VERMONT FUEL DEALER'S ASSOCIATION MOTION TO RECONSIDER ORDER ADOPTING INTERIM STANDARD FOR CREDIT OWNERSHIP METHODOLOGY

NOW COMES The Vermont Fuel Dealers Association ("VFDA"), by and through their undersigned counsel, and pursuant to VT PUC Rule 2.206, moves the Vermont Public Utility Commission ("PUC" or "Commission") to reconsider its Order Adopting Interim Standard for Credit Ownership Methodology issued on July 16, 2024. Reconsideration is needed to clarify and harmonize the obligations set forth in the Order with the realities of the marketplace. Specifically, the Order provides:

1. "For delivered measures, the entity delivering the clean heat measure initially owns the clean heat credits generated by that measure." Order at p.3.

2. "For biodiesel blends above 'B20' and other biofuels that have a reasonable risk of causing heating equipment to malfunction, the entity delivering the measure must certify that the fuel customer's equipment is able to utilize the clean heat measure effectively and safely." Order at p. 3.

Both requirements need to be modified because they do not adequately reflect fuel delivery operations in the marketplace. First, there is a disconnect between the obligated parties and those who make deliveries. Second, regarding the B20 certification process, this may not be feasible given that over 100,000 oil-fired furnaces and boilers operate in Vermont.

The PUC should clarify that the entity receiving the initial credit for delivered measures is the obligated party. In addition, the PUC should create a disclosure requirement instead of a certification requirement regarding biodiesel blends.

In support of its motion, VFDA submits the following Memorandum of Law.

I. Background and Facts.

The PUC issued an Order on July 16, 2024, that establishes an interim standard for credit ownership. The Order segregates initial ownership presumptions based upon different categories of clean heat measures: installed, delivered, and custom. This motion addresses only those that applied to delivered measures. Delivered measures include "sustainably sourced biofuels." Order at p.2. The Order directs that initial ownership for delivered measures is "…the entity delivering the clean heat measure initially owns the clean heat credits generated by that measure." Order at p.3.

The Order also imposes a certification process upon businesses that deliver renewable heating fuel, even if they are not obligated parties. It requires that "[f]or biodiesel blends above 'B20' and other biofuels that have a reasonable risk of causing heating equipment to malfunction, the entity delivering the measure must certify that the fuel customer's equipment is able to utilize the clean heat measure effectively and safely." Order at p. 3.

However, there is a meaningful distinction between obligated parties, which may be regulated by the Clean Heat Standard, and those who merely deliver heating fuel. An obligated party, other than a natural gas utility, is one that "imports heating fuel for the ultimate consumption within the State… It is an entity "…that has ownership title to the heating fuel at the time it is brought into

Vermont." 30 V.S.A. § 8123(12)(B). This does not include everyone who delivers heating fuel to end customers. Some of these entities acquire their heating fuel from wholesalers within Vermont and have no obligation, other than registration, under the Clean Heat Act. Declaration of Matt Cota at ¶ 4; See 30 V.S.A. § 8124(a) & (b).

II. THE PUC SHOULD CLARIFY THE ORDER AND SPECIFY THAT THE OBLIGATED PARTY BRINGING DELIVERED MEASURES INTO VERMONT INITIALLY OWNS THE CLEAN HEAT CREDITS GENERATED BY THAT MEASURE.

This clarification has tremendous significance. As discussed at the Technical and Equity Advisory Groups, the entity that owns the renewable fuel credit is assumed to be the obligated party. Declaration of Matt Cota at ¶ 3. This is the entity that brings the fuel in or into Vermont and could be either a wholesaler, distributor, or retailer. The reason for attaching the credit to the obligated entity would be to spur investment in renewable fuels throughout the supply chain. An obligated entity would have a financial interest in reducing its Clean Heat Compliance Fee and would be encouraged to invest in renewable energy.

If the credit goes to the last entity to deliver the fuel to the consumer, there could be a disconnect between those who earn the credits and those who are obligated parties. Declaration of Matt Cota at ¶ 4. This could result in unnecessary complexities of having to create contractual obligations and other procedures to allow the passage of these credits from the delivery entity to the

obligated party. Declaration of Matt Cota at ¶ 5. This level of complexity is unnecessary and counterproductive to the efficient operation of a Clean Heat Standard. Reconsideration and clarification that the credit is initially owned by the obligated party bringing the fuel into Vermont would greatly simplify the process.

III. THE PUC SHOULD RECONSIDER ITS CERTIFICATION PROCESS AND ADOPT A DISCLOSURE REQUIREMENT.

The Order requires the delivery entity of biodiesel blends above B20 to certify that the customer's equipment can effectively and safely utilize the fuel; otherwise, the credit belongs to the customer.

Customer disclosures are needed. Both the Technical and Equity Advisory Groups agree that a disclosure to the consumer should occur. Declaration of Matt Cota at ¶ 3. However, tying the credit to the "certification" of fuel equipment is an unnecessary and complex step in a program.

Initially, there is the enormity of the requirement that is being imposed. VFDA estimates that more than 100,000 oil-fired furnaces and boilers are currently in use in Vermont. Declaration of Matt Cota at ¶ 7. Requiring a certification process of this magnitude is not a reasonable regulatory burden. The concern for heating systems can be adequately addressed through disclosure.

Practically, there is simply no way for a wholesaler or distributor of renewable fuel to know the make and model of the consumers' equipment. Asking a renewable fuel wholesaler to know what equipment is being utilized is like asking a

dairy farmer to know what kind of glass will be used to drink their milk. A renewable gallon will have many owners before it is used for heat and hot water. Requiring the end delivery agent to obtain certification for an obligated party to acquire the clean heat credit attributes is simply too cumbersome. Declaration of Matt Cota at ¶s 5, 6, 8. This unnecessary complexity could have the effect of stunting efforts to reduce greenhouse gas emissions with clean heat-eligible fuels because obligated parties may not see the full fruit of their endeavors.

Furthermore, both blended and non-blended renewable gallons will be delivered in or into Vermont. The B20 number is important for consumer disclosure, but as a practicable matter, the specific number itself is not relevant to achieving the goals of the Clean Heat Act. Whether a gallon of B100 is blended to a B10, B20, or B50 should not matter to a program that supports the replacement of a fossil gallon with a renewable gallon. All blends of biofuels should be promoted and welcomed.

The PUC should focus its regulatory burden on fostering increased use of renewable fuel consumed in Vermont, not on inspecting burners in basements and placing blend limits on credit ownership.

WHEREFORE, for the reasons set forth above, the PUC should grant this motion and provide clarification that the obligated parties bringing renewable fuel into Vermont are the initial owners of the credit and require customer disclosures

for B20 blends or higher. Certification should not be a condition of ownership of the credits generated by biofuels.