

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

CASE NO. 24-3359-INV

INVESTIGATION OF THE STANDARD-OFFER  
CONTRACT BETWEEN VERMONT RENEWABLE  
GAS, LLC AND THE STANDARD OFFER FACILITATOR

August 7, 2025  
9:30 a.m.

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Via videoconference

Oral Argument held before the Vermont Public  
Utility Commission, via videoconference, on August 7,  
2025, beginning at 9:30 a.m.

P R E S E N T

COMMISSION MEMBERS: Edward McNamara, Chair  
Margaret Cheney  
J. Riley Allen

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## Also present:

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17 Annette Smith, VCE  
18 Kam Mahdi, Clean Energy Technologies  
19 Mieke Riddlebarger, 350VT  
20 Adam Aguirre, CLF  
21 Evan Dell'Olio, Synergy  
22 Cynthia Kriebel  
23 Rachel Smolker, Biofuel Watch

1 CHAIR MCNAMARA: Good morning. This is  
2 an oral argument in Case No. 24-3359, investigation  
3 of the standard offer contract between Vermont  
4 Renewable Gas, LLC and the Standard Offer  
5 Facilitator.

6 My name is Ed McNamara. I'm Chair of  
7 the Vermont Public Utility Commission. And with me  
8 are Commissioners Margaret Cheney and Riley Allen.

9 So if a party or participant intends on  
10 recording the oral argument, either via video or  
11 audio, please indicate this when you provide your  
12 name for the court reporter.

13 And start by taking appearances.  
14 First, by the Petitioner.

15 MR. MEARS: Thank you, Mr. Chairman.  
16 My name is David Mears. I'm with the firm Tarrant,  
17 Gillies & Shems, and represent the Petitioner,  
18 Vermont Renewable Gas.

19 CHAIR MCNAMARA: Thank you. Department  
20 of Public Service.

21 MR. CIVILETTI: Good morning. This is  
22 Ben Civiletti for the Department.

23 CHAIR MCNAMARA: Thank you. Agency of  
24 Natural Resources.

25 MR. EINHORN: Good morning. Don

1 Einhorn for the Agency.

2 CHAIR MCNAMARA: Thank you. Green  
3 Mountain Power.

4 MR. MCCLAIN: Good morning. Owen  
5 McClain from the firm Sheehey, Furlong & Behm on  
6 behalf of Green Mountain Power. And I believe  
7 Candace Morgan from GMP is also with us today.

8 CHAIR MCNAMARA: Okay. Thank you.  
9 Anybody from Agency of Agriculture Food and Markets  
10 today?

11 (No response)

12 CHAIR MCNAMARA: Is there any party  
13 that I've missed?

14 (No response)

15 CHAIR MCNAMARA: Okay. Also I'll just  
16 go around for other folks attending today as well.  
17 Let's see. I'll try my best with some of the names.  
18 Annette Smith.

19 MS. SMITH: Yes. Vermonters for a  
20 Clean Environment, and I'm audio recording this.

21 CHAIR MCNAMARA: Great. Thank you.  
22 Kam Mahdi.

23 MR. MAHDI: Kam Mahdi, CEO of Clean  
24 Energy Technologies, and I'm audio recording this.

25 CHAIR MCNAMARA: Thank you. Mieke

1 Riddlebarger.

2 MS. RIDDLEBARGER: Mieke Riddlebarger.  
3 I'm here for 350 Vermont.

4 CHAIR MCNAMARA: Thank you. Carl  
5 Bayer.

6 (No response)

7 CHAIR MCNAMARA: Okay. Adam Aguirre.

8 MR. AGUIRRE: It's Aguirre. I'm from  
9 Conservation Law Foundation.

10 CHAIR MCNAMARA: Thank you. Evan  
11 Dell'Olio.

12 (No response)

13 CHAIR MCNAMARA: I will note, Evan,  
14 that your mic is not muted. Just letting you know.  
15 Cynthia Kriebel.

16 MR. MEARS: Sorry to interrupt, Mr.  
17 Chairman. I just can introduce Evan, who must be  
18 having technical issues, is a representative of  
19 Synergy, one of the owners of Vermont Renewable Gas.

20 CHAIR MCNAMARA: Cynthia Kriebel.

21 MS. KRIEBLE: Yes. Cynthia Kriebel  
22 here.

23 CHAIR MCNAMARA: Great. Thank you.  
24 Rachel Smolker.

25 MS. SMOLKER: Hi. Yeah. This is

1 Rachel Smolker with Biofuel Watch.

2 CHAIR MCNAMARA: Thank you. All right.  
3 Somebody's listed as Caller 1. I will note that your  
4 microphone is on. I expect other folks are going to  
5 join.

