



March 6, 2023

*Via ePUC*

Vermont Public Utility Commission,  
Clean Heat Standard Technical Advisory Group, and  
Clean Heat Standard Equity Advisory Group  
c/o Holly Anderson, PUC Clerk  
Vermont Public Utility Commission  
112 State Street  
Montpelier, VT 05620-2701

**Re: Case No. 23-2220-RULE, Proceeding to Design the Potential Clean Heat Standard,  
Scheduling – Tag 0 (procedural issues)**

Dear Commissioners and Clean Heat Standard Advisory Group Members,

As organizations deeply involved in the passage of the Affordable Heat Act (Act 18) and the State's Environmental Justice Law (Act 154), and, prior to that, decades of work to help Vermonters equitably use energy more efficiently, access more clean energy solutions, and reduce Vermonters' costly reliance on imported fossil fuels, we write today to underscore the importance of developing the Clean Heat Standard (CHS) pursuant to the statutorily required timeline. As described below, small changes can be made to the Draft Schedule<sup>1</sup> to address some of the concerns raised in responsive comments to the Order Requesting Scheduling Comments and discussed in the [First Checkback Report on the Clean Heat Standard Under Act 18 of 2023, Section 6\(i\)](#) (First Checkback Report) without pushing out the ultimate statutory deadline.

***Delaying Implementation of the Clean Heat Standard at this Point Would Perpetuate an Unjust and Inequitable Status Quo.***

As elaborated upon in the First Checkback Report, some participants in the Public Utility Commission's (PUC) CHS proceedings, which includes both 23-2220-RULE and 23-2221-INV (CHS dockets), have expressed "misgivings that the quality of the rule and the success of its implementation will suffer as a result of the aggressive schedule required by Act 18 [and the

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<sup>1</sup> The Draft Schedule was included with the Public Utility Commission's (PUC) Order Requesting Comments on Draft Schedule, Dec. 21, 2023 (ePUC, Case No. 23-2220-RULE) (Order Requesting Scheduling Comments).

PUC’s], the Equity Advisory Group[’s], and the Technical Advisory Group[’s ability] to carry out their responsibilities in a manner that allows time for deliberative process, thoughtful input from all stakeholders, and sufficient public participation to design such a transformative, first-of-its-kind, highly complex, and technical program” and concerns that the State’s Environmental Justice Law and the Guiding Principles for a Just Transition described in the Vermont Climate Action Plan (CAP) (Guiding Principles)<sup>2</sup> cannot be adhered to under the Draft Schedule. While the PUC could make some small modifications to the schedule that may encourage more public participation, we do not think an extension of the timeline is warranted now in the CHS dockets for several reasons.

First, the development of the law and the PUC’s implementation process have provided, to date, adequate procedural equity. This policy was developed over two legislative sessions where there were many publicly accessible committee hearings, and lawmakers heard from hundreds of constituents on the program’s relative merits or challenges. Further, the PUC’s Draft Schedule provides a myriad of opportunities for public comment, the meetings and workshops have been open to the public and are now recorded, and there is a robust and well-organized CHS website that informs the public of past and upcoming orders, meetings, and more. While there could be some minor revisions to the schedule to enhance procedural equity (see below), it is inaccurate to claim that the PUC cannot adhere to the state’s Environmental Justice Law or to the Guiding Principles while also meeting the statutory timeline for the development of the CHS.

Second, most of the equity concerns raised in the First Checkback Report deal with procedural equity—time to respond to requests for public comment, overlapping public comment windows, etc.—but procedural equity is only one component of an equitable policy framework. Other components of equity—distributive, recognizing disparities and inequities in terms of access to benefits and burdens; contextual, ensuring that mitigation and adaptation strategies are targeted towards those who are often more vulnerable to climate change; and corrective, ensuring that mitigation and adaptation strategies provide communities with processes to hold the State accountable—are equally important components to an equitable implementation of the CHS. *See [Climate Action Plan at p. 48](#).*

Because of the ever mounting need to respond to the climate crisis now, not a year or 10 years from now, and the inherent injustice of the status quo, it is illogical and contrary to legislative intent, the State’s Environmental Justice Law, and the Guiding Principles to slow down the development of a CHS policy that is intended to and, if developed correctly, will advance a more just and equitable energy system for Vermonters. *See [2023 Acts and Resolves No. 18 \(Act 18\), Sec. 2](#) (Affordable Heat Act findings), [2020 Acts and Resolves No. 153, Sec. 2](#) (Global Warming Solutions Act findings), and [3 V.S.A. § 6003](#) (environmental justice policy).*

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<sup>2</sup> These six Guiding Principles are listed on [page 49 of the Climate Action Plan](#). And the two referenced in the First Checkback Report are directly related to procedural equity—ensuring transparent and innovative engagement and moving at a speed that allows adequate time to incorporate all voices, especially those most impacted in the transition to a sustainable climate. *See [First Checkback Report at pp. 3 and 4](#).*

It is indisputable that there are serious inequities in the status quo. The status quo locks people into using expensive price-volatile fossil fuels, often creating a disproportionate energy burden in communities with low-income, in communities of people of color, and on people with disabilities. This is inequitable and contrary to the State’s environmental justice policy. These inequities will only be prolonged if there are even slight delays in the development of the CHS. Moreover, any delay will make it more difficult for the State to meet its early thermal sector greenhouse gas emissions reductions requirements under the Global Warming Solutions Act, *see* [10 V.S.A. § 578\(a\)](#), and cause avoidable distributive and contextual equity problems. Specifically, the emissions reductions required by 2030 will not be lower just because a CHS is implemented in 2026 as opposed to 2025. Instead, more transitional activity will need to be compressed into a shorter period, which, in turn, is likely to create avoidable upward cost pressure.

