

Testimony before the Senate Natural Resources and Energy Committee

Matt Cota, February 14, 2023

The Vermont Fuel Dealers Association is asking for substantial changes to Senate Bill 5. As currently written, S.5 will substantially increase the cost heat, hot water, and cooking, particularly in rural and economically disadvantaged areas of Vermont. S.5 has the potential to decimate Vermont's distribution network of an essential commodity that provides the fuel needed for heat, hot water and/or cooking to 4 out of every 5 Vermont homes.

While we urge the Senate to not pass S.5, we appreciate that the legislation has some support from those who want to take action to reduce greenhouse gas emissions. We have twelve suggestions to improve the legislation. These were discussed at length during my testimony on February 14, 2023.

1) JULY, NOT JANUARY

In order to successfully launch a complicated program with significant costs on small distributors of heating fuel, move the start date from January 1, 2026 to July 1, 2026. From cash flow and compliance standpoint, a January implementation date is problematic as it is the time when our customers need us most.

2) DEFINE THE OBLIGATED PARTY

There is still time to define. As written, anyone that brings in fuel for consumption for sale would be an obligated party. This could be someone who handles 100 gallons in a skid tank. If you purchase some of your supply from out of state, you become obligated for those gallons. The legislation can avoid this by pushing the obligation upstream to the wholesaler, clearly stating in the legislation that the retail distributor is NOT the obligated party. I don't think anyone wants to hurt the local mom and pop fuel dealer. As currently defined, nearly every small dealer is on the hook as they purchase fuel from out of state. Only those retailers that purchase exclusively from a local terminal (Burlington, White River Jct, Rutland) would not be obligated. This is a small minority of fuel retailers.

3) KEROSENE CONUNDRUM

During testimony in Senate Natural Resources Committee on February 3, 2023, the experts that install heat pumps explained that the electric powered devices reduce consumption but fail to eliminate combustion heat in existing homes. As also described from Vermont's heating and cooling experts, a single head mini-split will not provide enough BTUs to heat the average home. An analysis of heat pump installations in Massachusetts from 2019 found that the average conversion cost was \$21,572.¹ A similar study by NYSERDA found the average cost of a whole-home heat pump installation in a single-family detached home in New York with the average square footage of 1,663 sq. ft. was \$16,272.² Even if the installation, equipment and maintenance was free, there are certain homes in which combustion heat is necessary. The reliance on electric heat could cause significant structural damage to the more than 20,000 mobile homes in Vermont.³ Most mobile homes have exposed water pipes running underneath and can not rely on electric heat pumps. Lacking a basement, these homes require an outdoor tank and can not utilize biodiesel. In many cases, the best recommendation to reduce greenhouse gas emissions and costs is to switch from kerosene to propane. S.5 does not allow this energy saving, greenhouse gas saving and money saving approach to be counted as a credit. **Please remove kerosene from the list of fuels that are obligated in order to protect low income Vermonters from the escalating fees or allow kerosene to propane conversions to earn credit.**

4) WHAT ABOUT FUEL ASSISTANCE

This winter 2800 kerosene heated homes, 3635 propane heated homes and 7360 oil heated homes will receive help paying for some or all of their fuel costs. These prices are regulated by the Department of Children's and Families. Are these gallons obligated? Will the state of Vermont continue to pay fuel dealers for the increased costs of obtaining credits to off-set these gallons? Whether the credit costs 7-cents a gallon or 70-cents a gallon, these costs will be paid by the state of Vermont.

¹ Diversified Energy Specialists: <https://projectcarbonfreedom.com/wp-content/uploads/2021/01/Diversified-Energy-Specialists.pdf>

²NYSERDA: <https://data.ny.gov/Energy-Environment/NYSERDA-Supported-Air-Source-Heat-Pump-Projects-20/dpke-svni>

