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April 25, 2024

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

Re: Proceeding to design the potential Clean Heat Standard
Case No. 23-2220-RULE, Fixed Price Contracts

Dear Ms. Anderson:

I am writing on behalf of the Vermont Fuel Dealers Association and their members (collectively “VFDA.”) to request that the Vermont Public Utility Commission (“PUC” or “Commission”) expedite their workplan regarding the decision to establish when the first obligation period will commence. VFDA requests clarification that the first obligation period commence no earlier than January 1, 2026.¹ VFDA requests that this determination be expedited to facilitate the fuel dealers’ ability to offer pre-buy or fixed-price contracts to their retail customers for the 2024-2025 heating season.

In doing so, VFDA encourages the Commission to follow the unanimous vote of the Technical Advisory Group taken on April 18. The Technical Advisory Group unanimously recommends that the earliest obligation period should not begin until January 1, 2026. Such a determination by the Commission would avoid undue, adverse financial impacts to fuel dealers who offer fixed price or pre-buy heating fuel contracts to the benefit of their consumers.

Most local heating fuel dealers provide customers the opportunity to pre-buy their winter heating fuel or enter into fixed-price contracts. These popular price protection plans provide price stability, and in most years, they lower costs compared to fuel purchased only during the colder, winter months. It is nearly impossible for fuel dealers to lock in rates for their customers while complying with Vermont’s guaranteed price law, 9 V.S.A. § 2461e, if the fuel dealers do not have

¹ This is based upon the assumption that Clean Heat Standard will be adopted by the Vermont Legislature in 2025. 30 V.S.A. § 8131.
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certainty around their related costs.

One primary area of uncertainty for fuel retailers, who may become obligated parties under the anticipated Clean Heat Standard, is the timing and amount of credits they will be required to obtain. 30 V.S.A. §§ 8124(a)(1), (2) requires the Commission to establish the number of clean heat credits each obligated party is required to retire based upon the prior year's contribution to the thermal sector's contribution to lifecycle CO₂ emissions. This criteria presents a significant problem in the first year of the operation of the Clean Heat Standard. Fuel dealers who offer pricing for pre-buy contracts for the 2024/2025 heating season are setting prices now. Unfortunately, the amount of credits they will need to purchase or otherwise acquire for these prebuy contracts will not be known until at least January 1, 2025. The cost of these credits is also not known and will likely not be known until at least January 1, 2025.

This uncertainty creates significant cost pressures that could deter fuel dealers from offering pre-buy contracts. Specifically, if a clean heat credit fee is applied from retroactive sales that have already been locked into a set price, fuel dealers could be left in a position where they will not have the opportunity to collect the related costs. This is because once the prebuy contract is set, there is no opportunity to meaningfully incorporate into the fixed price the costs to comply with the Clean Heat Standard. If the cost for clean heat credits associated with the fixed price contracts are larger than their gross margin, it is quite possible that some of these local businesses that deliver these essential commodities will not be financially viable.

To alleviate this uncertainty and create the opportunity for fuel dealers to offer pre-buy contracts, the Commission should issue a determination that the obligations for the Clean Heat Act will not commence at the earliest until January 1, 2026. A clear statement from the Commission confirming that the obligation period will not begin until AFTER January 1, 2026, will help ensure the continuation of price protection programs that benefit consumers in the upcoming heating season.

Sincerely,

/s/ Joshua R. Diamond

Joshua R. Diamond