

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 7970

Amended Petition of Vermont Gas Systems, Inc. for a certificate of public good, pursuant to 30 V.S.A. § 248, authorizing the construction of the “Addison Natural Gas Pipeline” consisting of approximately 43 miles of new natural gas transmission pipeline in Chittenden and Addison Counties, approximately 5 miles of new distribution mainlines in Addison County, together with three new gate stations in Williston, New Haven, and Middlebury, Vermont	
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Case No. 17-3550-INV

Investigation pursuant to 30 V.S.A. §§ 30 and 209 regarding the alleged failure of Vermont Gas Systems, Inc. to comply with the certificate of public good in Docket 7970 by burying the pipeline at less than required depth in New Haven, Vermont	
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Case No. 17-4909-PET

Petition of Vermont Gas Systems, Inc., pursuant to 30 V.S.A. § 248, for a Certificate of Public Good to authorize construction of a pressure-regulation station in Monkton, Vermont	
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Case No. 18-0395-PET

Notice of Probable Violations of Vermont Gas Systems, Inc. for certain aspects of the construction of the Addison natural gas pipeline	
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Order entered: 06/25/2024

POST-APPEAL ORDER OUTLINING NEXT STEPS

In December 2013, the Vermont Public Utility Commission (“Commission”) granted a petition submitted by Vermont Gas Systems, Inc. (“Vermont Gas”) for a certificate of public good (“CPG”), pursuant to 30 V.S.A. § 30, to construct a natural gas pipeline.¹ The final order and CPG set forth conditions controlling how Vermont Gas was to carry out its construction of the pipeline. In June 2017, Vermont Gas submitted a request to the Commission for a determination that its failure to bury the pipeline four feet deep within the VELCO-right-of-way constituted a non-substantial change. In response to Vermont Gas’s request, we opened an investigation, pursuant to 30 V.S.A. §§ 30 and 209, to determine whether Vermont Gas violated its CPG.

After a public hearing, the Vermont Department of Public Service (“Department”) filed with the Commission a notice of probable violations against Vermont Gas. The Department sought to examine the extent to which Vermont Gas’s construction of the pipeline deviated from the project specifications in the final order and CPG. The Department-initiated proceeding was consolidated with the Commission’s investigation. The investigation was further expanded in response to intervenor requests. In April 2023, we issued a final order adopting the hearing officer’s findings that Vermont Gas committed five substantial-change violations and one material-deviation violation of its CPG and imposing a \$150,000 penalty. The Commission agreed with the hearing officer that an amendment to the CPG was needed; however, we determined that the amendment could be processed in the investigation proceedings. The intervenors filed an appeal of the April 2023 order.

On May 24, 2024, the Vermont Supreme Court issued a certified opinion and mandate letter deciding an appeal of the Commission’s April 6, 2023, decision in Case Nos. 17-3550-INV and 18-0395-PET. In its order, the Supreme Court upheld the Commission’s decision finding that Vermont Gas had violated its CPG and imposing a \$150,000 penalty. However, the Court took issue with the procedure the Commission used to amend the underlying CPG. Thus, the Commission is required on remand to review, in a separate proceeding, a proposed amendment to Vermont Gas’s CPG.

¹ Case No. 7970, Order of 12/23/13.

On May 29, 2024, in Case Nos. 17-3550-INV and 18-0395-PET, Vermont Gas filed a motion for procedural order regarding remand proceeding seeking guidance from the Commission. Vermont Gas proposes that it will (1) provide broad advance 45-day notice of its amendment petition;² and (2) file a petition to amend the CPG issued in Case No. 7970, relying on the evidentiary record in Case Nos. 17-3550-INV and 18-0395-PET. Vermont Gas requests that the Commission convene a status conference after the amendment petition is filed.

