

112 State Street
4th Floor
Montpelier, VT 05620-2701
TEL: 802-828-2358



TTY/TDD (VT: 800-253-0191)
FAX: 802-828-3351
E-mail: puc.clerk@vermont.gov
Internet: www.puc.vermont.gov

**State of Vermont
Public Utility Commission**

MEMORANDUM

To: Participants in Case No. 23-2220-RULE
From: Public Utility Commission Staff
Holly R. Anderson, Clerk ^{HEA}
Re: Staff Straw Proposals on Credit Fulfillment Plans and Criteria, Non-compliance and waiver process
Date: July 10, 2024

Introduction: On April 19, 2024, the Commission issued a revised work plan for this docket. Responding to participant feedback that the Commission should seek input on groups of related statutory directives, this memo serves as the staff straw proposal on items related to obligated party plan review and compliance with the potential Clean Heat Standard.¹ This memo includes straw proposals on the following elements:

- Obligated party credit fulfillment plan review and criteria (30 V.S.A. § 8125(d)); and
- Non-compliance enforcement and waiver (30 V.S.A. § 8124(f)(2) and (3))

These straw proposals are meant to solicit specific feedback – reasons why the proposals will or will not work well and whether they address the statutory requirements. If a participant does not agree with one or more of the proposals, in whole or in part, the participant is encouraged to offer an alternative approach (that includes its advantages and limitations). Comments in response to these proposals must be filed by July 29, 2024. Comments addressing the credit fulfillment plan should be tagged with the “6 Regulated Entities” dropdown option when filing. Comments addressing non-compliance enforcement should be tagged with the “4 Credit Usage” dropdown.

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>.

Obligated Party Credit Fulfillment Plan Review and Criteria

Legal basis: During each compliance period all obligated parties will be required to obtain and retire a specified number of clean heat credits. Section 8122(c) dictates that an obligated party “shall obtain the required amount of clean heat credits through delivery of eligible clean heat measures by a default delivery agent, unless the obligated party receives prior approval from the Commission to use another method as described in section 8125.” Section 8125(d)(1) reiterates that an obligated party “shall meet its annual requirement through a designated default delivery agent appointed by the Commission.” However, an obligated party may seek to meet its requirement, in whole or in part, through delivery of clean heat measures, by contracting for delivery of clean heat measures, or through the market purchase of clean heat credits. An obligated party “shall be approved by the Commission to meet its annual requirement using a method other than the default delivery agent if it provides sufficient details on the party’s capacity and resources to achieve the emissions reductions. This approval shall not be unreasonably withheld.”

Section 8125(d)(2) requires the Commission to develop a form for an obligated party to indicate how it intends to meet its requirement. “The form shall require sufficient information to determine the nature of the credits that the default delivery agent will be responsible to deliver on behalf of the obligated party. If the Commission approves of a plan for an obligated party to meet its obligation through a mechanism other than payment to a designated default delivery agent, then the Commission shall make such approvals known to the default delivery agent as soon as practicable.”

Section 8125(d)(3) requires the Commission to “establish a standard timeline under which the default delivery agent credit cost or costs are established and by which an obligated party must file its form. The default delivery agent’s schedule of costs shall include sufficient costs to deliver installed measures and shall specify separately the costs to deliver measures to customers with low income and customers with moderate income as required by subsection 8124(d) of this title. The Commission shall provide not less than 90 days’ notice of default delivery agent credit cost or costs prior to the deadline for an obligated party to file its election form so an obligated party can assess options and inform the Commission of its intent to procure credits in whole or in part as fulfillment of its requirement.”

Staff proposal: The following process is intended to take place *after* the Commission’s process on pacing as well as the review of default delivery agent three-year plans and budgets and the publication of default delivery agent credit costs.

The Commission will open a new case in ePUC for obligated parties to file their compliance plans. Each obligated party will file its compliance plan with the Commission no later than August 1 of the year immediately prior to the start of the next compliance period. The Commission will provide a fillable form that obligated parties will use to indicate the “nature of the credits that the default delivery agent will be responsible to deliver on behalf of the obligated party.” There are five categories of credits that a DDA could deliver on behalf of an OP:

- Market rate
- Low-income generic
- Low-income installed (with capital investments in homes, 10-year measure lives, lower annual energy bills)
- Moderate-income generic

- Moderate-income installed (with capital investments in homes, 10-year measure lives, lower annual energy bills)

The obligated party would input the number of clean heat credits that it is required to obtain, and the form would auto-populate the number of credits required for each category. If the obligated party intends to obtain the required amount of clean heat credits through a default delivery agent, then it would so indicate by checking a box on the form. If the obligated party intends to obtain the required amount of clean heat credits, in whole or in part, through delivery of clean heat measures, by contracting for delivery of clean heat measures, or through the market purchase of clean heat credits, then the obligated party’s plan would be subject to Commission review and approval. For each of the five categories listed above, the obligated party would need to specify the portion that it would procure via the default delivery agent and the portion that it would secure on its own through delivery, contract, or market purchase. The plan will be approved by the Commission if the obligated party “provides sufficient details on the party’s capacity and resources to achieve the emissions reductions. This approval shall not be unreasonably withheld.”²

To demonstrate that the obligated party has sufficient capacity and resources, Commission staff proposes the following standards of review.