6 The oral argument is limited to the  
7 parties in the case. So we will just move this  
8 along. Just going to go over quickly procedures for  
9 this remote web-based hearing.

10 We are conducting this oral argument  
11 using the platform GoToMeeting. Please let us know  
12 if the platform is not performing as expected or if  
13 you're having some difficulties. Representatives in  
14 the case should keep their cameras on during the  
15 entire oral argument; representatives of the parties  
16 in this case. Commission staff can choose whether to  
17 leave their cameras on or off.

18 Please keep yourself on mute unless  
19 you're speaking to minimize background noise. And if  
20 your internet connection cuts out, please try to  
21 rejoin the GoToMeeting, or call into the oral  
22 argument using the GoToMeeting telephone number that  
23 was provided in the notice.

24 Any questions or concerns regarding the  
25 platform?

1 (No response)

2 CHAIR MCNAMARA: So we typically  
3 provide 30 minutes for the party opposing the  
4 Proposal for Decision, and then 30 minutes for those  
5 supporting the Proposal for Decision. This one I had  
6 a little difficulty ascertaining, Department of  
7 Public Service and Green Mountain Power both stated  
8 they do not object to the Proposal for Decision.  
9 There was affirmative statements of support. And  
10 then honestly, I'm not entirely sure where the Agency  
11 of Natural Resources and the Agency of Agriculture  
12 Food and Markets whether they support or oppose the  
13 Proposal for Decision. So start with Department.

14 MR. CIVILETTI: Thank you. I think  
15 that we certainly don't object to the Proposal for  
16 Decision. The proposal -- the PFD addresses some  
17 issues that the Department didn't address in  
18 briefing, and in addition, makes a finding on the  
19 feedstocks issue which we have primarily deferred to  
20 AAFM on.

21 And so we certainly don't object to the  
22 Proposal for Decision.

23 CHAIR MCNAMARA: Thank you. Let me ask  
24 this differently. Were you intending to participate  
25 in today's argument?

1 MR. CIVILETTI: My apologies. I don't  
2 think we have anything further to add beyond our  
3 briefing, but we would be happy to address any  
4 questions.

5 CHAIR MCNAMARA: Great. Thank you.  
6 That was my fault for not being clear.

7 Mr. Einhorn, does the Agency anticipate  
8 participating today?

9 MR. EINHORN: No. The Agency does not  
10 -- really doesn't have anything to add beyond what we  
11 had stated in our reply brief which was essentially  
12 deferring to the Ag Agency on the agriculture issue  
13 and the DPS on the farm methane category of the  
14 standard-offer program.

15 CHAIR MCNAMARA: Great. Thank you.  
16 Mr. McClain, for Green Mountain Power.

17 MR. MCCLAIN: Yeah. GMP generally  
18 supports the Proposal for Decision, and believes it's  
19 consistent with the standard-offer program. I guess  
20 for today's purposes, I haven't prepared any long  
21 presentation, but I guess I would put myself down in  
22 the category of intending to respond to David -- or  
23 Mr. Mears' arguments if I have an opportunity. And  
24 I'm happy to answer questions as well.

25 CHAIR MCNAMARA: Thank you. All right.

1 So why don't we proceed. Mr. Mears, 30 minutes sound  
2 about right? And we will have some questions. We  
3 will provide a little flexibility.

4 MR. MEARS: Of course. Thank you, Mr.  
5 Chairman. Commissioners. I appreciate the chance to  
6 address you and to respond to the Proposal for  
7 Decision. Just by way of quick introduction, the  
8 Vermont Renewable Gas Company is what is formed by  
9 the joint venture of two other companies, CETY  
10 Capital and Synergy, which are two companies  
11 committed to the development of the innovative  
12 renewable energy sources.

13 And after considerable amount of  
14 research and outreach in the community of the  
15 Northeast Kingdom, they settled on a site in Lyndon  
16 at an industrial park to locate the facility. What  
17 attracted them to the site and to the state were the  
18 ample supply of feedstock and vegetative woody  
19 material that they need to operate their facility,  
20 and the benefits that would accrue to the local  
21 community, and the support that was apparent from the  
22 community, as well as from positive and welcoming  
23 public policies in the State of Vermont towards  
24 renewable energy.

25 So having chosen that area, they then

1 entered into an agreement with the industrial park to  
2 get an option to buy the site. They also obtained an  
3 interconnection agreement with Lyndonville power  
4 company, and then proceeded to get a standard offer  
5 contract in place.

