued in the Commission's December 11, 2023 Order was amended by an Order Amending Schedule dated February 12, 2024.

2 VGS's January 19, 2024 initial comments were erroneously filed as "Reply Comments".

Market-based solutions drive costs down by encouraging competition and innovation, and by ensuring those who build superior products and services can deliver them into an unbiased marketplace. Each limitation, restriction, or circumscription on DDA activities reduces the universe of possible participants, projects, and technologies, and therefore reduces the potential supply of credits. Credit demand from OPs remains entirely inelastic because there are no practical substitutes to satisfy an obligation other than to procure and retire Clean Heat Credits. When the supply of any commodity declines and buyers are not capable of substituting alternatives, prices will rise, so it is of great importance to avoid unnecessary barriers to capable participants.

While it is possible to imagine scenarios where the DDA market is served by a small handful of larger organizations, the market should be designed to preserve accessibility to new entrants. After all, the law seeks to encourage existing thermal energy companies to transform their businesses as they serve Vermonters in new and innovative ways. Any process that entrenches a "default" entity at the expense of existing energy providers should be avoided. Depending on how innovation takes place, a DDA may no longer be necessary at some point in the future, which should be considered a mark of success under the principles of the Act and should be explicitly considered by the rules.

Suggested Market-Based DDA Structure

Workshop participants identified concerns beyond the competitive sensitivities for those entities seeking to provide DDA services. Discussions took place related to (a) pricing of DDA credits, (b) ability of a DDA to adjust pricing, (c) equitable access by OPs to low-priced DDAs when more than one DDA participates, and (d) whether economies of scale exist for the provision of DDA credits. With an open market in mind, VGS offers the following suggested process, which addresses many of the issues identified by workshop participants.

1. The Commission announces obligation volumes and bidding criteria.

The Commission calculates the obligations for each OP for each credit category. The Commission announces the total aggregate obligation for each category, which provides potential DDAs with the size of the market for the period in question. OPs can understand their portion of the total market size by comparing their individual obligation. The Commission may publish any additional bidding criteria required of potential DDAs at this time.

2. DDAs submit sealed bids to provide credits.

The Commission accepts sealed bids to provide DDA credits. Bids are accepted for any credit category, any volume, and any geography. Importantly, bids may include multiple tranches for a single credit category, allowing the bidder to communicate discrete prices associated with various procurement amounts.

3. The Commission reviews bids and publishes aggregated price curves.

Commission staff reviews bids and sets aside any that do not meet established criteria. Thereafter the Commission collates proposals for each credit category into consolidated price curves, showing the cost of credits across potential volumes assigned to the DDAs. While the curves reveal price information, they do so on an anonymized basis. Neither the identity of bidders, nor the nature of their bids, is revealed.

4. OPs review curves and make assignment elections.

At this time the Commission would accept elections from OPs that plan to procure credits using a method other than the DDA, and who should, provided sufficient details on their capacity and resources are included, be granted such election. The remaining obligations not retained by OPs are nominated to the DDA selection process.

5. The Commission awards DDAs in economic order and announces final credit prices.

Having reviewed the total obligation volumes nominated to the DDAs in each credit category, the Commission makes DDA awards in economic order beginning with the lowest price bid tranche and proceeding sequentially to higher-priced tranches until the nominated DDA obligation volume is satisfied. For each credit category, the Commission announces the *average* price of DDA credits awarded.

6. The Commission establishes escrow; OPs deposit against nominated DDA obligations.

The Commission establishes an escrow account, and OPs make deposits against any obligations they nominated to the DDAs. For each credit category, OP payments are equal to the credit volume multiplied by the *average* credit price previously announced by the Commission. The Commission may wish to establish a schedule of payments by OPs in lieu of a single lump sum, for example, quarterly or monthly.

7. *The Commission pays DDAs from escrow.*

The Commission pays DDAs as credits are delivered against obligations. DDAs are paid their *bid* price on a per-credit basis, ensuring that the terms of the bid (including any discrete price/volume tranches) are met.

Summary

Under Act 18 tension exists between OPs and the DDAs related to credit pricing because each must know the position of the other to determine an optimal behavior. A structure such as that proposed above largely solves this problem and streamlines the process.

By publishing the total market demand in advance, the Commission provides basic volumetric information to potential DDAs. In addition, OPs may judge the possible impact of their own credit nomination choice based on the relative size of their obligation to the market. The procurement process is unbiased, and includes all entities capable of providing DDA services, even if they cannot provide universal service in all credit categories. Publishing anonymous aggregated price curves provides OPs with critical price formation information, allowing them to evaluate their options under various circumstances, but also providing a measure of protection for competitively sensitive DDAs. DDA awards are paid based on *bid* price, while OP payments are based on *average* price, which preserves the interests of both parties. DDAs receive reliable payment to satisfy awarded obligations, while OPs enjoy equitable access to the lowest-price DDA bids. This encourages competition among DDAs while eliminating it among OPs for access to those DDAs. Finally, the use of an escrow account provides a mechanism to transfer payments from OPs to DDAs. The timing of payments to DDAs may be linked to actual performance, providing a measure of credit assurance to the OPs and the Commission itself.

Conclusion

The role of DDAs in the emerging Clean Heat marketplace is potentially significant but should not become a foregone conclusion. Ensuring the process of selecting DDAs remains open and accessible to new entrants and new technologies is critical to the achievement of cost-efficient greenhouse gas reductions over a long-term horizon. The Act does not create a new class of regulated utility-like entities. DDAs are service providers, who should compete to provide the highest greenhouse gas reductions at the lowest cost, just like the OPs that choose to self-satisfy. A methodology like that suggested in these comments provides reliable payment for services but not an expectation for permanent appointment. Any rule should recognize that the full self-provision of emissions reduction by fuel dealers is a positive and desirable outcome that not only supports the GWSA but also businesses throughout the state. Selection processes for DDAs, as for the Clean Heat market itself, should remain open and unrestricted.

We thank the Commission for its continued work related to the potential Clean Heat Standard. Please contact me with any questions.

Respectfully submitted,

/s/ Mary G. Bouchard

Mary G. Bouchard
Regulatory & Corporate Counsel
Vermont Gas Systems, Inc.
mbouchard@vermontgas.com