***Suggested Modifications to Draft Schedule to Encourage and Improve Public Participation.***

As currently contemplated in the Draft Schedule, the PUC process is broken out into numerous independent, and yet interconnected, components of work based on statutory subsection and subdivision; each requiring distinct public comment windows, workshops, etc. *See* Draft Schedule and [First Checkback Report at pp. 8 and 9](#) (explanation of the use of topic tags on PUC orders and filings). While we did not file comments in response to the Order Requesting Scheduling Comments, we think it is important, especially given some of the comments that were received in response to the Order Requesting Scheduling Comments and the summation of those comments in the First Checkback Report, to go on record now, and consistent with comments filed in Joint Responders’ November 6, 2023 Comments,<sup>3</sup> to state our general support of the Draft Schedule and to endorse several suggestions made by the majority of commenters who did respond to the Order Requesting Scheduling Comments, which is to suggest resequencing topics, minimizing overlapping deadlines and comment periods, and consolidating topics. *See* Comments from the Department of Public Service, Jan. 12, 2024, at pp. 1 and 2; Comments from VEIC, Jan. 12, 2024; Comments from Vermonters for a Clean Environment, Jan. 12, 2024; Comments from Thomas Weiss, Jan. 12, 2024; and Comments from Vermont Gas Systems, Inc., Jan. 12, 2024.

One way to minimize overlapping deadlines in the schedule would be to more closely follow the model that the Massachusetts Department of Environmental Protection (MassDEP) is using to solicit public engagement and comments on Massachusetts’s CHS regulatory language. *See* [Massachusetts Department of Environmental Protection, Clean Heat Standard Stakeholder Meetings & Input](#) and [Massachusetts Department of Environmental Protection, Clean Heat Standard Program Development](#). MassDEP is utilizing a method of soliciting public engagement that is structured around technical sessions and community meetings that are spaced farther apart than what the PUC is currently implementing and proposed in the Draft Schedule.

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<sup>3</sup> Joint Responders included Efficiency Vermont, Vermont Gas Systems, Inc., Conservation Law Foundation, Vermont Public Interest Research Group, Vermont Natural Resources Council, and Burlington Electric Department.

One way to consolidate topics could be to structure public engagement around categories (versus statutory provisions) and to front load the work on the categories that are related to anticipated costs to Vermonters, which might be an area for which ample opportunity for engagement is the most beneficial. Structuring public engagement around categories might also prove less daunting to stakeholders who want to provide public comments to the PUC but are either not sure when in the more technical statutory-framed process is the appropriate time to do so or who need broader categorical topics to queue their input as opposed to discrete statutory subtopics.

These are just two potential ways that the PUC, along with the Technical Advisory Group and the Equity Advisory Group (collectively Advisory Groups), can explore a schedule that works for Vermonters, is equitable in process and outcome, and meets the statutory deadlines enacted by the Vermont General Assembly.

With the PUC's recent hiring of a public engagement facilitator from the Vermont Partnership for Fairness and Diversity, as well as a new technical consultant, we are even more confident that the PUC and the Advisory Groups can craft a schedule and process that, together, address both procedural and substantive equity concerns and meet the technical requirements of Act 18.

### ***Conclusion.***

As explained above, in the interest of the State's environmental justice policy and the Guiding Principles, it is imperative that the PUC, its consultants, and the Advisory Groups take on the task of crafting a schedule that will yield a CHS that works for Vermont and Vermonters and that is grounded in environmental justice, the Guiding Principles, and science, while also meeting the statutory timeline for the development of the CHS. Meeting the statutory timeline for the development of the CHS is necessary for the Vermont General Assembly to be in a position to affirmatively authorize the adoption of rules implementing the CHS that are approved by the General Assembly before adjournment of the 2025 legislative session. *See* [2023 Acts and Resolves No. 18, Sec. 6\(f\)\(1\) and \(2\)](#) and [30 V.S.A. § 8131](#).

This is not the first time that the State has had to work hard and under a tight timeline to equitably meet a statutory timeline. As explained in the CAP, “engagement cannot be a ‘point in time’ effort . . . but rather must be a commitment . . . to work in an ongoing fashion to engage Vermonters in climate action.” [Climate Action Plan at p. 47](#). This is exactly what needs to happen here. Just like the development of the CAP, the development of the CHS is an iterative process. As required by law, science, and the disproportionate inequities of the status quo, Vermont is embarking on fundamentally realigning Vermont's energy system to one that is more equitable for current market actors—and all Vermonters. This is a significant task in the thermal sector, in particular. The work ahead to design processes, programs, and policies that enable all Vermonters to participate in this energy transition and access more clean, efficient, and affordable energy is imperative. We are confident that the PUC, its consultants, and the Advisory Groups will ensure that there will be opportunities to tailor, tweak, and engage as the CHS policy takes shape.

We look forward to collaborating with you all to deliver on the charge—and timeline—of designing a cost-effective, equitable thermal performance standard as envisioned by Act 18, and we thank you in advance for your consideration of these comments.

Sincerely,

/s/ Elena Mihaly  
Elena Mihaly  
Vice President, Vermont  
Conservation Law Foundation

/s/ Johanna Miller  
Johanna Miller  
Energy and Climate Program Director/VECAN Coordinator  
Vermont Natural Resources Council

/s/ Ben Edgerly Walsh  
Ben Edgerly Walsh  
Climate & Energy Program Director  
Vermont Public Interest Research Group