6 During the standard offer contract  
7 process with VEPP, the same issues that have been  
8 raised in this investigation were raised there. The  
9 questions about feedstock, the questions about the  
10 technology and whether it qualified, and VRG answered  
11 all of their questions to VEPP's satisfaction. And  
12 in August of 2023 entered into a contract, a standard  
13 offer contract, and on that basis has invested a  
14 significant amount of capital and resources in the  
15 development of this project.

16 At this point they have invested  
17 upwards of \$2 million in the development of this  
18 project. In the course of the process, while this  
19 isn't necessarily strictly legally relevant, I think  
20 it's helpful context to know, that they spent a good  
21 deal of time in a transparent process with the  
22 community working with regional planning commissions,  
23 local planning commissions, local officials. Also  
24 reached out and met with all the relevant state  
25 agencies including Public Service Department, Agency

1 of Ag, and ANR to get feedback and advice as they  
2 entered into the process. And we have seen nothing  
3 but encouragement, no promises, and they were clear  
4 that they needed to get a Certificate of Public Good  
5 and were willing to accept the risks and challenges  
6 associated with that and have, as you know, submitted  
7 a petition to that end.

8 That petition is currently suspended  
9 pending the outcome of this investigation. We have  
10 encouraged the commission to find that the standard  
11 offer contract is valid. We appreciate that there  
12 are some important questions that the hearing officer  
13 raised, and a structure for addressing what is a  
14 novel issue under the standard-offer program which is  
15 whether this particular technology, which is called  
16 -- it's a high temperature ablative pyrolysis, or  
17 HTAP is the acronym. It's a process that takes woody  
18 vegetative material, and under conditions and high  
19 temperatures, low pressure, converts that -- in the  
20 absence of oxygen converts that woody material into  
21 high quality high carbon biochar.

22 It also produces volatile gases which  
23 can be combusted and used to generate electricity.  
24 Recognizing that this is different than the other  
25 types of projects that have qualified under what's

1 called the farm methane category under 30 V.S.A.  
2 8005(A)(d)(1), the VRG is willing to work with the  
3 agencies and with the Department and ultimately with  
4 the commission to accept conditions on the process --  
5 the manner in which they operate their facility to  
6 meet whatever criteria you impose on that category.

7 What our primary concern with the  
8 recommendation of the hearing officer to --  
9 essentially to declare the standard offer proposal  
10 null and void is that it would do so based on  
11 criteria that actually VRG can meet. VRG described  
12 its project and the way that they have planned to  
13 optimize the production of electricity using this  
14 facility and the broad description of the materials  
15 they plan to use, as descriptive. There were no, in  
16 fact, criteria in 248 or 250 or elsewhere on the  
17 statute or guidelines other than the material needed  
18 to be 51 percent or more derived from agricultural  
19 products. So they met that criteria.

20 The remainder of the proposal is  
21 descriptive of what they plan to achieve, but they  
22 can adapt that to meet whatever criteria the  
23 commission adopts. Specifically, if it adopts the  
24 criteria that the hearing officer recommends, they  
25 can meet those and would like the opportunity to

1 pursue a Certificate of Public Good along those  
2 lines.

3 With that said, I would like to spend  
4 just a minute to explain why we think that the  
5 criteria that the hearing officer recommended are too  
6 restrictive.

7 I'll start with the description -- the  
8 question about the agricultural feedstock. This  
9 commission has, in prior decisions, accepted the  
10 Agency of Ag's recommendations and deferred to them  
11 on the recommendation that at least 51 percent of the  
12 materials be derived from agriculture. So that makes  
13 total sense. The question then becomes what  
14 constitutes derived from agriculture in the context  
15 of woody material.

16 And there is -- the commission in the  
17 past has looked to the definition of farming. And in  
18 the definition of farming there is a category that is  
19 referred to in the hearing officer's decision and in  
20 our briefs as category one, which are those materials  
21 -- the woody material that's -- results from apple  
22 orchards, maple sugaring, I can't remember off the  
23 top of my head, list of things, but there is a list  
24 of things in that first category. And everyone  
25 agrees Agency of Agriculture, the hearing officer and

1 VRG, that the woody material collected from the  
2 management of those facilities constitutes  
3 agriculture within the meaning of the standard offer  
4 statute.

