STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 17-3550-INV

Investigation pursuant to 30 V.S.A. §§ 30 and 209 regarding the alleged failure of Vermont Gas Systems, Inc. to comply with the certificate of public good in Docket 7970 by burying the pipeline at less than required depth in New Haven, Vermont	Evidentiary hearing conducted September 1-3, 2020

Case No. 18-0395-PET

Notice of Probable Violations of Vermont Gas Systems, Inc. for certain aspects of the construction of the Addison natural gas pipeline	

Order entered: 04/30/2021

ORDER DENYING REQUEST FOR INTERLOCUTORY REVIEW AND DIRECTING HEARING OFFICER TO REOPEN THE EVIDENTIARY RECORD

I. INTRODUCTION

This proceeding concerns an investigation into whether Vermont Gas Systems, Inc. ("Vermont Gas") violated the final order and certificate of public good issued in Docket 7970, which authorized the construction of the Addison natural gas pipeline (the "Project").[1] This proceeding also addresses a Notice of Probable Violation filed by the Vermont Department of Public Service (the "Department") with the Vermont Public Utility Commission (the "Commission") for alleged violations of pipeline safety regulations by Vermont Gas during the construction of the Project.[2]

In today's order, the Commission denies the motion filed by Vermont Gas on February 26, 2021, requesting that we review and address the merits of the hearing officer's order of January 29, 2021 (the "Vermont Gas Motion"). In that order, the hearing officer issued an interim ruling that Vermont Gas violated the final order (the "2013 Final Order") and certificate

[1] *Petition of Vermont Gas Systems, Inc. for a certificate of public good authorizing the construction of the "Addison Natural Gas Project,"* Docket 7970, Order of 12/23/13.

[2] *Notice of Probable Violations of Vermont Gas Systems, Inc. for certain aspects of the construction of the Addison natural gas pipeline*, Case No. 18-0395-PET, filed 2/13/18.

of public good ("CPG") issued in Docket 7970 and was therefore subject to a civil penalty (the "Liability Order"). As discussed below we are denying the Vermont Gas Motion because it does not meet the legal standard for interlocutory review. Having determined not to conduct interlocutory review we do not address the parties' arguments on the merits of the Liability Order, and nothing in today's order should be interpreted as expressing an opinion on the merits of the Liability Order. We will address those arguments after the hearing officer issues his proposal for decision in this case.

We do, however, direct the hearing officer to reopen the evidentiary record to address whether Vermont Transco LLC/Vermont Electric Power Company, Inc. ("VELCO") has affirmatively concluded that the loading standard that Vermont Gas achieved in the VELCO right-of-way in New Haven will not limit VELCO's ability to repair or construct transmission infrastructure at that location in the future. As part of the penalty phase of this proceeding the hearing officer will conduct an evidentiary review of this factual issue as well as the penalty criteria in 30 V.S.A. § 30. The hearing officer's ultimate proposal for decision will thus make recommendations regarding both whether Vermont Gas violated the 2013 Final Order and CPG, including any amendments to the conclusions and recommendations in the Liability Order based on any new evidence regarding the loading-standard issue, and an appropriate civil penalty.

II. Procedural History

On January 29, 2021, the hearing officer issued the Liability Order.

On February 4, 2021, Vermont Gas filed a motion requesting that it be permitted to file a motion for interlocutory review of the Liability Order and to allow the other parties to respond to that motion. Vermont Gas's request was granted.

On February 26, 2021, Vermont Gas filed the Vermont Gas Motion and a separate memorandum arguing that the Commission should overturn the Liability Order (the "Vermont Gas Memo").

On March 12, 2021, VELCO filed a motion to intervene in this proceeding and a response to the Vermont Gas Motion (the "VELCO Response"). VELCO's motion to intervene was granted on March 20, 2021.

On March 12, 2021, the Department filed a response to the Vermont Gas Motion (the "Department Response").

Also on March 12, 2021, the Intervenors[3] filed a memorandum in opposition to the Vermont Gas Motion (the "Intervenors Response").

