

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: 03/20/2024

ORDER ADOPTING PROCEDURES FOR THE TECHNICAL AND EQUITY ADVISORY GROUPS

I. INTRODUCTION & PROCEDURAL HISTORY

In Public Act 18 (2023 Vt., Bien. Sess.) (“Act 18”), the Vermont Legislature directed the Vermont Public Utility Commission (“Commission”) to undertake the design of the proposed Clean Heat Standard.¹ Pursuant to 30 V.S.A. §§ 8128(b) and 8129(b), the Commission is directed to appoint up to 15 members to the Technical Advisory Group and up to 10 members to the Equity Advisory Group to assist in the management, design, and implementation of the Clean Heat Standard.

The Commission issued solicitations for membership on the two advisory groups on September 19, 2023. On November 16, 2023, the Commission announced the appointment of members to both groups and made them participants in both Clean Heat Standard cases.² On November 16, 2023, the Commission also issued an order requesting comments on a set of draft procedures intended to guide the work of the Technical Advisory Group, consistent with 30 V.S.A. § 8128(b), with initial comments due on November 27, 2023.³ The Equity Advisory Group held its first meeting on November 29, 2023, and the Technical Advisory Group held its first meeting on December 11, 2023. After reviewing the filed comments and incorporating feedback from each of the advisory group meetings, the Commission issued a request for

¹ For an overview of the work done to date and other information on the proposed Clean Heat Standard, please see the Commission's clean heat website at <https://puc.vermont.gov/clean-heat-standard>.

² Case Nos. 23-2220-RULE and 23-2221-INV.

³ Section 8128(b) of Title 30 of the Vermont Statutes Annotated requires the Commission to “establish the procedure for the TAG, including member term lengths and meeting procedures.”

comment on the Equity Advisory Group procedures, with comments due on January 3, 2024.⁴ The advisory groups met again in mid-January of 2024, the Equity Advisory Group on January 11, and the Technical Advisory Group on January 19, at which time they were presented with draft procedures that incorporated feedback received through written comments and initial advisory group meetings.⁵

The Commission adopts the accompanying procedure for the Technical Advisory Group and the Equity Advisory Group. The following Order includes a brief description of the procedures and their purpose as well as an overview of the comments that the Commission received on the draft procedures and a discussion of the Commission's reasoning for incorporating or not incorporating suggested changes.

II. COMMENTS ON DRAFT PROCEDURES

November 16, 2023, Request for Comments on Technical Advisory Group Procedures

The Commission solicited two rounds of public comments on the advisory group procedures. The first request for comments was focused on the draft procedures for the Technical Advisory Group. The Commission received seven responses from: Efficiency Vermont, Vermont Gas Systems, Inc. ("VGS"), the City of Burlington Electric Department ("BED"), Thomas Weiss, Green Mountain Power Corporation ("GMP"), the Vermont Department of Public Service ("Department"), and David Hillman.

Efficiency Vermont advocated for the Technical Advisory Group to be given authority to prioritize and sequence-specific requirements to cover statutory requirements effectively and help inform market participants on what should be expected on critical topics.

Vermont Gas Systems offered specific suggestions, including language and timelines related to filling vacancies and the process for amending the procedures. VGS also sought clarification on the scope of delegation authority for statutorily named entities, the causes for

⁴ While there is not a statutory directive for the Commission to establish procedures for the Equity Advisory Group, the Commission is adopting procedures for the Equity Advisory Group to provide consistent administration of the two advisory groups and promote effective and efficient work by the Equity Advisory Group.

⁵ Documentation of the feedback given by the advisory groups on the draft procedures can be found on the [Clean Heat Standard website](https://puc.vermont.gov/clean-heat-standard) (puc.vermont.gov/clean-heat-standard) under the "Advisory Group Procedures" tab in the "Meeting Minutes" document for each relevant meeting.

which the Commission could remove members, the process by which members may invite experts on behalf of their organizations, and the expectations around the posting of minutes.

The Department suggested bringing elements of Commission Rule 4.400 into the Technical Advisory Group procedures, specifically Commission Rule 4.409, which governs the Renewable Energy Standard Tier III advisory group. The Department specifically highlighted four potential elements to include: publicly noticed and accessible meetings, regularly filed analyses and reports from the group to the Commission, a paid administrator, and provisions for submission of potential measures and prior approval. The Department further explained that hiring an impartial administrator to facilitate meetings would be a more appropriate and efficient way to ensure the group completes its work.

