

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: 02/22/2024

ORDER GRANTING EXTENSION OF FILING DEADLINE AND PROVIDING ADDITIONAL GUIDANCE

On January 24, 2024, the Vermont Public Utility Commission (“Commission”) issued an Order requesting that the Vermont Department of Public Service (“Department”) and the Vermont Agency of Natural Resources (“ANR”) execute and submit for the Commission’s approval a protective agreement to facilitate the sharing of information between the Commission and the Department and ANR no later than February 15, 2024.¹

On February 15, 2024, the Department and ANR filed a joint request for an extension of the deadline to February 23, 2024. According to the Department and ANR, “[t]he Parties have made good faith and diligent efforts to negotiate and execute a protective agreement by the deadline. However, more time is needed to allow the Parties to reach a joint and full agreement of the terms and procedures necessary to handle the information subject to the Order.”

Further, since issuing the January 24 order, the Commission has considered the method that it would use for disclosing the allegedly confidential information. Because the Commission is not typically the disclosing entity, the procedures outlined in a standard protective agreement filed with the Commission to facilitate the sharing of confidential information among parties do not all pertain.²

The Commission has determined preliminarily that certain information contained in the fuel dealer registration forms will be maintained confidentially. Commission Rule 2.226(B) outlines the procedure for submitting confidential information to the Commission. The fuel dealer registration forms are being submitted to the Commission using a web-based platform that

¹ 30 V.S.A. § 8124(b)(3) (“Each year, and not later than 30 days following the annual registration deadline established by the Commission, the Commission shall share complete registration information of obligated parties with the Agency of Natural Resources and the Department of Public Service for purposes of updating the Vermont Greenhouse Gas Emissions Inventory and Forecast and meeting the requirements of 10 V.S.A. § 591(b)(3).”).

² For an example of the Commission’s standard protective order and protective agreement, see Case No. 23-1447-PET, Order of 10/26/23.

pulls the information and creates a spreadsheet of the data submitted. Pursuant to Section 8124(b)(3), the Commission must provide this data to the Department and ANR to carry out the directives of the statute.

In order to transmit this data to the Department and ANR, the Commission will do the following:

- Print a copy of the spreadsheet;
- Encrypt a native Excel spreadsheet version of the data on a thumb drive;
- Place the paper copy and thumb drive in a sealed envelope on which the Clerk of the Commission will stamp across the seal of the envelope the word “CONFIDENTIAL” and write the case number and caption of this proceeding, a description of the contents, and a statement that the envelope must not be opened by anyone other than the Department or ANR.

The Department and ANR must designate a recipient from each agency to retrieve the envelopes on a day and time decided on by the Clerk of the Commission in consultation with the designated recipients.


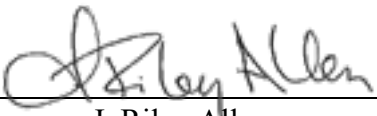
The provisions in the Commission’s standard protective agreement contemplate use of allegedly confidential information in a litigated proceeding. Because this case is a rulemaking proceeding, some provisions will not apply, particularly those that concern using the allegedly confidential information as evidence, discussing the information at a hearing, or referencing the information in a Commission order. Additionally, the Commission has already made a preliminary determination to treat certain information contained in the fuel dealer registration forms as confidential. For these reasons, the Department and ANR will likely need to submit a protective agreement that differs substantially from the standard agreement.

Although the request for an extension is not timely,³ the Commission finds that the Department and ANR’s request is reasonable, particularly because drafting a protective agreement in these circumstances is complicated. Thus, the request for an extension is granted. The new deadline for filing the protective agreement is March 1, 2024.

³ Under Commission Rule 2.207(C), “[a]bsent extraordinary circumstances, any motion to extend a deadline must be filed at least 3 days before the deadline and must set forth good cause why the extension should be granted.”

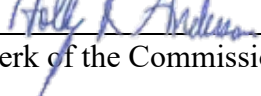
SO ORDERED.

Dated at Montpelier, Vermont, this 22nd day of February, 2024.

 _____)) PUBLIC UTILITY)) COMMISSION)) OF VERMONT)
Edward McNamara)	
 _____)	
J. Riley Allen)	

OFFICE OF THE CLERK

Filed: February 22, 2024

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)

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