

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 19-3529-PET

---

|   |  |
|---|--|
| Petition of Vermont Gas Systems, Inc. for approval of an Alternative Regulation Plan, pursuant to 30 V.S.A. §218d |  |
|---|--|

---

Order entered: 08/11/2021

**ORDER APPROVING ALTERNATIVE REGULATION PLAN**

This case concerns the petition filed by Vermont Gas Systems, Inc. (“VGS”) for approval of its amended Alternative Regulation Plan (the “Amended Plan”)<sup>1</sup> pursuant to 30 V.S.A. § 218d. VGS’s existing Alternative Regulation Plan (the “Existing Plan”)<sup>2</sup> governs the natural gas charge component of customer rates through the purchase gas adjustment (“PGA”) and weatherization adjustment provisions. The Existing Plan is set to expire on September 30, 2021.

As described in the findings below, the Vermont Public Utility Commission (“Commission”) has determined that the Amended Plan satisfies the statutory criteria of Section 218d. In today’s Order, the Commission approves the Amended Plan.

**I. INTRODUCTION**

Alternative regulation may allow changes to certain costs, such as natural gas costs, to flow through to ratepayers without following traditional rate case procedures. Alternative regulation can also align utility incentives with customer interests and specified policy goals by creating a balanced set of risks and rewards that drive utility performance. For example, alternative regulation can disconnect a utility’s financial performance from its sales and be structured to encourage innovation. Alternative regulation can foster innovation and support State policy goals by allowing utilities to develop new products and services that reduce greenhouse gas emissions.

---

<sup>1</sup> See exh. VGS-JMP-5 filed on May 21, 2021.

<sup>2</sup> The Existing Plan was originally approved by the Commission in Docket No. 8698 on January 20, 2017. The Commission authorized extensions of the Existing Plan in Case No. 17-3861-PET on August 31, 2017, in Case No. 18-2033-PET on August 14, 2018, in Case No. 19-2932-PET on August 15, 2019, and in the current proceeding on April 17, 2020.

The Amended Plan includes the PGA and weatherization adjustment provisions allowing natural gas costs to flow through to customers, as well as several provisions that promote innovation and advance VGS's goals under its Climate Action Plan. The Amended Plan also includes a provision that base rates for non-gas-related costs will be established through traditional ratemaking processes.

## **II. PROCEDURAL HISTORY**

On September 13, 2019, VGS filed its petition for approval of an Alternative Regulation Plan that would take effect on October 1, 2020, and expire on September 30, 2023.

On April 8, 2020, VGS filed a motion for a temporary stay of the proceeding and temporary extension of its Existing Plan citing economic uncertainties stemming from the COVID-19 pandemic. The Commission granted VGS's motion for a stay and a one-year extension of the Existing Plan.

On November 25, 2020, VGS filed a revised petition for approval of an Alternative Regulation Plan, as well as prefiled testimony and exhibits, and a motion to lift the temporary stay.

On January 14, 2021, the Commission issued an Order to lift the stay and to set a schedule for the proceeding.

On April 22, 2021, the Vermont Department of Public Service ("Department") filed its direct testimony in response to the November 25 petition.

On May 21, 2021, VGS filed rebuttal testimony and supporting exhibits, including the Amended Plan as Exhibit VGS-JMP-5.

On June 11, 2021, the Department filed surrebuttal testimony in response to the Amended Plan.

On June 16, 2021, VGS filed a letter with the Commission stating that the parties did not intend to conduct any cross examination of witnesses at the evidentiary hearing. Because the Commission did not have any further questions for the parties, the June 25 evidentiary hearing was canceled.

On July 14, 2021, VGS filed a draft proposal for decision with the Commission.

On July 20, 2021, the Department filed comments on the draft proposal for decision stating that it has reviewed the filing and does not object to or challenge any of VGS's proposed findings or conclusions of law.

No party objects to the prefiled testimony and exhibits filed in this proceeding. Accordingly, the petition and revised petition, prefiled testimony of Neal Lunderville, prefiled testimony of Ashley Wainer, and prefiled and rebuttal testimony of Jill Pfenning and exhibits VGS-JMP-1 through-5 are admitted into evidence as if presented at a hearing. Additionally, the testimony of the Department's witnesses is admitted into evidence. This includes the direct testimony of Sean Foley, direct testimony of Walter (TJ) Poor, and direct and surrebuttal testimony of Scott G. Wheeler.

### **III. FINDINGS**

1. The Amended Plan will be effective on October 1, 2021, and is set to expire on September 30, 2024. The Amended Plan provides that VGS may request approval from the Commission for a two-year extension after consultation with the Department. Exh. VGS-JMP-5 at 1.

