



Holly R. Anderson
Clerk of the Commission
112 State Street
Montpelier, VT 05620-2701

December 4, 2023

Re: Proceeding to design the potential Clean Heat Standard, Case No. 23-2220 Rule

Dear Ms. Anderson:

On behalf of the Vermont Fuel Dealers Association (VFDA), I submit the following response to the Vermont Public Utility Commission's (PUC) request for comments on November 3, 2023, regarding funding for the Clean Heat Standard program.

In its request, the PUC seeks comments that address several items. They include:

- *Funding proposals to support the Commission's ongoing Act 18 work during FY25, including whether the State of Vermont General Fund is again an appropriate short-term funding source;*
- *Long-term funding proposals to support the Commission's future administration of the Clean Heat Standard if the Legislature approves a final rule;*
- *Suggested revenue streams that may be used or created to fund programs to support market transformation;*
- *Whether the Commission's report should also address funding for the Vermont Department of Public Service ("Department"), both for its Act 18 work in FY25 and in future years if a Clean Heat Standard is approved, and if so, whether the source(s) of funding should be the same as for the Commission; and*
- *Recommendations for further process, if any, to inform the Commission's funding report.*

In addition, the request seeks comments regarding the Energy Action Network's recommended "small surcharge" on fossil fuel sales to funding the Department of Public Service's ("Department") compliance and evaluation obligations.

These requests for comments can essentially be distilled into three topics: (1) current and future funding of administrative costs to implement the clean heat standard; (2) funding for market transformation programs; and (3) the use of a surcharge to fund administrative expenses related to compliance and evaluation obligations.

At the outset, VFDA has several observations. First and foremost, VFDA is concerned that efforts to fund the Clean Heat Standard should not be borne on the backs of fuel dealers and their customers. Surcharges, fees, or other taxes on heating fuels are a regressive tax. See, Phineas Baxandall, *The Pros and Cons of Higher Gas Taxes, and How They Could be Offset for Lower-Income Families* at p. 4, Massachusetts Budget and Policy Center (October 17, 2019) (“Selective sales taxes... levied on gasoline...raise important equity issues. In general, people with lower incomes tend to spend a greater share of their income on these products...”). They impact Vermont’s lower income families harder than general revenue funds that are derived from a progressive income tax.

Initial, and very conservative estimates, indicate that the cost of implementing the clean heat standard could reach \$1.2 billion and that would result in a 70 cent increase to the price of kerosene, heating oil, and propane. See Emma Cotton, *Natural Resources secretary present really rough estimate of the clean heat standard’s cost*, VT Digger (Jan. 27, 2023). This is a substantial cost to consumers, many of whom are already struggling pay their bills with historically high costs for housing, food, and other basic necessities. See Erin Petenko, *Vermont household income declines relative to inflation*, VT Digger (Oct. 31, 2023) (goods like food, fuel, house, and health care saw massive increases in 2022, sometimes on top of large increases in 2021). Heating fuel is a commodity of necessity for Vermont consumers, and policy makers should avoid adding to these projected increases with regressive taxes or fees to pay for the cost of administering the clean heat standard.

Second, the PUC does not have authority to levy a fee, tax, or surcharge on obligated parties that are not utilities. This power resides exclusively with the Vermont legislature. 30 V.S.A. § 22 provides for the taxation of entities subject to the PUC’s jurisdiction to generate funds operation of the PUC’s and the Department’s operations. This statute does not cover obligated parties that are not otherwise regulated as electric, gas, telephone, cable, or water companies. Furthermore, Act 18 (2023) further limits the PUC’s authority to implement rules that could theoretically result in a levy, fee, or surcharge upon obligated parties. Section 6(f) makes it very clear that the PUC cannot implement rules until it is expressly authorized by the legislature.

Third, policy makers should have an estimated cost for the administration of the clean heat standard before having to identify revenue sources. It is noted that policy makers do not even have a clear picture of the universe of obligated fuel sellers that will be subject to regulation under the Clean Heat Standard. This information alone is essential in determining an estimate of potential administrative costs. The size of the regulated community will inevitably be a significant factor in estimating administrative costs. Policy makers will be charged with making difficult decisions about how to raise the revenue for this program. Accurate costs estimates will be vital to help guide policy makers decide whether to impose a regressive flat tax or fee upon heating fuel or recommend a more progressive and equitable form of taxation.

Finally, Equity Advisory Group (EAG) should have an opportunity to consider the potential impact of funding mechanisms needed to implement the Clean Heat Standard. One of the stated policy goals of the Clean Heat Act is enhancing social equity by prioritizing customers with low income and moderate income and those households with the highest energy burdens. Act 18 (2023), section 3. The EAG is charged with assisting the PUC in helping determine whether implementation of the Clean Heat Standard, including funding, does not negatively impact low and moderate income Vermonters. 30 V.S.A. § 8129(a). Given the potential impact of a regressive funding scheme on the most vulnerable Vermonters, the Equity Advisory Group should have an opportunity to weight in on funding and possible sources.

With these observations in mind, VFDA addresses the three categories of questions.

1. Current and future funding of administrative costs to implement the clean heat standard.

Revenue for the administration of the clean heat standard should not be derived from a regressive set of taxes such as surcharges or fees based upon the volume of sales of heating fuel providers. Such a regressive tax, fee, or surcharge would have the effect of further increasing the cost of basic necessity for many Vermonters. This increased cost would have a disproportionately adverse impact upon those least able to afford the increased cost of heating fuel and should be avoided.

In addition, VFDA recommends that before revenue sources are determined, policy makers should have an accurate estimate or budget for the cost administering the clean heat standard should be developed. This will assist in identifying and developing an equitable source of revenue for administering the clean heat standard. In addition, policy makers should have the benefit of the EAG's review of potential funding sources as well.

2. Funding for market transformation projects.

The Clean Heat Act contemplates a free market approach to achieving compliance with legislative goals. Obligated parties will either purchase or earn clean heat credits that reflect the creation and implementation of clean heat measures. These measures are the transformation projects contemplated by the clean heat act. To extent this does not occur, obligated parties will have to pay a non-compliance payment. 30 V.S.A. § 8124(f). Funds from these non-compliance payments can be utilized to pay for market transformation projects to the extent needed.

3. Use of a surcharge to fund administrative expenses related to compliance and evaluation obligations.

See response to question # 1 above. Such a surcharge is a regressive tax upon those least able to afford the price increase. Other forms of revenue should be explored before this one is considered. Furthermore, no surcharge can be implemented without the express authority of the legislature. The PUC currently does not have statutory authority to levy such a surcharge, and any attempt to implement such a charge by regulation through the Clean Heat Act requires legislative approval.

Thank you for your consideration.

Sincerely,



Matt Cota
Meadow Hill