BED echoed the Department's filing that suggested incorporating "applicable elements from Section 4.409 of Commission Rule 4.409" into the procedures.⁶

GMP also supported the Department's comments.

Thomas Weiss provided detailed suggestions on six areas of the procedures: the group's list of duties, how to structure membership and membership stipulations, compensation, scheduling and Open Meeting Law, agendas and minutes, changes to the procedures, and word choice in several places. Weiss's suggested additional duties included determining which capital measures would lower annual energy bills, maintaining a website, listing areas of expertise, posting notices, meeting materials, and minutes, and communicating with the Equity Advisory Group. The membership suggestions included adding attendance standards, clarifying named organization designation practices, and direction related to resignation. Weiss's detailed suggestions also included: expanding the statutory reference for eligible compensation to include expenses; the use of hybrid meetings; the applicability of Open Meeting Law, specifically advocating for a physical location for meetings in addition to virtual options; adding participants of the two Clean Heat Standard cases to the list of entities that are directly notified about meeting agendas and the timely posting of meeting minutes⁷; soliciting public comments on any changes to the procedure; and using the word "shall" rather than "will" in order to convey that things are required.

⁶ BED 11/27/23 Comments at 1.

⁷ The two Clean Heat Standard-related cases are 23-2220-RULE and 23-2221-INV.

David Hillman suggested four additional duties to include in the group's procedures.⁸ Hillman suggested adding a comprehensive calculation of the average cost per household of adopting clean heat elements, modeling the cost of necessary grid improvements associated with electrification, an assessment of workforce requirements for installation and maintenance of clean heat measures, and a logistical plan.

December 15, 2023, Request for Comments on Equity Advisory Group Procedures

The Commission considered the above comments, along with feedback from the newly convened advisory groups (which is discussed below) and created a second draft of procedures on which we sought feedback. The second request for comments focused on the Equity Advisory Group procedures. Five participants filed comments: VGS, Efficiency Vermont, the Department, Thomas Weiss, and the Vermont Housing Finance Authority ("VHFA").

VGS noted that the comments they had made in the first round of comments on advisory group procedures were incorporated into this next iteration, and they supported this new draft.

Efficiency Vermont also supported the draft procedures, recommended increased involvement from the Commission to guide the group, and noted its support for a third-party facilitator for the Equity Advisory Group.

The Department commented that it was generally supportive of the draft procedures and emphasized that the Commission needed to stay apprised of the Equity Advisory Group's work to help the group keep up with the aggressive schedule mandated by Act 18. The Department reiterated its suggestion of providing administrative support to both advisory groups and suggested the Commission hire a third-party facilitator to keep the groups moving forward with their work.

Thomas Weiss provided four practical suggestions and sought clarification on the advisory groups' statuses as public bodies and the applicability of Open Meeting Law and the Public Records Act. Weiss' suggestions were to add a paragraph dealing with the intent of Act 18 to the Equity Advisory Group's charge, to clarify the election of officers and align it with the rules around quorum and voting, to clarify advisory group members' ability to participate in

⁸ Hillman's comments were filed late. However, in the interest of public participation, we are addressing them in this Order.

Clean Heat Standard related proceedings individually, and to provide administrative support to the advisory groups.

VHFA concurred with existing comments that suggested additional administrative support and facilitation for the advisory groups and argued that the Equity Advisory Group was created on equal footing with the Technical Advisory Group and should be given the same level of support. VHFA also expressed concern that the draft procedures did not provide a framework for ongoing communication between the two advisory groups, which would be vital for the fulfillment of each group's duties.

Feedback from the Advisory Groups

Both advisory groups were given multiple opportunities to review and respond to the draft procedures: the Technical Advisory Group reviewed two iterations of the procedures, first on December 11, 2023, and again on January 19, 2024. The Equity Advisory Group reviewed two iterations of the draft procedures, first on November 29, 2023, and again on January 11, 2024. Some members of the groups reiterated suggestions made by their respective organizations during the written comment period, whereas other feedback was unique to the group's discussion. The Technical Advisory Group requested, by vote at its December 11, 2023, meeting, that the Commission provide a report on the advantages and disadvantages of hiring a facilitator and the timeline on which it could happen and that the Commission explore and recommend a framework the group could use to come to and make collective decisions.