³ Vermont ACCD <https://accd.vermont.gov/housing/mobile-home-parks/registry>

5) THERMAL ONLY

S.5 is touted as legislation that will reduce thermal emissions. However, not all heating fuel sold in Vermont is used for heating. Propane, natural gas, kerosene, and #2 fuel oil is used for power generation, manufacturing, and transportation. Natural gas and propane is used for cooking. The energy resource known as #2 fuel oil (ULSD/ULSHO) is the energy that powers train engines, car ferrys, skidders, feller-bunchers, cut-to-length wood processors, forwarders, delimbers, loader slashers, log loaders, whole-tree chippers, stationary screening systems, and firewood processors. Fuel oil (dyed distillate) powers thousands of vehicles that are exempt from the motor fuel excise tax, including school buses, plow trucks, bulldozers, and farm tractors. These sales are not insignificant. Vermonters consume approximately 200 million gallons of distillate fuel every year. Less than half (70 million gallons) is used for residential heating.⁴ The local family fuel dealer that picks up #2 oil in North Walpole, NH, will deliver thousands of gallons a year to a farmer or a logger in Westminster. That dealer will be "obligated" and those gallons will count toward their obligation. If that fuel business wants to stay in business, he or she will mark up the cost of fuel to reflect the cost of credits. And there is nothing the farmer or logger can do to mitigate this cost increase. Farm tractors and feller-bunches don't run on heat pumps.

Restrict the obligated gallons to only those used for thermal applications.

6) CHECK IT OR CAP IT

Given the uncertainty around the regulatory structure for the distribution of an essential commodity that 4 out of every 5 Vermonters needs to heat their home and/or cook their food, it is necessary and appropriate that the Senate either cap the cost of credits or make a final determination after the PUC has determined what the projected costs are of S.5. *Suggested language:*

The Clean Heat Standard shall not take effect until an Act accepting the January 15, 2025, report on projected costs and benefits of the Clean Heat Standard is passed by the General Assembly and becomes law in accordance with Chapter 2, § 11 of the Vermont Constitution. In the absence of such an Act the Public Utility Commission is not required to meet the additional deadlines established in this Act.

⁴ Energy Information Administration: https://www.eia.gov/dnav/pet/pet_cons_821use_dc1_SVT_a.htm

7) NO DOUBLE COUNTING

You shouldn't be able to sell the same horse twice. The Senate can fix this flaw in S.5 by not allowing any electric utility to claim Tier 3 credits under the Renewable Energy Standard and also sell credits under the Clean Heat Standard for the very same product or service.

The bill should be amended with the following language:

All eligible clean heat measures that are delivered in Vermont shall be eligible for clean heat credits and may be retired and count towards an obligated party's emission reduction obligations, regardless of who creates or delivers them and regardless of whether their creation or delivery was required by other State policies and programs. This includes individual initiatives, emission reductions resulting from the State's energy efficiency programs and the low-income weatherization program. Clean Heat Credits can not be sold by electric utilities who are using the same product or service to meet their obligations under the Renewable Energy Standard Tier 3 program.

8) FIX THE DDA

One way to lessen the negative financial impact of the Clean Heat Standard on low income Vermonters is to clarify who can become the Designated Default Delivery Agent (DDA). In order to ensure a more equitable energy transition, the DDA should not be a participant in the Clean Heat credit market and instead should be a division of the Office of Economic Opportunity (OEO) or similarly aligned non-profit entity designated by (OEO) that provides energy services to economically disadvantaged Vermonters. ***The DDA should be a state agency, or a non-profit designated by a state agency, and be fuel neutral. Failure to do so allows the government handing out a license to a for-profit corporation and requiring their competition to be the source of capital.*** The point of the CHS is to be technology neutral. What if an electric company is the lowest bidder for the DDA contract? Is the DDA open to any company in a competitive bidding process? Does the DDA get paid a handling fee by the obligated parties? Who regulates the DDA and how is that paid for? Does the DDA pay the PUC? If so what happens to the money? Where do these funds come from? How will PUC be able to ensure compliance if the for-profit DDA dissolves or the parent corporation is sold?

Add language making it clear the DDA must be an agency within state government and can not be a participant in the credit market.

9) GREET IS GOOD

S.5 refers to the GREET model. GREET (which stands for "Greenhouse gases, Regulated Emissions, and Energy use in Transportation") is a full life-cycle model designed by the Argonne National Laboratory at the United States Department of Energy's Office of Energy Efficiency and Renewable Energy. Any greenhouse gas accounting method should be based on this schedule of transparent and accurate emissions. The legislation should not allow for a Vermont specific greenhouse gas accounting methodology. There is too much uncertainty as it is now in how greenhouse gases are accounted for and there are efforts to further destabilize this process by adding language that would put different definitions on "sustainability." S.5 should not be reinventing this method within the confined space of the Technical Advisory Group (TAG).

There is a national standard. Vermont should follow it. Remove the words: "Or an alternative of comparable analytical rigor to fit the Vermont thermal sector context."