On June 11, 2024, in Case Nos. 17-3550-INV and 18-0395-PET, Kristin Lyons, Jane Palmer, Nate Palmer, Lawrence Shelton, and Rachel Smolker (“Intervenors”) responded to Vermont Gas’s motion. The Intervenors argue that the contents of the 45-day notice must conform to the requirements for such a notice under Commission Rule 5.400 and that Vermont Gas’s proposal falls short of the notice required by Rule 5.400. The Intervenors agree with Vermont Gas that the evidentiary record from Case Nos. 7970, 17-3550-INV, and 18-0395-INV should be incorporated into the record in the new petition proceeding. The Intervenors support a status conference after the amendment petition is filed. Finally, the Intervenors state that they intend to file a motion requesting that the Commission order Vermont Gas to file a petition for waiver pursuant to Section 248(k) or cease operations.³

On June 18, 2024, in Case Nos. 17-3550-INV and 18-0395-PET, Vermont gas filed a reply to the Intervenors’ response.

In this Order, the Commission outlines the next steps in four separate cases affected by the Supreme Court’s decision and remand.

As an initial matter, the questions of whether Vermont Gas violated its CPG and must pay a penalty are resolved on appeal. Pursuant to 30 V.S.A. § 30, Vermont Gas must pay a civil penalty in the amount of \$150,000.00 by sending to the Commission at 112 State Street,

² Vermont Gas proposes a 45-day notice letter to all persons currently entitled to notice of a Section 248 petition under Commission Rule 5.400. This includes the municipal and legislative bodies in the towns where the Addison Natural Gas Pipeline is located; all adjoining landowners; host landowners; the Department of Public Service; the Agency of Natural Resources; the Natural Resources Board; the Division for Historic Preservation; and the Agency of Agriculture, Food & Markets. Vermont Gas also states that notice will be provided to all parties to Docket No. 7970.

³ The Intervenors assert that the basis for this motion is that Vermont Gas “is operating a natural gas pipeline that, as constructed, was not authorized by the initial CPG, is not authorized by any amended CPG, and as to which the Commission has made no valid findings that the criteria that the legislature has dictated must be satisfied before operation have been satisfied — including safety.” Intervenors’ Motion at 3.

Montpelier, VT 05620-2701, a check in that amount made payable to the State of Vermont within 30 days of the date of this Order. Upon deposit of the payment, Case Nos. 17-3550-INV and 18-0395-PET will be closed.

Additionally, Case No. 17-4909-PET has been stayed since April 5, 2018. That case was stayed pending the completion of the safety investigation being conducted in Case No. 17-3550-INV and the related Case No. 18-0395-PET. Those matters are now finally resolved by the appeal, so the stay is lifted. We request that Vermont Gas make a filing in Case No. 17-4909-PET either (1) withdrawing the petition and requesting that the case be closed, or (2) requesting that the case proceed and presenting a schedule for further proceedings. This filing is due by June 28, 2024.

Based on the Supreme Court's decision, we agree that Vermont Gas should issue a 45-day notice. The notice must follow the requirements under current Commission Rule 5.400. We agree with Vermont Gas as to the list of persons and entities entitled to notice and the inclusion of the parties to Case No. 7970.

After the 45-day notice period has run, Vermont Gas must file, using ePUC, a petition in a new case requesting amendments to the CPG granted in Case No. 7970 to reflect the unapproved substantial changes made to the pipeline by Vermont Gas. Vermont Gas's filing must include specific proposed conditions that address each of the five substantial-change violations identified in our April 3, 2023, order in Case Nos. 17-3550-INV and 18-0395-PET, and account for the remedial actions recommended by the expert witnesses in those proceedings. With respect to those remedial actions, Vermont Gas's filing must explain why those actions will prevent any future instances of undue impacts under the criteria identified as relevant to potential significant impacts in the proposal for decision based on evidence presented and the findings and conclusions in Case Nos. 17-3550-INV and 18-0395-PET.