Mostly, the groups did not take formal action during these meetings to request specific changes; rather, the groups held robust discussions that generated several ideas that garnered varying levels of apparent support among group members. Those ideas included: hiring an impartial meeting facilitator, having a non-member be responsible for note taking and other administrative duties, detailing a decision-making mechanism, forewarning any expected votes, balancing a consensus-based approach with a majority-rules approach, including a minority report/dissent document with group-issued documents, providing guidance for groups to interact with the Commission's Clean Heat Standard consultants, providing structure for the two groups to interface, allowing members to bring relevant experts from their organizations to contribute to group meetings, clarifying how Open Meeting Law applies, guidance on the formation of

subgroups, allowing either the group itself or Commission staff to authorize changes to the procedure rather than reserving that right for the Commission, adding the review of unintended consequences to the duties of the Equity Advisory Group, creating a group expectations document, providing guidance on group drafting of written products, and providing Commission or Department staff time to draft required reports.

III. DISCUSSION

The Commission incorporated the following substantive suggestions of the commenters:

- Clarifying how named governmental entities may delegate their membership;
- Giving the advisory groups the authority to prioritize and sequence their tasks;
- Clarifying how the Commission will deal with vacancies;
- Clarifying non-member participants and the process of bringing other experts to group meetings;
- Stating requirements for the creation and posting of meeting notices, agendas, preparatory materials, and minutes;
- Providing guidelines on group communication with the other advisory group, consultants, and the Commission and its staff;
- Aligning quorum rules, voting rules, and leadership election rules;
- Clarifying group members' ability to independently contribute to public processes;
- Adding language from 30 V.S.A. § 8129(a) to the duties of the Equity Advisory Group;
- Providing a non-member for notetaking and producing minutes;
- Providing guidance on the formation and function of subgroups; and
- Providing guidance on drafting collectively produced documents.

In addition to the foregoing suggestions, the following suggestions were incorporated as explained below:

- Suggestions on the process for amending procedures
 - During the public comment periods and the discussions with the advisory groups, two contrary suggestions were made: letting the advisory groups fully control

their own procedures and having a public comment period for any considered changes. The Commission recognizes the advantages of both approaches and seeks to balance the needs of the groups to efficiently control their own processes and the need for a transparent and fully considered deliberative process. The adopted approach gives the groups agency to identify and propose solutions to any issues with the procedures and gives the Commission a chance to assess the proposed change and provide for additional public process, if deemed necessary.

- Possible causes for removal of members
 - Commenters requested clarification on causes for removal of members. The adopted procedures provide that members may be removed by the Commission for cause, including for poor attendance or unprofessional conduct. Additional specificity on attendance standards was removed due to concerns associated with the increase in meeting frequency set by both groups.
- Using Commission Rule 4.409
 - The Commission appreciates participants' familiarity with the Renewable Energy Standard Tier III program and agrees that some concepts and approaches will be useful in crafting the potential Clean Heat Standard. The adopted procedures include standards for notice, agenda creation, posting of materials, and minutes, as well as provisions for an administrator. The adopted procedures also include a framework for the review and analysis of clean heat measure characterizations developed by the Technical Consultant. The adopted procedures do not precisely mirror Commission Rule 4.409 because of the Technical Advisory Group's interaction with the Technical Consultant and additional review processes that will be determined in the Clean Heat Standard rule.
- Hiring an impartial administrator/facilitator
 - The Commission appreciates the calls for administrative support and facilitation of the advisory groups. The adopted procedures create two roles for non-member administration and support for the groups. Through collaboration with the Vermont Agency of Natural Resources and financial support from the U.S. Climate Alliance, the Commission has brought on two facilitators to help the

groups fulfill their duties. The facilitators from the Consensus Building Institute promote productive and inclusive discussion during group meetings and support the Chair and Vice Chair in organizing agendas. Commission staff continue to provide administrative support, primarily related to the posting of meeting materials.