2. The Amended Plan does not regulate VGS's base rates. VGS will file traditional rate cases for non-gas-related costs with the Commission. In these rate cases, the Commission will review VGS's non-gas costs to set base rates, determine the amount of withdrawal from the System Expansion and Reliability Fund ("SERF"), and set the return on equity ("ROE"), as well as consider any other cost-of-service issues.<sup>3</sup> Jill Pfenning, VGS, ("Pfenning") reb. at 3.

3. The Amended Plan includes four provisions that are consistent with the Existing Plan, including the PGA with weather normalization provisions, service quality and reliability standards, reporting requirements, and dispute resolution provisions. Exh. VGS-JMP-5 at 2, 6-7.

4. The PGA allows VGS to establish the natural gas component of firm rates quarterly on a formulaic basis. This enables VGS to adjust its gas costs more frequently to reflect market conditions and changes to forecasted weather conditions. Pfenning pf. at 7.

---

<sup>3</sup> The Commission is currently reviewing VGS's non-gas rates in Case No. 21-0898-TF.

5. The weather normalization feature reduces risk for VGS and holds both customers and VGS harmless for variation in volumetric sales due to unexpected changes to weather forecasts. Sean Foley, Department, (“Foley”) pf. at 4-5.

6. Consistent with Section 218(a)(1), the Amended Plan provides clear incentives for VGS to provide least-cost energy services to customers. VGS will recover gas-related costs through the quarterly PGA. Non-gas costs will be reviewed in traditional rate cases. Pfenning pf. at 6.

7. The Amended Plan includes a provision that base rates will be set through traditional ratemaking procedures and the review of those costs will determine whether the resulting rates are just and reasonable. Gas rates will reflect VGS’s actual costs, and the PGA ensures that these costs are passed on to the customer. Accordingly, the Amended Plan meets the requirement for just and reasonable rates as described in Section 218d(a)(2). Pfenning reb. at 7.

8. The Amended Plan contains reporting requirements related to service quality and also supports VGS’s continued investment in safe and reliable service. The Amended Plan requires compliance with VGS’s existing Service Quality and Reliability Plan.<sup>4</sup> Additionally, the Proposed Plan requires enhanced reporting regarding safety and energy goals, thus reinforcing and improving the provision of safe and reliable service. These provisions ensure that the Amended Plan complies with the statutory criteria for safe and reliable service as described in Section 218d(a)(3). Pfenning pf. at 11.

9. The Amended Plan maintains VGS’s existing service quality and reliability obligations. The Department has determined that these provisions have functioned well. Scott G. Wheeler, Department, (“Wheeler”) pf. at 12.

10. The Amended Plan promotes innovation and advancement of State energy policy in accordance with Section 218d(a)(4). It establishes a framework to gradually increase renewable natural gas (“RNG”) as a percentage of its retail sales and ensures that VGS remains a competitive heating services company as it reduces its greenhouse gas emissions. VGS offers a voluntary RNG tariff to its customers and is gradually increasing its RNG as part of its overall

---

<sup>4</sup> See Docket Nos. 7803/7843 at 23 (“[T]he Company’s Service Quality Plan, which measures the Company’s performance against numerous safety and reliability standards, will remain in effect. Failure to achieve the benchmarks established in the Service Quality Plan will result in negative financial consequences to the Company.”).

supply over time. The Amended Plan allows for an increase in RNG supply equivalent to 2% of VGS's retail sales on an annual basis. Pfenning pf. at 12.

11. The Amended Plan promotes improved quality of service, reliability, and service choices as described in Section 218d(a)(5). It provides for performance to be measured and evaluated against the terms of its separate Service Quality and Reliability Plan, which creates an incentive for VGS to deliver a high level of customer service and reliability. Also, the RNG features of the Amended Plan expand VGS's renewable offerings while maintaining affordable service. Pfenning pf. at 14.

12. The Amended Plan encourages innovation in the provision of services in accordance with Section 218d(a)(6) because it includes a \$2 million annual budget for investment in innovation and climate action initiatives. The Climate Action and Innovation Budget provides VGS with flexibility to pursue existing, nascent, and future technologies and services. VGS will invest in innovation and climate action while tracking its performance so that it may implement sustainable long-term strategies. Pfenning pf. at 13, exh. VGS- JMP-5 at 5.

13. The Department supports VGS's focus on "creatively meet[ing] customers' needs for energy services in a manner that is environmentally sound with an eye toward maintaining affordability." The Department supports VGS's efforts to consider and invest in opportunities that may advance achievement of public-service objectives and State energy goals. Walter (TJ) Poor, Department, ("Poor") pf. at 3.

14. Regulatory oversight is critical to ensure that VGS's innovative service offerings are made in a comprehensive, fair, and transparent manner. Poor pf. at 3.

15. VGS will provide 30-day advance notice to the Commission and Department before beginning any spending on a project, program, or service under the Climate Action and Innovation Budget that exceeds \$25,000. If there is no objection or request for a formal review process from the Department or ordered by the Commission, VGS may proceed with the expenditure without delay. VGS will provide annual reports on these projects, programs, and services. Exh. VGS-JMP-5 at 5-6.

