

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: 06/30/2023

ORDER OPENING PROCEEDING TO DESIGN THE POTENTIAL CLEAN HEAT STANDARD

I. INTRODUCTION

In Act 18 of 2023 (the Affordable Heat Act), the Vermont Legislature directed the Vermont Public Utility Commission (“Commission”) to undertake the design of the proposed Clean Heat Standard and to bring it back to the Legislature in 2025 in the form of a proposed rule. The Legislature will then vote on whether to adopt the Clean Heat Standard as designed by the Commission. Act 18 instructs the Commission to work with stakeholders, affected entities, and the public to carefully craft this potential program. The Commission is committed to a robust public process.

In today’s Order, the Commission initiates a proceeding pursuant to Sec. 6(a) of Act 18 to “commence a proceeding to implement Sec. 3 [of Act 18] (Clean Heat Standard).” This rulemaking proceeding will allow for open collaboration on the design of the potential Clean Heat Standard, and we encourage all who are interested to engage in this process.

II. BACKGROUND

On May 11, 2023, Act 18 became law. The Act established the statutory framework for the Clean Heat Standard, which, if implemented, would require obligated parties to support the reduction of greenhouse gas emissions attributable to the Vermont thermal sector by retiring specified amounts of clean heat credits each year.¹ A “clean heat credit” is a tradeable commodity that represents a unit of greenhouse gas emissions reduction that results from a clean heat measure. Clean heat credits are created by the delivery of clean heat measures, either by a

¹ “Obligated parties” are defined as any regulated natural gas utility serving customers in Vermont, as well as any entity that imports, produces, refines, manufactures, or compounds heating fuel within the state for ultimate consumption within the state. The full definition is at 30 V.S.A. § 8123(12).

designated agent or through another arrangement approved by the Commission.² The intent of the Clean Heat Standard program is to help Vermont achieve its legal obligations to reduce greenhouse gas emissions as specified under the Global Warming Solutions Act of 2020.³

Over the next 18 months, the Commission will conduct extensive work and public engagement to carry out the directives in Act 18 before submitting draft rules to the Legislature for approval. Section 6(a) of Act 18 directs the Commission to open a “proceeding to implement [the Clean Heat Standard]” on or before August 31, 2023. We do so today.⁴

III. DISCUSSION

The Clean Heat Standard could have a significant impact on many Vermonters and the achievement of Vermont’s climate goals. Given the many decisions the Commission will have to make and our commitment to robust public participation, we anticipate that most of the work to design the potential Clean Heat Standard will occur in this proceeding. We have opened this proceeding ahead of schedule to establish a central location for information regarding the potential Clean Heat Standard and to ensure transparency throughout this process. Today, we are also opening a separate proceeding—Case No. 23-2221-INV—to address the creation of a budget and plans for the Default Delivery Agent.

In carrying out Act 18, at least one issue—the appointment of a Default Delivery Agent—will need to be addressed in a more formal, restrictive setting that has strict statutory and rule-based limitations that are similar to the restrictions placed on courts, including a prohibition on *ex parte* communications.⁵ This rulemaking docket, on the other hand, is not a contested case

² A “clean heat measure” is fuel delivered and technologies installed to customers in Vermont that reduce greenhouse gas emissions from the thermal sector. The full definition is at 30 V.S.A. § 8123(3).

³ See 10 V.S.A. § 578.

⁴ Because this proceeding will eventually lead to a proposed rule, we are opening it as a rulemaking proceeding. That said, this proceeding is currently in an investigatory stage, and we will not engage in the formal rulemaking process (which begins with draft proposed rules) until after we have hired a third-party consultant with expertise in equity, justice, and diversity to design and conduct public engagement. We note this because Act 18 directs us to “use the forms of public engagement described in this subsection to inform the design and implementation of the Clean Heat Standard” before beginning rulemaking. Act No. 18, Sec. 6(c).

We are currently drafting a Request for Proposals that will be issued shortly to solicit a third-party consultant to assist with public engagement, and we will use the forms of public engagement described in Act 18 before we begin the formal rulemaking process.

⁵ *Ex parte*, or “for one party” in English, is one-sided communication with the Commission. *Ex parte* rules aim to maintain fairness and transparency in Commission proceedings by limiting private interactions that could influence a decision without equal opportunity and due process. Relevant *ex parte* rules can be found in the Commission’s [Rules of Practice 2.201\(E\)](#).

and therefore allows for more robust participation by all interested stakeholders and members of the public.

As we go forward with this process, we may need to open additional cases to address specific topics. If that occurs, we will use this proceeding to communicate any decisions to open additional proceedings.