- Accessible meetings
 - Commenters pointed out the importance of publicly accessible meetings. To that end, the adopted procedures require adherence to Vermont’s Open Meeting Law, including proper meeting notices, publicly accessible agendas, and minutes. The Commission also expects adherence to the Vermont Secretary of State’s “Guide to Open Meeting Law.”⁹ The procedures also require the posting of preparatory materials ahead of the meeting. Both advisory groups have also adopted the practice of recording their meetings, which are being posted by the Commission on the Clean Heat Standard website and providing an opportunity for public comments on individual substantive items and on the meetings as a whole. The Open Meeting Law requirement that a physical meeting location also be available is currently suspended through July 1, 2024, by Public Act 1 (2023 Vt., Bien. Sess.), Sec. 2. Once that suspension expires, the Commission will assist the groups in meeting this requirement.
- Providing a framework for coming to and making collective decisions
 - The adopted procedures incorporate Robert’s Rules of Order, 12th Edition, as the underlying parliamentary procedure that the groups should use for conducting business.¹⁰ The procedures specify the use of Procedure in Small Boards, which is a more relaxed set of rules for conducting business that is appropriate for these advisory groups.¹¹ Robert’s Rules of Order are intended to satisfy the request for a framework to help the groups come to decision points, consider their options, and fairly make decisions. While the groups are generally expected to follow the

⁹ <https://outside.vermont.gov/dept/sos/Municipal%20Division/a-guide-to-open-meetings-january-2019.pdf>

¹⁰ Roberts, Henry Martyn. 2020. Robert’s Rules of Order, Newly Revised 12th Edition. New York, NY: Berkley Publishing Corporation.

¹¹ Robert’s Rules of Order, 12th Edition. Section 49:21, Procedures in Small Boards.

parliamentary rules as described in the procedure, Robert's Rules of Order are not intended to limit or obstruct anything the group would like to do; the Commission expects group officers to be accommodating of members trying to use these rules.

The Commission also acknowledges that a number of suggestions were not incorporated into the procedures we are adopting today. Those suggestions and the rationale for not incorporating those suggestions are as follows:

- Listing areas of expertise for individual members of the Technical Advisory Group
 - In selecting the members of the advisory groups, the Commission was careful to evaluate what skills and areas of expertise different applicants brought to the respective groups. We selected the members to collectively meet the statutory requirements for areas of expertise as listed in 30 V.S.A. § 8128(b). We feel it would be inappropriate and limiting to explicitly assign individuals to specific areas of expertise within the group; we believe each member has important perspectives to contribute to all discussions.
- Sending meeting notices and preparatory materials directly to participants in the Clean Heat Standard cases in ePUC
 - The Commission issues meeting notices through ePUC and maintains the Clean Heat Standard website, which has the agendas, preparatory materials, and minutes for both advisory groups. To not overcrowd an already busy document management system for the two Clean Heat cases, to avoid adding additional email traffic to participants' inboxes, and because the materials are being posted in a publicly accessible place, we decline to distribute meeting agendas and materials through ePUC.
- Higher level of Commission involvement in the work of the advisory groups
 - The Commission appreciates the groups trying to synchronize their work with the work of the Commission on Clean Heat topics, and we will make a continued effort to enable alignment. However, to maintain the independence of the advisory groups, the Commission declines to expand Commission involvement beyond what is in the adopted procedures. The facilitators will assist the groups

to effectively fulfill their duties, and Commission staff will continue to provide administrative support to the advisory groups as best they can.

- Forewarning votes to be taken by the group at a meeting
 - The Commission recognizes that group members, especially those representing organizations, may want to consult their colleagues before voting. However, we do not want to unnecessarily constrain the ability of the groups to act, especially given the potential for time-sensitive proposals and therefore decline to add this suggestion to the procedures. Advisory group officers are welcome to indicate when voting on major issues may occur, and members may ask their fellow group members to delay votes or they may abstain from votes.
- Requiring a minority report
 - The adopted procedures do not mandate or prevent the writing of a minority report/dissenting section alongside required reporting documents. The groups are welcome to include such sections if they see fit.
- Creating a group expectations document
 - The adopted procedures do not contemplate a group expectations document, but the Commission has no position on the groups independently creating such a document.
- Provision of Commission staff time for the drafting of required reports
 - The Commission values both advisory groups' expertise and believes that their independent views are crucial to the quality and integrity of their feedback. Having Commission staff draft reports or other work products would jeopardize that independence.
- Using the word "shall" in place of "will"
 - Beyond the context of the Clean Heat Standard proceedings, the Commission is moving away from the use of the word "shall" in favor of "will" or "must," when appropriate, in an effort to make our language more precise and accessible. These procedures reflect that effort and only use "shall" when quoting other sources. The Commission believes the language in the procedures accurately conveys the mandatory nature of required items.