10) FIX THE TAG

S.5 asks the Vermont Public Utility Commission to regulate five fuels, four of which they have never done before (propane, kerosene, heating oil, and coal). There are more than 100 obligated parties that sell these fuels. The Technical Advisory Group (TAG) has one person representing all of the obligated parties. These are businesses and fuels that are in competition with one another. The fix will be in for whichever fuel gets assigned to the TAG. The GWSA and the Climate Council did not include any representative from the propane industry, which is the second most popular deliverable fuel in Vermont. This can not happen again. There was also little mention of kerosene in the Climate Council's work which is how about 15% of Vermonters who receive fuel assistance heat their homes.

There should be at least one representative on the TAG for all fuels that are obligated.

11) WRONG REGULATOR

Choosing a regulator to ensure compliance with the Clean Heat Standard is critical. This is no small matter. Three out of every five Vermonters depend on truck delivering liquid fuel for heat and hot water. The one state agency that has no jurisdiction over liquid heating fuel and service providers is the Public Utility Commission (PUC), which is the one designated by S.5. The reason the PUC has no jurisdiction is because the hundreds of businesses in and around Vermont that

provide heating fuel and service are not utilities. The PUC has power over utilities through rate making in which the utility is guaranteed a rate of return on their capital investment. There are no guarantees for those that fall outside of the PUC's jurisdiction. Nor does S.5 does not create any guarantees in which businesses can be assured a return on their investment.

There is also no clear understanding of how a Clean Heat Standard will be enforced. On 2/3/22 Tom Knauer, Public Utility Commission Policy Director, told the House Energy Committee: "*The question about enforcement, I just don't have an answer right now.....I can't tell you who the obligated parties would be.....I am sorry to say, that I don't have an answer to that question, as to what tools are needed and whether the PUC possesses those tools.*"

The PUC has no experience or knowledge of who sells fuel in Vermont, where the fuel comes from, where the fuel is sold, and how much fuel is sold. Unlike an electric utility, the PUC does not guarantee either market share or profit for heating fuel companies. If the fuel is delivered on truck, only law enforcement is empowered to place an obligated party "**out of service**" for non-compliance. No letter or threat of a fine from an attorney at the PUC will undo the damage to this competitive marketplace because of a lack of enforcement resources or capabilities. An obligation to obtain a "non-tangible commodity" called a "Clean Heat Credit" based on volume of sales from the prior year can not be enforced within the four walls of the Public Utility Commission on 112 State Street. It can only be enforced on Vermont's town roads and state highways. A government policy that relies on businesses to "raise their hand" so that they can pay a competitor to take away their customers is nonsensical. This lack of understanding about how fuel is distributed will insert chaos into the orderly distribution of an essential commodity that a majority of Vermonters rely on need for heat, hot water, and/or cooking.

A Clean Heat Standard can not be implemented until the Legislature determines who all of the obligated parties are and how to enforce compliance.

12) BACK TO THE CHECK BACK

All of this underlies the need for a vote of the entire Legislature **after** it is designed by the Vermont Public Utility Commission, but **before** it is implemented. If S.5 becomes law, the PUC will be asked to do something that has never been done before. They will try and create a credit marketplace and clearinghouse of Non-Tangible Commodities (NTCs) and assess a fee on sellers of natural gas, heating

oil, propane, coal, and kerosene if they do not have enough NTCs based on sales from the prior year. The cost of the credits are unknown, the Designated Delivery Agent could be an out of state for profit company, and local energy suppliers have little confidence that the PUC can ensure all obligated parties comply with the law. We do know that it will cost \$1 million for the PUC to operate a "clearinghouse" where credit generating companies and obligated parties can exchange Non-Tangible Commodities, according to testimony by the PUC in Senate Natural Resources Committee on February 14, 2023.

There has never been a more complicated and consequential policy change that attempts to deconstruct how an essential commodity is distributed in Vermont. *What if the PUC can't figure it out? Shouldn't the Legislature review their work before it is implemented?*

This is not a tax, fee, or financial penalty paid by out-of-state wholesalers. It will be paid primarily by locally owned businesses who will have no choice but to pass on the added expense to Vermonters who continue to use these fuels for heat, hot water, and cooking. While we know S.5 will add a new cost to fuel, we don't know how much until the PUC has finished their work. And we don't know if this will be enforceable until the PUC has finished their work.

Given the stakes, it only makes sense for the Legislature to review the program for final approval **after** the PUC *finishes their work.*

Please do not allow S.5 to become law without these important changes.