5 So and that's sufficient for VRG to  
6 meets all of its feedstock needs with that category.  
7 But with that said, there is at least two other  
8 categories that we urge the commission to give  
9 serious consideration to. And to defer to the Agency  
10 of Agriculture's determination which encourages a  
11 broader interpretation than recommended by the  
12 hearing officer.

13 The first category are those types of  
14 woody material that's grown specifically as an energy  
15 crop, whether it's fast growing crops like aspen or  
16 alder trees or shrub willows. There is a mix of  
17 woody crops that have been contemplated for  
18 development as an energy source by Vermont farmers,  
19 are raised in, you know, most -- not unlike a crop.  
20 And as this commission has determined in the past,  
21 energy crops are -- should qualify under the  
22 definition of what constitutes an agricultural  
23 material.

24 The third category that's discussed are  
25 the woody materials that result from the harvesting

1 or management of trees or shrubs or woody material on  
2 farms that are planted as part of the agricultural  
3 operation. Whether it's riparian buffers to help  
4 manage pollution and runoff, or it's part of an agri  
5 forest tree or silviculture operation where there is  
6 trees that are integrated into the actual livestock  
7 or cropping systems, there is -- all of that type of  
8 woody material requires management. And the brushy  
9 material, the tops, the leaves the trimmings, are all  
10 the kind of material that VRG can use in its  
11 facility. And the Agency of Agriculture concurs that  
12 those are materials that should constitute farming.

13 So those first three categories are the  
14 ones that at a minimum we recommend that the  
15 commission include in the definition of what  
16 constitutes derived from agriculture.

17 The fourth category is the one that  
18 Agency of Agriculture expresses concerns about as  
19 being too broad. In the description that VRG had in  
20 its application, and this is where there is a farm  
21 that has a forest lot on it. And that's clearly part  
22 of an agricultural operation in the broadest  
23 definition which is why VRG included it as part of  
24 its presentation, but accept that the Agency of  
25 Agriculture has concerns about whether that's a

1 manageable category to work from.

2 So with that said, again, VRG can meet  
3 all of its feedstock requirements with just the first  
4 category but encourages including the second and  
5 third, if the commission accepts our invitation to  
6 set criteria for defining what constitutes derived  
7 from agriculture.

8 Then turning to the methane question.  
9 The hearing officer also recommends a perfectly  
10 sensible construct for evaluating this question which  
11 is one, is it derived from agriculture; and B, does  
12 it produce methane. So to that extent we think the  
13 test is the right test, but then the hearing officer  
14 goes further and recommends a 51 percent minimum  
15 methane by volume.

16 And there is a couple of reasons why  
17 that's a misplaced, you know, standard. First of  
18 all, the -- there is nothing in the statute that  
19 suggests that it has to be majority. And while it's  
20 kind of appealing on the superficial level, it's not  
21 at all clear whether it's landfill gases or  
22 anaerobic digestion that they always at all times  
23 generate more than 50 percent methane, for example.

24 So by setting a 51 percent minimum  
25 standard for the agriculture -- derived from

1 agriculture, it inevitably raises questions that  
2 weren't presented or discussed in this proceeding  
3 that the commission should be concerned about.

4 Secondly, the methodology of  
5 determining what amount of methane is generated just  
6 simply using the amount of the percentage of gas,  
7 misunderstands the nature of the methane production.  
8 The methane production if you compare, for instance,  
9 the pyrolysis system that VRG proposes, and you  
10 compare kind of the dry weight of the material,  
11 whether it's manure or it's woody material, to the  
12 percentage of methane that's generated, the pyrolysis  
13 system is much more efficient than anaerobic  
14 digestion. Even assuming that the anaerobic  
15 digestion system uses livestock manure, but if you  
16 were to convert the underlying base material, the  
17 manure into dry weight, and convert the amount of  
18 methane produced, it's a lower percentage actually  
19 than the amount generated by pyrolysis.

20 And you don't have to take my word for  
21 those things. There is limited testimony in the  
22 record. The only testimony that's in there is by one  
23 of VRG's experts. There was no countervailing  
24 testimony. There was no testimony that got into the  
25 deeper questions.

1                   We would encourage the commission  
2 before you adopt a 51 percent by volume of the gases  
3 kind of standard, that you have more information and  
4 understanding of the chemistry and chemical nature of  
5 the way that methane is generated.