- Adding items to the duties of different advisory groups:
 - Technical Advisory Group
 - Creating a process for submission of potential Clean Heat Measures directly to the Technical Advisory Group and prior approval of actions by the Commission,
 - Filing its analysis of how the clean heat measures it analyzes meet the requirements of Act 18 and annually filing with the Commission a list of measures it reviewed during the previous calendar year, including information documenting eligibility determinations for clean heat measures,
 - Determining which capital measures would lower annual energy bills,
 - Calculating a comprehensive average cost per household for the adoption of clean heat measures,
 - Calculating the cost of necessary grid improvements to serve electrification of heating and transportation,
 - Assessing workforce capabilities and needs for installation and maintenance of clean heat measures, and
 - Creating a logistics plan and schedule for the build-out of Clean Heat Standard-related infrastructure.
 - Equity Advisory Group
 - Review of unintended consequences.

While the Commission appreciates the suggestions of additional items for consideration by the advisory groups, we believe that the groups' statutory assignments and their charge to advise the Commission already constitute a substantial scope of work. Additional topics may be addressed by the groups as they progress in their work but have not been included in the procedures.


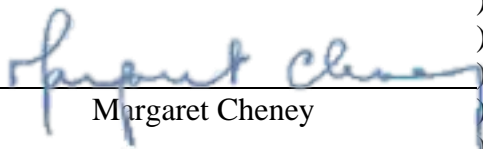
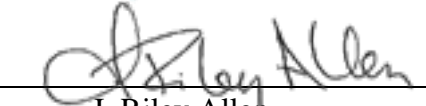
IV. CONCLUSION

The Procedure for the Clean Heat Standard Technical Advisory Group and the Procedure for the Clean Heat Standard Equity Advisory Group are adopted. The procedures are attached to this Order and are now in effect as described by Section IX(A) of each procedure.

A breach of these procedures does not invalidate the work of the advisory groups. Best efforts should be made to adhere to these procedures, and the advisory groups should collaborate with the Commission to ensure the procedures are workable and helpful to the functioning of the groups.

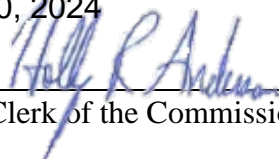
SO ORDERED.

Dated at Montpelier, Vermont, this 20th day of March, 2024.

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

OFFICE OF THE CLERK

Filed: March 20, 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)

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

Ashley Adams, *pro se*
544 S PROSPECT ST
Burlington, VT 05401
ashleyjaneadams@gmail.com

Ray Albrecht, P.E., *pro se*
National Biodiesel Board
rayalbrechtpe@gmail.com

Isaac Bissell, *pro se*
isaacwbissell@gmail.com

Stuart Blood, *pro se*
851 Poor Farm Road
Thetford Center, VT 05075
ssblood@riseup.net

Catherine Bock, *pro se*
175 A North Prospect St.
Burlington, VT 05401
tinki.bock@gmail.com

Mary Bouchard
Vermont Gas Systems, Inc.
85 Swift Street
South Burlington, VT 05403
mbouchard@vermontgas.com

(for Vermont Gas
Systems, Inc.)

Sarah Braese
Vermont Public Power Supply Authority
PO Box 126
5195 Waterbury-Stowe Road
Waterbury Center, VT 05677
sbraese@vppsa.com

(for Vermont Public
Power Supply Authority)

Malachi T. Brennan
SRH Law PLLC
91 College Street
PO Box 545
Burlington, VT 05401
mbrennan@srhlaw.com

(for SRH Law PLLC)

Victoria J. Brown, Esq.
Vermont Electric Cooperative, Inc.
42 Wescom Road
Johnson, VT 05656
vbrown@vermontelectric.coop

(for Vermont Electric
Cooperative Inc.)

