

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 23-2220-RULE

Proceeding to design the potential Clean Heat Standard	
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Order entered: 02/07/2025

ORDER DISMISSING THOMAS WEISS’S MOTION FOR RECONSIDERATION

I. INTRODUCTION

Public Act 18 (2023 Vt., Bien. Sess.) (“Act 18”) directs the Vermont Public Utility Commission (“Commission”) to develop a proposed Clean Heat Standard.¹ As part of that proposal, the Commission must set the rate at which carbon intensity values decrease for liquid and gaseous clean heat measures. The Commission was required to establish and publish the rates for 2025 to 2030 by January 1, 2025.² On May 29, 2024, the Commission issued a Staff Straw Proposal that included a proposed process for setting declining carbon intensity values and received public comment on that proposal.³ On December 23, 2024, the Commission issued an Order Setting Declining Carbon Intensity Values for 2025-2030.⁴

On December 27, 2024, Thomas Weiss, a participant in this proceeding, filed a motion asking the Commission to reconsider its order; on December 31, 2024, Mr. Weiss amended that motion. Specifically, Mr. Weiss argues that the Commission should revise the December 23 Order because “the carbon intensity value covering the year 2026 needs to be decreased by a meaningful amount below 80% in 2026. The table needs to show additional meaningful decreases in each of the years 2027, 2028, and 2029.”⁵ Mr. Weiss contends that the phrase “decrease annually” in 30 V.S.A. § 8127(f)(2) requires the carbon intensity values in each year

¹ For an overview of work done to date and other information on the proposed Clean Heat Standard, please see the Commission’s clean heat website at <https://puc.vermont.gov/clean-heat-standard>.

² 30 V.S.A. § 8127(f)(2)(A).

³ Case No. 23-2220-RULE, Staff Straw Proposal of 5/29/24.

⁴ Case No. 23-2220-RULE, Order of 12/23/24.

⁵ Thomas Weiss Motion of 12/31/24 at 2.

between 2025 and 2030 to be less than the year before.⁶ Mr. Weiss indicates that he expected a second straw proposal and intended to file additional comments on that second proposal.⁷

II. LEGAL STANDARD

The Commission reviews motions to reconsider pursuant to Commission Rule 2.221, which incorporates the language of Vermont Rule of Civil Procedure 59 without modification. Thus, precedent applying Rule 59(e) is relevant to the application of Commission Rule 2.221(A).

Reconsideration under Rule 2.221 is appropriate only to avoid an unjust result due to “mistake or inadvertence of the [Commission], and not the fault or neglect of a party.”⁸ The disposition of a reconsideration motion rests with the discretion of the Commission.⁹ Granting reconsideration is an extraordinary remedy to be used with great caution.¹⁰ Rule 2.221 is not a vehicle to introduce new evidence or advance arguments that could have been made previously.¹¹ The Commission also retains “discretion to deny consideration of discrete issues not raised prior to entry of judgment.”¹²

III. DISCUSSION

The Commission’s Order Setting Declining Carbon Intensity Values for 2025-2030 adopted a step change using the threshold limit from 30 V.S.A. § 8127(f)(1)(A) and (B) of “below 80 in 2025” and “below 60 in 2030” with no rate of decline in in-between years.¹³ These values are relative to No. 2 fuel oil having a carbon intensity value of 100.¹⁴ The Commission issued its order after issuing a Staff Straw Proposal and receiving feedback from participants in this proceeding, including Mr. Weiss, and consultation with the Technical Advisory Group

⁶ Thomas Weiss Motion of 12/31/24 at 1.

⁷ Thomas Weiss Motion of 12/31/24 at 2.

⁸ *Rubin v. Sterling Enterprises, Inc.*, 164 Vt. 582, 588, 674 A.2d 782 (1996) (citing *In re Kostenblatt*, 161 Vt. 292, 302, 640 A.2d 39, 45 (1994)).

⁹ *Alden v. Alden*, 2010 VT 3, ¶ 7, 187 Vt. 591, 592, 992 A.2d 298 (2010)).

¹⁰ *Petition of Vermont Gas Systems, Inc. for authority to condemn easement rights in property interests of the Town of Hinesburg, Vermont, at Shelburne Falls Road, Hinesburg, Vermont, for the purpose of constructing the pipeline authorized in Docket 7970, Docket 8643, Order of 11/3/16 at 2.*

¹¹ *See, e.g., In re B.K.*, 2017 VT 105, ¶ 13, 206 Vt. 110, 115, 179 A.3d 758, 762 (2017) (“While the trial court has broad power under Rule 59(e) to reconsider issues previously presented, the rule does not contemplate reopening the evidence or creating a new record.”).

¹² *Everbank v. Marini*, 2015 VT 131, ¶ 34, 200 Vt. 490, 134 A.3d 189 (2015); see also 11 C. Wright, Miller & Kane, *Federal Practice and Procedure* § 2810.1 (3d ed.) (2022 Update) (“The Rule 59(e) motion may not be used to relitigate old matters, or to raise arguments or present evidence that could have been raised prior to the entry of judgment.”).

¹³ Case No. 23-2220-RULE, Order of 12/23/24 at 2.

¹⁴ 30 V.S.A. § 8127(f)(3).


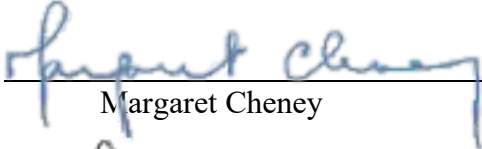
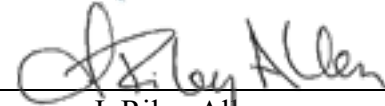
(“TAG”). No participant advanced the argument now put forth by Mr. Weiss. Therefore, because Rule 2.221 does not permit the introduction of new arguments that could have been made previously, we deny Mr. Weiss’s motion.

We note, however, that pursuant to Section 6(f)(1) of Act 18, the Commission “shall not file the final proposed rules with the Secretary of State until specific authorization is enacted by the General Assembly to do so.” This legislative review requirement provides an additional opportunity for commenters to discuss concerns about the proposed rule or any of the Commission’s decisions regarding the Clean Heat Standard directly with the General Assembly.

The Commission appreciates Mr. Weiss’s thoughtful participation in this proceeding and welcomes his continued involvement.

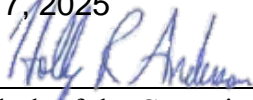
SO ORDERED.

Dated at Montpelier, Vermont, this 7th day of February, 2025.

 _____))
Edward McNamara) PUBLIC UTILITY
_____))
 _____))
Margaret Cheney) COMMISSION
_____))
 _____))
J. Riley Allen) OF VERMONT

OFFICE OF THE CLERK

Filed: February 7, 2025

Attest: 

 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)

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