6                   Also, 51 percent is -- doesn't  
7 necessarily flow in a sense of -- the product that  
8 the pyrolysis, this high temperature ablated  
9 pyrolysis process generates is electricity  
10 ultimately. And the question should be is there a  
11 significant portion of methane in the process. That  
12 makes sense. Clearly the statute uses methane as a  
13 criteria. But what the VRG has done is they have  
14 developed a process that optimizes the amount of  
15 electricity generated per unit of biomass that's  
16 processed. And that results in methane as well as  
17 hydrogen as well as carbon monoxide, all volatile  
18 gases. And they have constructed it in a way that  
19 optimizes the amount of electricity, the high degree  
20 of efficient generation of electricity, as well as  
21 the minimizing the amount of air pollution by --  
22 while they can -- they can turn the dials and knobs  
23 and change the way that they put air and other  
24 feedstock into the process.

25                   And they can meet the hearing officer

1 criteria; 51 percent of the gas by volume. But to do  
2 so it means changing the dials away from what has  
3 been optimized to generate electricity. So it runs  
4 against the whole point of the program which is to  
5 encourage the optimization and the ultimate  
6 renewability of the generation of electricity.

7 So in conclusion, you know, VRG can  
8 meet both of the criteria that the hearing officer  
9 proposed, would like the opportunity to demonstrate  
10 to the commission and to work with the agencies, you  
11 know, to develop criteria or conditions that could be  
12 included in the CPG that would ensure that they meet  
13 those requirements. But we would also encourage the  
14 commission to consider broadening the recommendations  
15 of the hearing officer it be less stringent in the  
16 sense of taking a more sensible approach to what  
17 should be allowed in terms of the range of  
18 agricultural materials, to defer the Agency of Ag on  
19 that, and to look to a more scientific approach to  
20 determining what level of methane should be required.

21 I'm glad to answer any questions that  
22 you may have. I know that the statutory issues that  
23 were raised in the briefs and in the hearing  
24 officer's decision present a complex set of  
25 questions. But we think it really boils down to a

1 simple read of 8005(A) (d) (1) which very broadly  
2 refers to methane -- projects that use methane  
3 derived from agricultural operations.

4 And as this commission has ruled in  
5 past decisions, that is -- that's a provision that's  
6 technology neutral. It doesn't limit it to anaerobic  
7 digesters in the statute. And the references that  
8 are made by some of the other parties and the hearing  
9 officer to other provisions are really not  
10 applicable. And I'm glad to discuss that in more  
11 detail with you, if helpful.

12 CHAIR MCNAMARA: Thank you, Mr. Mears.  
13 I do have some questions in that latter category you  
14 were just talking about, some of the broader  
15 statutory and policy questions.

16 So farm methane projects are the only  
17 category of projects outside of the standard offer  
18 cap. And I assume there are certain policy issues  
19 the legislature looked at in deciding that those  
20 programs or those types of projects should not be  
21 capped. But there is also the question of the price  
22 paid to those projects. Though Section 8005(A) and  
23 this is 8005(A) (f) (2) (b) specifically requires that  
24 we set price for standard offer projects at avoided  
25 cost. And this is after going through the market-

1 based costs for most of the standard offer.

2 For farm methane projects the price is  
3 administratively set. And in looking at that we are  
4 required to look at supply and cost characteristics  
5 of plants eligible to receive the standard offer. So  
6 the farm methane projects that we have seen to date  
7 were set based on assumptions about being located on  
8 a farm. Manure is the primary feedstock and not  
9 really a merchant generator type model. So a lot of  
10 the cost considerations are unique to a project  
11 located on a farm.

12 I believe that this would be the first  
13 farm methane project located off site from a farm.  
14 And I'm just curious as to whether or not you think  
15 that that should be a consideration for the  
16 commission. In other words, I'm sorry -- that was a  
17 little bit rambling, my direct question. The farm  
18 methane cost or price that was set was clearly not  
19 set for this type of project. Is it appropriate for  
20 this type of project to receive that cost or that  
21 price regardless?

22 MR. MEARS: I think that would be a  
23 great question to raise in a proceeding to set that  
24 price. I think determining what that price is is a  
25 separate consideration that shouldn't inform whether

1 or not an entity qualifies for the standard offer in  
2 the first place. But with that said, clearly it's,  
3 you know, it is an appropriate role for the  
4 commission to be in the business of making sure that  
5 the prices are paid.

6 And frankly, VRG would be happy to  
7 participate in such a proceeding, and I've only had  
8 informal conversations with my client to kind of  
9 understand the full cost basis of how they are  
10 recovering this, but this is not a situation in which  
11 they are making huge profits. They have had to turn  
12 to grant making into these to make this work. This  
13 is an innovative technology in finding investors to  
14 invest in it. Isn't like falling off a horse.