- For delivered clean heat measures, the obligated party must attest that it has secured adequate supply of eligible fuels through contracts.
- For installed measures that the obligated party intends to install itself, the obligated party must demonstrate that (a) it has staff with appropriate training and credentials to perform the work, and (b) sufficient staff to install the required number of measures.
- For contracts or market purchase of clean heat credits, the obligated party must attest that it understands the anticipated compliance cost and has the financial resources to pay the anticipated compliance cost. The obligated party would indicate its anticipated compliance cost.
- For all types, the obligated party must attest that it understands the applicable documentation and record-keeping requirements.

If the obligated party satisfactorily demonstrates that it has the capacity and resources pursuant to the above, the Commission would issue a brief order approving the obligated party’s compliance plan.

Proposed schedule: The following schedule would take place during the year preceding the compliance period.

Activity	Date
Publication of DDA credit cost	May 1
Obligated parties file compliance plans	August 1
Commission review/approval of compliance plans	October 1

Questions regarding proposal:

² Section 8125(d)(1).

1. What information, if different from above, should an obligated party provide to substantiate that it has the “capacity and resources” to procure the required number and type of clean heat credits? For measures that the obligated party intends to install itself, what would be appropriate training and credentials? (For example, certification by the Building Performance Institute; registered with the Office of Professional Regulation)
2. What public-facing process, if any, should be part of the Commission’s review of obligated party compliance plans? Should the process include a 30-day comment period after obligated party plans are filed?
3. How often should the Commission review obligated party compliance plans? If not annually, should the Commission require compliance plans every three years, to align with the triennial review process for default delivery agent budgets and plans? Does statute dictate some other frequency of review?
4. Should there be a different process or standard of review for initial obligated party compliance plans for the first compliance year(s)? If so, what would be that process or standard of review?

Obligated Party compliance review, enforcement, and waiver criteria

Legal basis: During each compliance period all obligated parties will be required to obtain and retire a specified number of clean heat credits. There will be a periodic process, potentially annually, to determine whether obligated parties have met their obligations by retiring the specified number of clean heat credits. Section 8124(f) establishes the consequences for failure to retire the required number of credits.

(2) The Commission shall order an obligated party that fails to retire the number of clean heat credits required in a given year, including the required amounts from customers with low income and moderate income, to make a noncompliance payment to the default delivery agent for the number of credits deficient. The per-credit amount of the noncompliance payment shall be two times the amount established by the Commission for timely per-credit payments to the default delivery agent.

(3) However, the Commission may waive the noncompliance payment required by subdivision (2) of this subsection for an obligated party if the Commission:

(A) finds that the obligated party made a good faith effort to acquire the required amount and its failure resulted from market factors beyond its control; and

(B) directs the obligated party to add the number of credits deficient to one or more future years.

Staff proposal: The following is a procedural proposal and does not address the specific requirements for verification of individual clean heat measures. The requirements for that verification work will be the subject of a separate forthcoming staff straw proposal.

Schedule

Commission staff propose the following schedule for review. Although the process could commence earlier in the calendar year, the proposal intentionally falls outside the peak of the heating season.

Activity	Date
Obligated parties file clean heat credit claims for the previous calendar year and requests for waiver for non-compliance	May 1
Department of Public Service files recommendations to the Commission regarding (1) the verified clean heat credits achieved by obligated parties in the previous year, and (2) any waiver requests.	July 15
Deadline for obligated parties and any other interested parties to file comments on the Department's recommendations.	July 31
PUC determination of compliance or granting of waivers	September 15
Deadline for obligated parties found to be out of compliance to file non-compliance payment	October 15

Waiver criteria

Section 8124(f)(2) directs that failure to retire the required number of clean heat credits in a given year results in a noncompliance payment to the DDA for the number of clean heat credits

deficient. The per-credit amount is two times the price of a timely per-credit payment to the DDA. Section 8124(f)(3) details the statutory criteria that the Commission may consider when an obligated party requests waiver of the noncompliance payment. This proposal recommends that the Commission require an obligated party to provide the following information in a waiver request:

- Substantiation of the good faith effort to acquire the required amounts. Each obligated party will have filed a compliance plan (see first straw proposal, above), so the waiver request should explain what part(s) of the compliance plan fell short and describe the obligated party's efforts to fulfill those part(s) of the plan;
- Explanation of how the obligated party's failure resulted from market factors beyond its control; and
- A specific proposal for the number of credits deficient that will be added to one or more future years. For example, an obligated party who is 10 credits deficient could propose to add a 10-credit requirement to the next calendar year, or could propose to add a smaller credit requirement to multiple years, such as 5, 3, and 2 credits over the next three years, respectively.

Questions regarding proposal

1. The proposal assumes there will be an annual compliance review. Should the Commission review compliance on some different schedule (for example, every three years). Does statute dictate some other frequency of review?
2. Please comment on the timing of the process (when it starts, and the intervals for each step) and sequence of review.
3. What information, if different from above, should an obligated party provide with a request for waiver of noncompliance payment?

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@allearthrenewables.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)