Act 18 sets out a series of statutory deadlines and specifies numerous required activities for its implementation. Major deadlines include:

- the opening of two cases:
 - one for the creation of a Default Delivery Agent budget by July 1, 2023;⁶ and
 - a second one for designing the potential Clean Heat Standard by August 31, 2023;⁷
- the registration of obligated parties with the Commission by January 31, 2024, and annually thereafter;⁸
- various reports to the Legislature;⁹
- the designation of the first Default Delivery Agent before June 1, 2024;¹⁰ and
- the determination of the carbon intensity of heating fuels by January 1, 2025.¹¹

During the rulemaking process, the Commission must design and propose regulatory structures to support the Clean Heat Standard's design, implementation, and enforcement. To do so, the Commission will, among other things:

- hire three new staff members;¹²
- contract with up to three consultants:

⁶ 30 V.S.A. § 8125(e)(1). As noted earlier, we have opened the proceeding required by this section today under 23-XXXX-INV to address this requirement.

⁷ Act No. 18, Sec. 6(a).

⁸ 30 V.S.A. § 8124(b)(1).

⁹ Section 6(i) of Act 18 requires check-back reports, with the first being due by February 15, 2024, and the second being due January 15, 2025. Section 6(h) requires a report on possible revenue streams to fund the Commission's implementation of the Clean Heat Standard.

¹⁰ 30 V.S.A. § 8125(b).

¹¹ 30 V.S.A. § 8127(f).

¹² Act No. 18, Sec. 7.

- one with expertise in public engagement;¹³
- one with expertise in emissions analysis;¹⁴ and
- one with expertise in environmental attribute databases;¹⁵
- set up at least two advisory groups:
 - a Technical Advisory Group;¹⁶ and
 - an Equity Advisory Group;¹⁷
- conduct extensive public engagement through:
 - workshops;¹⁸
 - opportunities for written comments;¹⁹ and
 - public notice and hearings;²⁰
- determine standards for:
 - credit retirements by obligated parties;²¹
 - emission analyses and assumptions;²²
 - the schedule for lifecycle emissions rates and carbon intensity values,²³ and
 - assessing unintended consequences;²⁴
- design tools for:
 - required records from obligated parties;²⁵ and
 - a tradeable credits platform;²⁶ and
- create a credit ownership, valuation, eligibility, and registration system.²⁷

¹³ Act No. 18, Sec. 6(b).

¹⁴ 30 V.S.A. § 8128(c).

¹⁵ 30 V.S.A. § 8127(l)(1).

¹⁶ 30 V.S.A. § 8128(a)-(b).

¹⁷ 30 V.S.A. § 8129(a)-(b).

¹⁸ Act No. 18, Sec. 6(c)(2).

¹⁹ Act No. 18, Sec. 6(c)(3).

²⁰ Act No. 18, Sec. 6(d).

²¹ 30 V.S.A. § 8124(a)(1).

²² 30 V.S.A. § 8128(d).

²³ 30 V.S.A. § 8127(e)-(g).

²⁴ 30 V.S.A. § 8127(h).

²⁵ 30 V.S.A. § 8124(f).

²⁶ 30 V.S.A. § 8127(a).

²⁷ 30 V.S.A. § 8127(b)-(l).

These responsibilities will be wrapped into proposed final rules, which will go through a public notice and comment period and then be submitted to the Legislature by January 15, 2025.²⁸ In addition, we anticipate that in the course of carrying out statutorily defined responsibilities, the Commission will engage in activities that support the creation of the potential Clean Heat Standard in accordance with 30 V.S.A. § 8126. We encourage interested parties to consult the text of Act 18 to understand the full extent of the Commission’s obligations and authority under the law.²⁹

IV. REQUEST FOR COMMENTS

Throughout this design process, we will be issuing numerous requests for comments on different aspects of the potential Clean Heat Standard. At each stage in the design process, we welcome thoughtful and creative input on all relevant issues. At this first stage, we request comments from stakeholders and members of the public on topics related to the structure of this proceeding and the statutorily required advisory groups.

First, we solicit feedback on the efficiency and transparency of using this proceeding to centralize information related to the potential Clean Heat Standard.

Second, considering the array of issues to be covered in these proceedings as required by Act 18, we seek feedback on what other elements of this process (aside from the topics covered in 23-2221-INV and the appointment of a Default Delivery Agent, which we anticipate will be carried out in another distinct proceeding) may need to be considered in a separate proceeding.

Third, we seek input on which individuals and organizations should be contacted as part of our effort to recruit members for the Equity Advisory Group and the Technical Advisory Group. The list of organizations compiled from comments on this question will serve as a starting point for outreach related to the formation of these advisory groups. Act 18 mandates the makeup of the Equity Advisory Group to be “up to 10 members appointed by the Commission” and “shall include at least one representative from each of the following groups”:

- the Department of Public Service;
- the Department for Children and Families’ Office of Economic Opportunity;

²⁸ Act No. 18, Sec. 6(e)-(f).