Carolyn Campion
The Valero Companies
One Valero Way
San Antonio, TX 78249
Carolyn.Campion@valero.com

(for The Valero
Companies)

Heidi Clifford
Irving Oil
Heidi.Clifford@irvingoil.com

(for Irving Oil)

William Coster
Vermont Agency of Natural Resources
1 National Life Drive
Davis 2
Montpelier, VT 05620
billy.coster@vermont.gov

(for Vermont Agency of
Natural Resources)

Matt Cota
Meadow Hill Consulting
matt@meadowhillvt.com

(for Vermont Fuel
Dealers Association)

Heather D'Arcy
Vermont Public Power Supply Authority
PO Box 126
Waterbury Center, VT 05677
hdarcy@vppsa.com

(for Vermont Public
Power Supply Authority)

Connor Daley
Vermont Public Power Supply Authority
PO Box 126
Waterbury Center, VT 05677
cdaley@vppsa.com

(for Vermont Public
Power Supply Authority)

Alex DePillis
Agency of Agriculture Food & Markets
116 State Street
Drawer 20
Montpelier, VT 05620-2901
Alex.DePillis@vermont.gov

(for Vermont Agency of
Agriculture, Food and
Markets)

Alison Despathy, *pro se*
alison.despathy@gmail.com

Anthea Dexter-Cooper
Conservation Law Foundation
15 East State Street
Montpelier, VT 05602
adexter-cooper@clf.org

(for Conservation Law
Foundation)

Joshua Diamond
Dinse
209 Battery Street
Burlington, VT 05401
jdiamond@dinse.com

(for Vermont Fuel
Dealers Association)

Joshua Diamond
Dinse
209 Battery Street
Burlington, VT 05401
jdiamond@dinse.com

(for Heating and Cooling
Contractors of Vermont)

Steve Dodge
Clean Fuels Alliance America
sdodge@cleanfuels.org

(for Clean Fuels Alliance
America)

Greg Doremus, *pro se*
gregoryhdoremus@gmail.com

William Driscoll
Associated Industries of Vermont
wdriscoll@aivt.org

(for Associated
Industries of Vermont)

James Dumont
PO Box 229
Bristol, VT 05443
dumont@gmavt.net

(for Law Office of James
A. Dumont, Esq. PC)

Laura Edling, *pro se*
81 Carrigan Drive
Burlington, VT
laura.edling@uvm.edu

Brian Evans-Mongeon
Village of Hyde Park Electric Department
P.O. Box 400
Hyde Park, VT 05655
gm@villageofhydepark.com

(for Village of Hyde
Park Electric
Department)

Steven R Farman
Vermont Public Power Supply Authority
5195 Waterbury-Stowe rd
Waterbury Center, VT 05766
sfarman@vppsa.com

(for Vermont Public
Power Supply Authority)

Thomas T. Garden
Triland Partners LP
PO Box 777
44 Indian Rock Road
Windham, NH 03087
tgarden@trilandpartners.com

(for Triland Partners LP)

Geoffrey Gardner, *pro se*
938 Old Post Road
Bradford, VT 05033
Geoffrey323@myfairpoint.net

Joyce George, *pro se*
joyce802@gmail.com

Linda Gray, *pro se*
175 Kerwin Hill Road
Norwich, VT 05055
linda.c.gray@gmail.com

Grace Grundhauser
Green Mountain Power Corporation
163 Acorn Lane
Colchester, VT 05446
grace.grundhauser@greenmountainpower.com

(for Green Mountain
Power Corporation)

Laura Haight
Partnership for Policy Integrity
lhaight@pfpi.net

(for Partnership for
Policy Integrity)

Geoffrey Hand, Esq.
SRH Law PLLC
91 College Street
PO Box 545
Burlington, VT 05402
ghand@srhlaw.com

(for SRH Law PLLC)

David Hillman, *pro se*
Dhillman73@icloud.com

Luce Hillman, *pro se*
University of Vermont
luce.hillman@uvm.edu

Devon Johnson
Center for Resource Solutions
devon.johnson@resource-solutions.org

(for Center for Resource
Solutions)

Justin Johnson
MMR, LLC
45 Court Street
Montpelier, VT 05602
justin@mmrvt.com

(for MMR, LLC)

Ken Jones, *pro se*
Energy Action Network
kjonesvt5@gmail.com

Marcus Jones
Living Buildings, LLC
PO Box 42
North Bennington, VT 05257
marcus@livingbuildings.co