15 So I think it would probably not  
16 compare unfavorably in terms of what the price you  
17 would set if you were to go through that process.

18 CHAIR MCNAMARA: Thank you. Another  
19 question is standard offer is not the only venue for  
20 a project to receive a contract. And I'm curious as  
21 to whether VRG looked at other options or only the  
22 standard offer farm methane contract model.

23 MR. MEARS: Well I didn't get -- I was  
24 not involved in the very beginning, so I don't have  
25 firsthand knowledge of that. If it would be useful,

1 I would be glad to ask Mr. Dell'Olio, who is on the  
2 call, to speak to that. But what I do know is that  
3 they are in the process of evaluating all their  
4 options.

5 I mean the very fact that this  
6 investigation has set them back, I don't know if this  
7 project will be able to go forward in the absence of  
8 the standard offer contract. And their business plan  
9 was established based on that contract, but I do know  
10 that they are exploring every option that they can  
11 now that they have invested \$2 million in the State  
12 of Vermont and in this project. They don't likely  
13 want to walk away from it.

14 CHAIR MCNAMARA: Thanks, and I  
15 apologize. I should not be asking questions that are  
16 then seeking to get testimony into the record. So  
17 I'm going to stop that there.

18 I'm going to turn it over.  
19 Commissioners Cheney or Allen, any questions for Mr.  
20 Mears?

21 COMMISSIONER CHENEY: To follow up on  
22 what was just exchanged. You said, Mr. Mears, that  
23 the business plan depends on the contract. Does not  
24 the contract have that farm methane price in it?

25 MR. MEARS: Yes, it does.

1                   COMMISSIONER CHENEY: And so when you  
2 said that VRG would be happy to participate in the  
3 cost setting proceeding, can you elaborate on that?  
4 How that would work with a contract that has a set  
5 price?

6                   MR. MEARS: You make a good point.  
7 They based their plan on the existing standard offer  
8 contract. And -- but with that said, you know, VRG  
9 didn't enter into this specifically for the --  
10 whatever the current price is -- 14 cents or so.  
11 They entered into it because overall it made the  
12 project more favorable, and they built their plan  
13 around these numbers.

14                   But I was suggesting that it does seem  
15 to me -- I can understand and appreciate that the  
16 commission would want to take a look -- a closer look  
17 at that price in light of the -- if entities like VRG  
18 are found to be eligible for this category.

19                   COMMISSIONER CHENEY: Thank you.  
20 That's all I had.

21                   COMMISSIONER ALLEN: No questions.  
22 It's a very clear presentation. Thank you.

23                   CHAIR MCNAMARA: Thank you. I do have  
24 one more question for you, Mr. Mears. If the  
25 commission accepted the idea that this should proceed

1 to a Section 248, and I recognize I'm bleeding into a  
2 Section 248 proceeding here, but I do think it's  
3 relevant because you're raising some of these  
4 questions in your response or your comments on the P  
5 for D.

6 How would the -- to the extent that the  
7 commission accepted that at least 51 percent needed  
8 to be agricultural -- sorry -- 51 percent of the  
9 feedstock needs to be agricultural products, how  
10 would the commission ensure enforcement of that  
11 provision in terms of ensuring that the feedstock is  
12 actually coming from farms meeting all the necessary  
13 definitions? As a practicality.

14 MR. MEARS: I think there is a mix of  
15 options. It's the kind of thing, for instance, when  
16 I worked at the Department of Environmental  
17 Conservation you typically get into situations where  
18 you have to ensure that a source of feedstock for a  
19 facility comes from a certain location and so forth.  
20 So it would be fairly straightforward to require the  
21 Agency of Agriculture or the Department or the  
22 commission to put conditions that required  
23 certification that identified which farms the  
24 material was obtained from, what the source -- and  
25 describe the sources of that material, and for the

1 agencies to conduct periodic audits.

2 But VRG would gladly submit, you know,  
3 and bind under sworn whatever signed documents saying  
4 where they got the material and what the source was  
5 and allow for inspections to ensure that that was, in  
6 fact, the case.

7 CHAIR MCNAMARA: Great. Thank you.

8 MR. MEARS: If I could add one thing,  
9 maybe a point, just because the woody material piece  
10 can get confusing. And I know there is a number of  
11 folks on here that have expressed concerns that this  
12 is really a wood biomass plant, you know, in stealth.

