

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 24-2797-PET

Petition of Vermont Renewable Gas, LLC for a Certificate of Public Good, pursuant to 30 V.S.A. § 248, for approval to construct and operate A 2.2 MW generation facility in Lyndon, Vermont	
--	--

**INTERVENORS' OPPOSITION TO PETITIONER'S MOTION TO ADMIT
SUPPLEMENTAL PREFILED TESTIMONY OF ALEXANDER SKOROKHODOV**

NOW COME Interventors Steven Dolgin and Madeline Hastings, through counsel DesMeules, Olmstead & Olster, and hereby oppose Petitioner's Motion to Admit Supplemental Prefiled Testimony of Alexander Skorodhodov.

On October 1, 2026, Petitioner filed the above-styled motion along with proposed supplemental testimony by Mr. Skorokhodov and a document called "EXHIBIT VRG-AS-9 SUPPLEMENT NO. 1: Decommissioning Plan and Estimate, Original exhibit dated August 21, 2024 and filed August 26, 2024, Supplement No.1 dated September 30, 2026." Petitioner's Motion represents that since the Standard-Offer contract was nullified, it became necessary "to submit supplemental testimony sponsoring revisions to the Decommissioning Plan and Estimate to remove the reference to the twenty-year term" of the now-nullified Standard-Offer contract. The motion represents that Mr. Skorokhodov's testimony and the revised exhibit "will not cause undue delay or prejudice to any other party." The motion was filed on the same day as the

parties' Primary Post-hearing Briefs were due.¹ The Order Suspending Briefing Schedule, August 31, 2026, directed the parties to file their primary posthearing briefs 14 days after the Hearing Officer issued her Order Addressing Pre-Hearing Objections. The latter issued on September 17, 2026. Accordingly, the first round of briefing was due on October 1, 2026.

Pursuant to Commission Rule 2.216(F), “[u]nless the Commission, on its own initiative or upon timely motion by a party, determines otherwise (for instance, in a scheduling order), the evidentiary record for a case is closed after all of the evidence to be considered in deciding a case has been entered into evidence: at an evidentiary hearing.” The Commission has not otherwise decided on its own initiative, nor has Petitioner filed a timely motion.

Petitioner's motion comes more than a month after the evidentiary hearing, nearly four months after discovery closed (by its own decision to forego submitting rebuttal testimony), and more than a year after the Standard-Offer contract was nullified.

One of two things must be true. Either Petitioner forgot that it needed to update the Decommissioning Plan or it waited until such time that Intervenors and the Parties could not respond to it effectively or take discovery on it. Regardless of whether Petitioner forgot that it needed to update the decommissioning plan, or whether Petitioner made a strategic decision to file at the point in the proceedings where other parties could not respond or engage in discovery, neither constitutes “good cause” pursuant to Commission Rule 2.206(F). See In re Town of Killington, 2003 VT 87A, ¶¶16-17 (discussing factors to decide whether “excusable neglect,” which is analogous to “good cause” include ‘the danger of prejudice to the [nonmovant], the length of the delay and its potential impact on judicial proceedings, the reason for the delay, including whether

¹ Counsel for Petitioner emailed the parties the day before (Wednesday, September 30, 2026) seeking their consent to file the following day.

it was within the reasonable control of the movant, and whether the movant acted in good faith.’ While this standard ostensibly represents a modest liberalization of the "excusable neglect" concept in the federal rules, several federal circuit courts of appeal have recognized that the post-Pioneer threshold remains high.” (quoting Pioneer Inv. Servs. v. Brunswick Assocs. Ltd. P'ship, 507 U.S. 380, 113 S. Ct. 1489, 123 L. Ed. 2d 74 (1993)).

Petitioner has made no attempt to state “why the matter could not have been raised earlier in the proceeding,” as required by rule. Commission Rule 2.206(F). Counsel filed no affidavit stating that the deadline was missed and for what reasons. Instead, the motion Petitioner breezily explains that it must file the supplemental materials because the Standard-Offer contract was nullified. The Commission nullified the Standard-Offer contract on September 19, 2025. Case No. 24-3359-INV, Order Nullifying Standard Offer Contract 09/19/2025. Petitioner makes no attempt to explain why it waited a year to update the record. Petitioner furthermore makes no attempt to cite the appropriate rule to get new evidence into a closed record. Commission Rule 2.216(F). Petitioner’s motion should be denied for failure to claim the relief it requests and to support that claim with appropriate argument.

In the alternative, Petitioner’s motion should be denied because it doubles down on the deep-seated problems in the evidentiary record in this case. Material parts of this evidentiary record were offered and admitted that have nothing to do with the project as it is currently proposed. As explained in depth in Intervenors Primary Posthearing Brief, the Petitioner simply left large swaths of this application unsuperseded after the Standard-Offer contract was nullified. For example, Petitioner proffers this supplemental testimony to support a revision to the Decommissioning Plan but does not address the ramifications of removing the twenty-year decommissioning plan on, to take merely one cluster of important issues, the effects on greenhouse

gas impacts, feedstock availability and assessment, and/or greenhouse gas emissions benefits. See, e.g. Exhibit VRG-EX-1. Eric Kingleys's report admitted as VRG-EX-1 is predicated on a twenty-year operating life. Suffice it to say, twenty years from now will be a much different playing field in terms of Earth's and Vermont's forest and societal tipping points and boundary overshoots. See, Planetary Boundaries, Stockholm Resilience Center, <https://www.stockholmresilience.org/research/planetary-boundaries.html>.

The way Petitioner proposes to revise its materials entirely removes the twenty-year plan. For example, Petitioner proposes to replace "Such cessation of commercial operation shall coincide with the end of the term of the Facility's 20-year Vermont Standard Offer Power Purchase Agreement" with "The Facility will be decommissioned upon the permanent cessation of commercial operations." EXHIBIT VRG-AS-9 SUPPLEMENT NO. 1: Decommissioning Plan and Estimate, Original exhibit dated August 21, 2024 and filed August 26, 2024, Supplement No.1 dated September 30, 2026, page 1. Petitioner's proposal, like much of the rest of its case, raises more questions than answers.

It is for this reason that Intervenors are prejudiced if the Commission were to admit the material. Intervenors would have no opportunity to interrogate the proposed change to the petition in terms of its implications on greenhouse gas impacts, orderly development, and whether this project is in the general good of the State. Whether by design or by inexcusable and/or unexplained neglect, Intervenors are prejudiced (and presumably so are the other parties who have a stake in climatic and greenhouse gas impacts).

In sum, the Commission should deny Petitioner's motion to admit the testimony and revised exhibit because it was untimely filed more than a year following the triggering event that required revision. In lieu, the Commission should reopen the record to permit Intervenors and

other parties to take discovery on the material, and file surrebuttal testimony, along with requiring the Petitioner to address the significant lacuna in the evidentiary record on this and other issues. At minimum, the Commission should condition any issuance of a CPG on a decommissioning plan calibrated to twenty-years as originally contemplated.

Dated at Norwich, Vermont this 8th day of October 2026.

/s/ Andrew D. Cliburn
Andrew D. Cliburn, Esq.
DesMeules, Olmstead & Ostler
PO Box 1090
Norwich, Vermont 05055
(802) 649-2001
acliburn@doolaw.com