(for Living Buildings
LLC)

Michelle Keller, *pro se*
vtkeller@gmavt.net

James Kelly, *pro se*
kellyjfp@gmail.com

William "Casey" Lamont, *pro se*
City of Burlington Electric Department
clamont@burlingtonelectric.com

Michael Lazorchak
Town of Stowe Electric Department
PO Box 190
Stowe, VT 05672
mlazorchak@stoweelectric.com

(for Town of Stowe
Electric Department)

Donna J. Leban
American Institute of Architects Vermont Chapter
7 Iris Lane
South Burlington, VT 05403
lightspd@comcast.net

(for American Institute
Of Architects Vermont
Chapter)

Sam Lehr
Coalition for Renewable Natural Gas
sam.lehr@rngcoalition.com

(for Coalition for
Renewable Natural Gas)

Stephen Leslie, *pro se*
Cedar Mountain Farm and Cobb Hill Cheese
hartlandyoga@yahoo.com

Emily Levin, *pro se*
elevin@nescaum.org

John Mandeville, *pro se*
Central Vermont Council on Agencies on Aging
jmandeville@cvcoa.org

John Mandeville
Central Vermont Council on Agencies on Aging
jmandeville@cvcoa.org

(for Vermont
Association of Area
Agencies on Aging)

Henry Mauck
112 State Street
Montpelier, VT 05620
henry.mauck@vermont.gov

(for Vermont
Department of Public
Service)

John L. McCormick
Louise Diamond Committee to Protect Next Generations
280 Rounds Road
Bristol, VT 05443
jmccormick@imtd.org

(for Louise Diamond
Committee to Protect
Next Generations)

Phillip Merrick, *pro se*
134 Dale Rd
Burlington, VT 05408
philsnextone@gmail.com

Elena Mihaly
Conservation Law Foundation
15 East State Street
Ste. 4
Montpelier, VT 05602
emihaly@clf.org

(for Conservation Law
Foundation)

Johanna Miller
Vermont Natural Resources Council
11 Baldwin Street
Montpelier, VT 05602
jmiller@vnrc.org

(for Vermont Natural
Resources Council)

Liz Miller
Green Mountain Power
163 Acorn Lane
Colchester, VT 05446
Liz.Miller@greenmountainpower.com

(for Green Mountain
Power Corporation)

David Mullett
AllEarth Renewables, Inc.
94 Harvest Lane, Suite 100
Williston, VT 05495
dmullett@alleearthrenewables.com

(for ALLEARTH
RENEWABLES, INC.)

Jen Myers, *pro se*
Champlain Valley Office of Economic Opportunity
jmckaymyers2020@gmail.com

Jen Myers, *pro se*
Champlain Valley Office of Economic Opportunity
jmckaymyers2020@gmail.com

Ken Nolan
Vermont Public Power Supply Authority
P.O. Box 126
Waterbury Center, VT 05677
knolan@vppsa.com

(for Vermont Public
Power Supply Authority)

Frederick M Parks, *pro se*
PO Box 217
Fairfield, VT 05455
parkstrib@gmail.com

Katherine E Parks, *pro se*
PO Box 217
Fairfield, VT 05455
parkstrib@gmail.com

Jill Pfenning
Vermont Gas Systems, Inc.
85 Swift Street
South Burlington, VT 05403
jpfenning@vermontgas.com

(for Vermont Gas
Systems, Inc.)

Gregory Pierce, *pro se*
12 Farrar Street
Saint Albans, VT 05478-1540
greg.pierce7@gmail.com

Walter (TJ) Poor
Vermont Department of Public Service
112 State Street
Montpelier, VT 05620
tj.poor@vermont.gov

(for Vermont
Department of Public
Service)

James Porter, Esq.
Vermont Department of Public Service
112 State Street
Montpelier, VT 05620
james.porter@vermont.gov

(for Vermont
Department of Public
Service)

Pike Porter, *pro se*
544 S Prospect St
Burlington, VT 05401
pikeporter@gmail.com

William Allen Powell
Washington Electric Co-op
P.O. Box 8
East Montpelier, VT 05651
bill.powell@wec.coop

(for Washington Electric
Cooperative Inc.)