13 This plant intends only, you know, the  
14 proposal is only to use the -- kind of the byproducts  
15 of the harvesting of the various trees. It's not the  
16 trees themselves. Anything that can be used for  
17 firewood or for veneer wood, or the basic valuable  
18 products, are not the category of woody material they  
19 would use. In fact, they are -- there is a potential  
20 for getting a special pricing related to the biochar  
21 that they develop that depends upon them using source  
22 material that's sustainably grown and is not  
23 competing with other, you know, sources of that wood.

24 CHAIR MCNAMARA: Thank you. All right.  
25 Thank you, Mr. Mears. Going to turn to Mr. McClain

1 next. I believe you wanted to provide a response?

2 MR. MCCLAIN: Yeah. Thank you, Mr.  
3 Chairman. From the perspective of the hearing  
4 officer, and I think GMP as well, the question in  
5 this case isn't, you know, whether or not the project  
6 can operate more efficiently or whether it can be  
7 changed or modified to meet the two criteria that are  
8 identified in the Proposal for Decision. The  
9 question is really whether or not a thermal chemical  
10 decomposition process like the one proposed here is  
11 the same kind of process that the legislature  
12 contemplated for this farm methane category and  
13 supported through higher rates. Right? The question  
14 isn't really can the plant be built? Can it generate  
15 electricity? The question is should it be subsidized  
16 with a standard offer contract, and should that pass  
17 -- the cost of that be passed along to Vermont  
18 electric customers.

19 And I think the statute 8005(A) as well  
20 as 8002, the definition of renewable energy, fairly  
21 clearly contemplates a very specific and narrow kind  
22 of project for this type of subsidy. And that  
23 project is naturally the kind of anaerobic digester  
24 farm project that we have seen in every other case  
25 under this category.

1 I think a couple of points that are  
2 worth thinking about with respect to how to proceed  
3 from here for both Petitioner and the commission.  
4 One, is I think that accepting the hearing officer's  
5 Proposal for Decision means making a determination  
6 that there is a 51 percent methane requirement, and  
7 that there is a feedstock requirement. But it  
8 doesn't necessarily close the door for there to be  
9 other legal issues surrounding whether or not this  
10 kind of project applies. I think, for example, the  
11 hearing officer punts on the question of whether or  
12 not a project in the farm methane category needs to  
13 be anaerobic digester. And I think Mr. Mears has  
14 argued well the commission's already determined that  
15 it's -- I think the term that he's used is technology  
16 neutral. And I think I would just like to highlight  
17 I don't think the commission has ever addressed that  
18 question. The commission's second order of  
19 implementation addressed whether or not it was enough  
20 to be an anaerobic digester, and the answer was no.  
21 It also has to have feedstocks from an agricultural  
22 operation. But it never addressed the question of  
23 whether or not the farm methane category also  
24 contemplates other technologies.

25 It's also hard to reconcile a decision

1           like -- the way that Mr. Mears and VRG would like to  
2           construe the second order implementing the  
3           standard-offer program as a technology agnostic  
4           decision with the language in the statute  
5           specifically 8002(21) that specifically identifies  
6           anaerobic digestion as the anticipated technology  
7           under that category -- under -- for a renewable fuel  
8           like methane. So there is no other contemplation of  
9           renewable generation other than one developed through  
10          anaerobic digestion.

11                        So I think the commission should have a  
12          look, not only at the two bases for holding presented  
13          in the Proposal for Decision, but overall whether or  
14          not this really is a, quote unquote, technology  
15          agnostic category. I think it's hard to read that in  
16          the statute. Specifically, you know, 8002(21), but  
17          also as the Chairman mentioned, the pricing  
18          contemplated. Right? So we set avoided cost based  
19          on what? Based on the technology used. And that  
20          language is also in 8005(A). So I think, you know,  
21          the hearing officers at the commission doesn't need  
22          to decide, and it doesn't, under the holding, whether  
23          or not it's limited to anaerobic digestion. At the  
24          same time, you know, it would be a shame for Mr.  
25          Mears and everyone to go forward thinking they could

1 meet these two criteria and only to decide later  
2 that, oh, it is not a technology agnostic category  
3 when you look at the statute combined with the  
4 legislative intent, the existence of cow projects,  
5 manure being the primary feedstock, et cetera, et  
6 cetera. I think it's hard to read another kind of  
7 technology into the farm methane category.

8 And I think the only other thing I  
9 would say is, you know, the pricing is an interesting  
10 question. The commission -- the commission set  
11 prices based, as the Chairman noted, on a very  
12 technology-specific assumption. But in general the  
13 statute has a very sort of price protective  
14 structure. Right? The legislature accepted higher  
15 prices, accepted that it would have an impact on  
16 affordability for other Vermont electric customers,  
17 but it set very specific limits on it.

