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May 23, 2025

Via ePUC

Holly Anderson, Clerk
Vermont Public Utility Commission
112 State Street
Montpelier, Vermont 05620-2701

Re: Case No. 25-0867-INV – Vermont Public Utility Commission's order providing guidance for filing documents related to decommissioning securities

Dear Ms. Anderson,

Thank you for the opportunity to provide comments regarding the Commission's proposed guidance for filing decommissioning securities and related documents by Certificate of Public Good ("CPG") holders. We greatly appreciate the Commission providing further information as to how decommissioning security filings should be made, as this has been an area of some confusion in the past. In our comments below, we offer feedback on the proposed guidance, as well as a request for additional areas of clarification with respect to these filings.

I. Comments on Proposed Guidance

The Commission's creation of a new document type for "decommissioning security" is very helpful. Previously, it was not clear how an alternative security document other than a letter of credit should be filed because there was only a letter of credit file type. We also appreciate the Commission clarifying that only the security document itself should be filed under the "decommissioning security" file type and that accompanying other documents such as a cover letter, evidence of financial institution rating, or decommissioning adjustment report should be file under other document types. However, we would appreciate further clarity from the Commission on the following points:

- Draft Forms of Security - Because the Commission may require edits to a form of decommissioning security submitted for approval, it is common in our experience for CPG holders to submit a draft form of security for approval, followed by an executed original once the draft has been approved. In this case, should the CPG holder file both the draft form and the copy of the executed security under the "decommissioning security" filing type? If so, how would the Commission prefer the CPG holder to differentiate between these in the name?

- Confirmation of Receipt of Original Documents – Will the Commission confirm receipt of an original decommissioning security document if a copy of the document has already been filed on ePUC, as directed by the guidance? If not, how will CPG holders know if the Commission is in possession of the original security instrument?

- Form of Requests for Approvals - With respect to the statement in the guidance that "CPG holders should not file motions asking the Commission to approve initial financial securities, amendments and addenda to previously approved financial securities, or replacement financial securities," is the Commission saying that these requests should be made via cover letter? If a CPG holder has a timeline request or other specific request for approval (e.g. expedited review), how should that be indicated to the Commission? It is our understanding that the Commission generally prefers all requests for Commission action to be made in the form of a motion, so clarity on this point would be appreciated.

II. Request for Further Information/Guidance

In addition to the information addressed in the guidance, it would be very helpful if the guidance could more specifically address the process for replacing an approved decommissioning security. In our experience, it is not uncommon for CPG holders to seek to replace an existing security because of a change in the financial institution they bank with, or because the bank has informed the Commission that the security will not be renewed, or because the CPG holder wishes to change to a new form of security (e.g. switch from a letter of credit to a surety bond). In these cases, we understand from the draft guidance that the CPG holder should file a request to replace the current decommissioning security as a cover letter (see question above requesting confirmation of the form the request should take) with a copy of the replacement security filed as a "decommissioning security". However, the guidance does not address how the Commission will return the replaced or expired security instrument or the process for requesting this action. In our experience, banks often require the original instrument to be returned along with a letter from the Commission confirming that the security has been released. Substantial delays in the return of an expired or replaced security can strain a CPG holder's relationship with lenders and financing partners and result in substantial costs to the CPG holder from paying the carrying costs of two issued securities at the same time. For these reasons, we request that the Commission provide further guidance or information as to the process for obtaining return of a replaced or expired original decommissioning security instrument to the financial institution from the Commission. We are particularly interested in understanding the form or manner for how this request should be made to the Commission, how to request confirmation from the Commission that a security can be released, and the expected timeline for the return of a decommissioning security following approval of a replacement.

Thank you for the opportunity to comment on the proposed guidance in this proceeding. We appreciate the Commission's consideration of these comments and are happy to answer any questions on our comments as the Commission finalizes its guidance on these filings.

Sincerely,

V. Westgate

Victoria M. Westgate, Esq.
On behalf of SRH Law PLLC