16. The Amended Plan establishes a reasonably balanced system of risks and rewards that encourages VGS to operate efficiently using sound management practice as described in Section 218d(a)(7). Although base rates for non-gas costs will be set under traditional

ratemaking practices, the Amended Plan establishes a framework for gas costs and allows incremental increases in the amount of RNG under the PGA. This allows VGS to offer customers more climate-conscious options while balancing the overall costs of such services to customers in the long run. Pfenning reb. at 8.

17. Finally, the Amended Plan will provide a reasonable opportunity, under sound management, to earn a fair rate of return as provided for in Section 218d(a)(8). Non-gas rates will be established under traditional rate principles. Accordingly, operating and maintenance costs, capital investments beyond the \$2 million Climate Action and Innovation Budget, and VGS's allowed ROE will all be reviewed according to traditional ratemaking principles. At the same time, the Amended Plan provides incentives for investments related to climate action and innovation and encourages VGS to report on its progress, learn from its experience, and improve its Climate Action Plan-related efforts. Pfenning reb. at 8-9.

18. The Department recommends that the Commission approve the Amended Plan pursuant to the statutory requirements of 30 V.S.A. § 218d. Wheeler surreb. at 3.

#### **IV. DISCUSSION AND CONCLUSION**


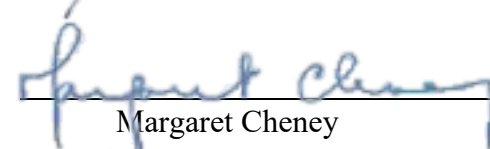
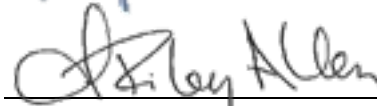
In conclusion, after considering the evidence in this proceeding, the Commission finds that the Amended Plan satisfies the statutory criteria contained in 30 V.S.A. § 218d, will provide VGS with flexibility to innovate, provides customer protections, and promotes the public good. For each of these reasons, we approve the Amended Plan.

**V. ORDER**

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Vermont Public Utility Commission (“Commission”) that:


1. The Amended Alternative Regulation Plan (“Plan”) filed by Vermont Gas Systems, Inc. (“VGS”) on May 21, 2021, and marked as Exhibit VGS-JMP-5 is approved pursuant to 30 V.S.A. § 218d.
2. The Plan will take effect on October 1, 2021, and expire on September 30, 2024, unless an extension of the Plan is authorized by the Commission.
3. VGS shall provide 30-days advance notice to the Commission and Vermont Department of Public Service (“Department”) before beginning spending on a project, program, or service under the Climate Action and Innovation Budget that exceeds \$25,000. Each advance notice shall be filed as a new report case, with a report type of “VGS Climate Action program.”
4. VGS shall file an annual report on each Climate Action and Innovation Budget project, program, or service. Each annual report shall be filed in the existing report case for that project, program, or service.
5. VGS or the Department, jointly or separately, may request that the Plan be amended to modify the existing provisions or to add provisions.
6. Nothing in the Plan shall be interpreted as preventing the Department from requesting an investigation into VGS’s rates. Should the Commission undertake such an investigation, or an investigation on its own, the resulting changes may be retroactive consistent with 30 V.S.A. § 227(b).

Dated at Montpelier, Vermont, this 11th day of August, 2021.

|   |                  |
|---|------------------|
| <br>_____ ) | ) PUBLIC UTILITY |
| Anthony Z. Roisman )  |                  |
| _____ )   |                  |
| <br>_____ ) | ) COMMISSION     |
| Margaret Cheney )   |                  |
| _____ )   |                  |
| <br>_____ ) | ) OF VERMONT     |
| J. Riley Allen )  |                  |

OFFICE OF THE CLERK

Filed: August 11, 2021

Attest:   
Deputy 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)*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Commission within 30 days. Appeal will not stay the effect of this Order, absent further order by this Commission or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Commission within 28 days of the date of this decision and Order.*



PUC Case No. 19-3529-PET - SERVICE LIST

Parties:

Erin C. Brennan, Esq. (for Vermont Department of Public Service)  
Vermont Department of Public Service  
112 State Street  
Montpelier, VT 05620  
Erin.Brennan@vermont.gov

Daniel C. Burke, Esq. (for Vermont Department of Public Service)  
Vermont Department of Public Service  
112 State Street  
Third Floor  
Montpelier, VT 05620-2601  
dan.burke@vermont.gov

Owen McClain, Esq. (for Vermont Gas Systems, Inc.)  
Sheehey Furlong & Behm P.C.  
30 Main Street  
P.O. Box 66  
Burlington, VT 05402  
omclain@sheeheyvt.com