Further, since the time the order and CPG were issued in Case No. 7970, the Commission has transitioned from a hard-copy, paper-based filing and case-management system to an on-line, electronic filing and case-management system, ePUC. The transition to ePUC has been quite positive and has been effective in reducing the burdens on all parties, especially with respect to

those resulting from the need to file multiple copies of documents with the Commission and to serve hard copies of all filings on all parties to a case, which in some cases can be many.

When ePUC was implemented, the Commission determined that, because of resource constraints and challenges associated with importing extensive paper records into ePUC, nearly all cases that were pending at that time would continue to be processed under the older hard-copy, paper-based system. These cases are known as “legacy cases.” The Commission expected that the number of open legacy cases would decrease over time as final orders were issued in those proceedings.

Because a new petition is required to amend the CPG issued in Case No. 7970, the Commission will take this opportunity to transition Case No. 7970 into ePUC.⁴ Once the new petition case is filed, Case No. 7970 will be closed.

Vermont Gas must include this order with its notice of the amendment petition. After the new petition case for the amended CPG is filed, we request that parties to Case No. 7970 who wish to participate in the new petition case file a notice to intervene.⁵ Persons or entities who did not participate in Case No. 7970 but wish to participate in the new petition case after it is filed, must file a notice or motion to intervene as required by Commission Rules 2.209 and 5.400.

You must participate in the new case using ePUC unless one of the exceptions stated in Commission Rule 2.110 applies. Instructions for creating an ePUC user account can be found here: <https://puc.vermont.gov/epuc-information/create-epuc-user-account>. Instructions for how to make a filing using ePUC can be found here: <https://puc.vermont.gov/epuc-information/make-filing>. General information and guidance for using ePUC can be found here: <https://puc.vermont.gov/epuc-information/epuc-help>. Additionally, Commission staff are available to answer questions regarding the use of ePUC.

⁴ Typically, an amendment would be filed in an amendment subcase in ePUC within the underlying CPG case, pursuant to Commission Rule 5.400 that went into effect on March 1, 2024. Because the underlying case here is a legacy case, we are requiring that this petition be filed as a new petition case to effectuate the transition to ePUC.

⁵ Given the amount of time that has elapsed, we want to ensure that we have accurate contact information for each party that wants to participate and that parties are given an opportunity to file notices of appearance, if represented.


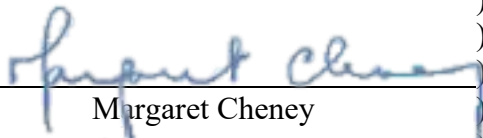
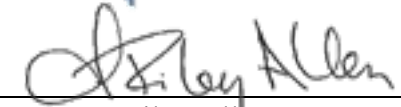
To request a waiver under Commission Rule 2.110(B) of the requirement to use ePUC, you can file the “Request for Waiver of Requirement to Use ePUC and Notice of Appearance” form that is available on the Commission’s website and from the Clerk of the Commission at 802-828-2358 or puc.clerk@vermont.gov.

We understand that Vermont Gas and the Intervenors agree that the evidentiary record — and Commission orders — from Case Nos. 7970, 17-3550-INV, and 18-0395-INV should be incorporated into the record in the new petition proceeding. For clarity of the record and because the filings in Case No. 7970 were substantially made in paper, it is important that all documents to be incorporated be filed into the new petition case in ePUC. Therefore, even if filed in a previous Commission case, all documents in support of Vermont Gas’s petition and part of the evidentiary record in Case Nos. 7970, 17-3550-INV, and 18-0395-INV must be filed into the new case.

The Commission will not prejudge the anticipated filings mentioned by Vermont Gas and the Intervenors. Once a filing is made, Vermont Gas, the Intervenors, and any other parties will have an opportunity to file motions and responses as appropriate.

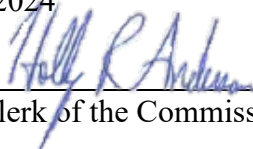
SO ORDERED.

Dated at Montpelier, Vermont, this 25th day of June, 2024.

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

OFFICE OF THE CLERK

Filed: June 25, 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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