Jackie Pratt
Town of Stowe Electric Department
PO Box 190
Stowe, VT 05672
jpratt@stoweelectric.com

(for Town of Stowe
Electric Department)

Paul J.M. Quackenbush
SRH Law PLLC
PO Box 545
91 College Street
Burlington, VT 05402-0545
pquackenbush@srhlaw.com

(for SRH Law PLLC)

Andrew N. Raubvogel, Esq.
SRH Law PLLC
91 College Street
P.O. Box 545
Burlington, VT 05402-0545
araubvogel@srhlaw.com

(for SRH Law PLLC)

Emily Roscoe
Efficiency Vermont
eroscoe@veic.org

(for Efficiency Vermont
- Vermont Energy
Investment Corporation)

Paul Rozenberg
Suburban Propane
PO Box 206
240 Route 10 West
Whippany, NJ 07981
PROzenberg@suburbanpropane.com

(for Suburban Propane)

Amanda Sachs
Rewiring America
amanda@rewiringamerica.org

(for Rewiring America)

Laura Simon, *pro se*
PO Box 1112
Wilder, VT 05088
simonlaura06@gmail.com

Annette Smith
Vermonters for a Clean Environment, Inc.
789 Baker Road
Danby, VT 05739
vce@vermontel.net

(for Vermonters for a
Clean Environment)

Sriram Srinivasan, *pro se*
slsrinivasan@gmail.com

Christopher Trombly
Vermont State Housing Authority
christopher.trombly@vsha.org

(for Vermont State
Housing Authority)

Michael C. Trunzo
Shenker Russo & Clark LLP
121 State Street
4th Floor
Albany, NY 12207
michael.trunzo@srclawoffices.com

(for Shenker Russo &
Clark LLP)

Michael C. Trunzo
Shenker Russo & Clark LLP
121 State Street
4th Floor
Albany, NY 12207
michael.trunzo@srclawoffices.com

(for Clean Fuels Alliance
America)

Jared Ulmer
Vermont Department of Health
108 Cherry St
Burlington, VT 05401
jared.ulmer@vermont.gov

(for Vermont
Department of Health)

Ryan Vazza
Global Partners LP
800 South Street, Suite 500
Waltham, MA 02453
ryan.vazza@globalp.com

(for Global Partners LP)

Floyd V. Vergara, *pro se*
Clean Fuels Alliance America
1415 L Street, Suite 460
Sacramento, CA 95814
vergara.law@gmail.com

Ben Walsh
Vermont Public Interest Research Group
bwalsh@vpirg.org

(for Vermont Public
Interest Research Group)

Michael Wang, PhD., *pro se*
Argonne National Laboratory
mwang@anl.gov

Mia Watson
Vermont Housing Finance Agency
MWatson@vhfa.org

(for Vermont Housing
Finance Agency)

Thomas Weiss, *pro se*
PO Box 512
Montpelier, VT 05601
bandsol@together.net

Victoria M. Westgate, Esq.
SRH Law PLLC
91 College Street
P.O. Box 545
Burlington, VT 05402-0545
vwestgate@srhlaw.com

(for SRH Law PLLC)

David C. Westman
Efficiency Vermont - Vermont Energy Investment Corporation
20 Winooski Falls Way
5th Floor
Winooski, VT 05404
dwestman@veic.org

(for Efficiency Vermont
- Vermont Energy
Investment Corporation)

Frederick Weston, *pro se*
formaine@comcast.net

Chase Whiting, Esq.
Conservation Law Foundation
CLF 15 East State Street, Suite 4
Montpelier, VT 05602
cwhiting@clf.org

(for Conservation Law
Foundation)

Amber Widmayer
City of Burlington Electric Department
awidmayer@burlingtonelectric.com

(for City of Burlington
Electric Department)

Geoff Wilcox
Vermont Office of Economic Opportunity
geoff.wilcox@vermont.gov

(for Vermont
Department for Children
and Families)

Patrick Wood, *pro se*
Ag Methane Advisors LLC
patrick@agmethaneadvisors.com

Brian Woods
Agency of Natural Resources-Climate Action Office
1 National Life Drive
Davis 2
Montpelier, VT 05620-3901
Brian.Woods@vermont.gov

(for Vermont Agency of
Natural Resources)

Dylan Zwicky
Leonine Public Affairs
Dylan@leoninepublicaffairs.com

(for Leonine Public
Affairs)