18 For example, when we set avoided cost,  
19 or when we set any price under the standard offer  
20 contract, the legislature's mandate is that we do it  
21 at the least feasible cost; right? And then the  
22 second sort of restriction is that there is an  
23 overall cap. And that cap protects customers from  
24 impacts, cost impacts.

25 And then the very narrow exception to

1 that is the farm methane category, and the other one  
2 that's not relevant here. So I think the Proposal  
3 for Decision -- the hearing officer very astutely  
4 recognizes that the exceptions to this subsidy are  
5 very narrow, and they have a very specific purpose.  
6 And in this case a lot of the benefits that we are  
7 assumed would come from farm methane projects are  
8 simply not present; carbon capture being one of them.

9 I think that's all I have unless there  
10 is other questions.

11 CHAIR MCNAMARA: I don't have any  
12 questions for you, Mr. McClain. Looking at other  
13 commissioners. No. Mr. Mears, you were clearly  
14 under your 30 minutes. If you want a brief window  
15 for rebuttal, I'll give you that.

16 MR. MEARS: Thank you. Thank you, Mr.  
17 Chairman. Yeah. Well a few thoughts. I think Mr.  
18 McClain raises some important policy questions, but  
19 those are questions best directed to the legislature  
20 which wrote a very broad statute, as this commission  
21 has found. In your 2009 order referencing the  
22 agricultural methane derived from agricultural  
23 operations category you said this is not a  
24 technology-based category. It does not address the  
25 type of technology that would be fueled by methane

1 derived from agricultural operations, although the  
2 agricultural methane projects that the board has  
3 reviewed to date have all been anaerobic digesters,  
4 the standard offer price for that resource category  
5 assumed the use of anaerobic digesters. Making the  
6 point that you made that, in fact, the price was set  
7 based on anaerobic digesters, but also making the  
8 point that the statute is technology neutral. On its  
9 plain face and language it's written that way.

10 With regard to the question of the  
11 definition of renewability, again, 8000 -- 30 V.S.A.  
12 8002(21) is the definition that Mr. McClain refers  
13 to. It defines renewable energy as energy produced  
14 using a technology that relies on a resource that is  
15 being consumed at a harvest rate at or below its  
16 natural regeneration rate. And that is clearly the  
17 case with VRG's proposal. The reference to anaerobic  
18 digestion in a subsection of that is part of a list  
19 of things that are excluded from renewable energy,  
20 and subsection 21 subsection A is excluding basically  
21 municipal waste, but then has some kind of exceptions  
22 to the exclusion. It's not intended to be an  
23 exhaustive list of what qualifies as renewable  
24 energy.

25 There is, in fact, a definition of

1 renewable energy in 8000 -- 30 V.S.A. 8015, which is  
2 a much broader definition. It's a different context  
3 for the definition. But it's a much broader  
4 definition that VRG's facility would easily fit  
5 within.

6 So all of this and other statutory  
7 questions are laid out in VRG's briefs. I won't go  
8 through them in detail. But it's not at all clear  
9 that the legislature intended the standard use --  
10 standard-offer program and the methane derived from  
11 agriculture a category to be limited to anaerobic  
12 digestion. Thank you.

13 CHAIR MCNAMARA: Thank you, Mr. Mears.  
14 I'm not seeing any other questions from our end. I  
15 think that we are all set unless somebody corrects me  
16 otherwise.

17 I appreciate everybody's time. I  
18 understand there is a lot of work that goes into  
19 this. And next step for us will be writing a  
20 decision on the hearing officer's Proposal for  
21 Decision. So with that, we are adjourned. Thank you  
22 all very much.

23 (Whereupon, the proceeding was  
24 adjourned at 10:15 a.m.)  
25

C E R T I F I C A T E

1  
2  
3 I, Kim U. Sears, do hereby certify that I  
4 recorded by stenographic means the Oral Argument re: Case  
5 No. 24-3359-INV, via videoconference, on August 7, 2025,  
6 beginning at 9:30 a.m.

7 I further certify that the foregoing  
8 testimony was taken by me stenographically and thereafter  
9 reduced to typewriting and the foregoing 33 pages are a  
10 transcript of the stenograph notes taken by me of the  
11 evidence and the proceedings to the best of my ability.

12 I further certify that I am not related to  
13 any of the parties thereto or their counsel, and I am in  
14 no way interested in the outcome of said cause.

15 Dated at Williston, Vermont, this 8th day of  
16 August, 2025.

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19  Kim U. Sears  
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