²⁹ Act No. 18 of 2023 (Affordable Heat Act) can be found at <https://legislature.vermont.gov/Documents/2024/Docs/ACTS/ACT018/ACT018%20As%20Enacted.pdf>.

- a community action agency with expertise in low-income weatherization;
- a community action agency with expertise in serving residents of manufactured homes;
- Efficiency Vermont;
- the Vermont Association of Area Agencies on Aging;
- individuals with socioeconomically, racially, and geographically diverse backgrounds;
- renters;
- rental property owners;
- the Vermont Housing Finance Agency; and
- a member of the Vermont Fuel Dealers Association.³⁰

For the Technical Advisory Group, Act 18 requires that the group “consist of up to 15 members appointed by the Commission” and “shall include” the following:

- the Department of Public Service;
- the Agency of Natural Resources;
- the Department of Health; and
- “parties who have, or whose representatives have, expertise in one or more of the following areas:
 - technical and analytical expertise in measuring lifecycle greenhouse gas emissions,
 - energy modeling and data analysis,
 - clean heat measures and energy technologies,
 - sustainability and non-greenhouse gas emissions strategies designed to reduce and avoid impacts to the environment,
 - mitigating environmental burdens as defined in 3 V.S.A. § 6002,
 - public health impacts of air quality and climate change,
 - delivery of heating fuels,

³⁰ The full scope of the Equity Advisory Group can be found at 30 V.S.A. § 8129. The required representatives listing can be found in Section 8129(b).

- land use changes,
- deforestation and forest degradation, and
- climate change mitigation policy and law.”³¹

We request these comments by no later than July 21, 2023.

* * *

This proceeding is being processed in the Commission’s online document management system, ePUC, which can be accessed at epuc.vermont.gov. Documents related to this proceeding will be available in Case No. 23-2220-RULE.

The Commission will create a service list for this proceeding. Anyone interested in this proceeding can be involved in one of the following ways:

- (1) If you are interested in actively participating in this case (for instance, by filing comments), please contact the Clerk of the Commission at puc.clerk@vermont.gov. After contacting the Clerk and becoming a participant in this proceeding, please file your comments in ePUC using the “Add Briefs, Comments, or Discovery” action. For participants, the first round of comments, due on July 21, 2023, should not be filed using the “Public Comment” option.
- (2) If you do not wish to participate but would like to be notified of new filings and orders in this case, please subscribe to the proceeding. To subscribe, go to epuc.vermont.gov, log in or create an account, use the “Search by Case Number” feature to find the desired case, click into the case, select “Subscribe to this Case” in the dropdown menu at the top of the screen, and fill out the form that pops up.

Further explanation on how to use ePUC can be found in the [FAQ section](#). For more information about these proceedings, please contact the Clerk of the Commission, Holly Anderson, at puc.clerk@vermont.gov.

The Commission will issue a notice of further process after reviewing the July 21 comments.

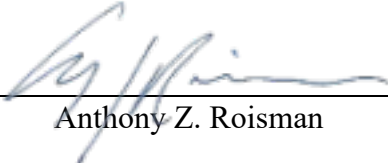
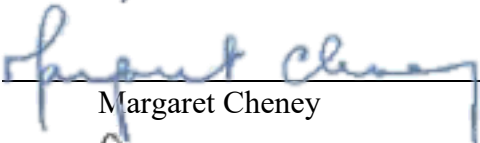
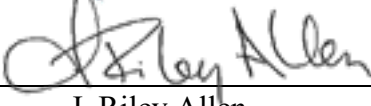
³¹ The full scope of the Technical Advisory Group can be found at 30 V.S.A. § 8128. The listing of required representatives can be found in Section 8128(b).

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Utility Commission (“Commission”) of the State of Vermont that:

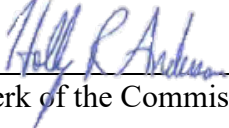
1. Pursuant to Section 6(a) of Act 18 of 2023, a rulemaking proceeding is opened to design a potential Clean Heat Standard.
2. The first round of comments addressing the organization of proceedings related to the design of the potential Clean Heat Standard and the solicitation of recommendations of individuals and organizations to be contacted regarding the formation of the Equity Advisory Group and the Technical Advisory Group, as discussed above, are due by July 21, 2023.

Dated at Montpelier, Vermont, this 30th day of June, 2023.

 _____ Anthony Z. Roisman)	PUBLIC UTILITY COMMISSION OF VERMONT
 _____ Margaret Cheney)	
 _____ J. Riley Allen)	

OFFICE OF THE CLERK

Filed: June 30, 2023

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)

PUC Case No. 23-2220-RULE - SERVICE LIST

James Porter, Director of Public Advocacy
Vermont Department of Public Service
DPS-PA@vermont.gov

(for Vermont
Department of Public
Service)

Others receiving notice outside of ePUC:

PUC Large e-mail list