On March 22, 2021, the Intervenors filed a request to file a sur-reply to the Department Response.

On March 26, 2021, Vermont Gas filed a reply to the Intervenors Response (the "Vermont Gas Reply").

Also on March 26, 2021, the Intervenors filed a sur-reply to the Department Response (the "Intervenors Sur-Reply").

On April 2, 2021, Vermont Gas filed a response to the Intervenors Sur-Reply and a proposed sur-reply. Vermont Gas requested that we either not consider the Intervenors Sur-Reply or that we also consider the Vermont Gas sur-reply (the "Vermont Gas Sur-Reply").

On April 8, 2021, the Department also filed a response to the Intervenors Sur-Reply (the "Department Sur-Reply").

No other comments on the Vermont Gas Motion have been filed.

III. Sur-reply Filing Requests Denied

In consideration of a motion by a party, unless permission is sought for additional filings, the Commission considers the responses to that motion by the non-moving parties and any reply to those responses by the moving party.[4] Sur-replies are not entertained without Commission permission. Observing this standard, in making our determination here we have reviewed and considered the Vermont Gas Motion and Memo, the VELCO Response, the Department Response, the Intervenors Response, and the Vermont Gas Reply. We have not considered the sur-replies made by the Intervenors, Vermont Gas, or the Department.

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[3] Kristin Lyons, Lawrence Shelton, Nathan Palmer, Jane Palmer, and Rachel Smolker.

[4] *See* Vermont Rule of Civil Procedure 78(b) (providing for a motion, response, and reply); *see also Murray v. TXU Corp.*, No. Civ. A. 3:03-CV-0888P, 2005 WL 1313412, at *4 (N.D. Tex. May 27, 2005) (citation omitted) ("The purpose for having a motion, response, and reply is to give the movant the final opportunity to be heard, and to rebut the nonmovant's response, thereby persuading the court that the movant is entitled to the relief requested by the motion."); *Medina v. Hunt*, No. 9:05-CV-1460, 2008 WL 4426748, at *16 n.95 (N.D.N.Y. Sept. 25, 2008) ("This rule is not a mere technicality, but a well-reasoned procedure premised, in part, on the fact that it is the movant who is shouldered with the ultimate burden on the motion and who therefore should be (for reasons of judicial efficiency and simple fairness) afforded the last word on the motion.").

The Intervenors requested that we consider the Intervenors Sur-Reply to the Department Response. Then Vermont Gas requested that we consider the Vermont Gas Sur-Reply if we considered the Intervenors Sur-Reply. The Intervenors Sur-Reply, the Vermont Gas Sur-Reply, and the Department Sur-Reply all address a potential CPG amendment proceeding not otherwise addressed in the Vermont Gas Motion or the parties' initial responses. As a general rule, courts do not consider a new matter addressed in a reply brief, much less an unpermitted sur-reply.[5] We deny both the Intervenors' and Vermont Gas's requests that we consider their sur-replies, nor do we consider the Department Sur-Reply, because (1) they did not receive permission to file sur-replies, (2) the sur-replies were in addition to the filings generally provided for by V.R.C.P. 78(b), and (3) the sur-replies addressed a new issue not raised in the Vermont Gas Motion and Memo.

IV. POSITIONS OF THE PARTIES

Vermont Gas

Vermont Gas recommends that the Commission "reject the clearly erroneous findings of fact and standardless and erroneous application of law in the [Liability] Order."[6] Vermont Gas requests that the Commission conduct interlocutory review and overturn the Liability Order.

In the Vermont Gas Reply, Vermont Gas argues that: (1) interlocutory review is warranted and will promote judicial economy; (2) the Liability Order misapplied the legal standards for a substantial change and a material deviation; and (3) the Intervenors mischaracterize the facts in evidence.

VELCO

VELCO requests that the Commission "correct the [Liability] Order's erroneous factual findings … and remand this matter to the hearing officer to address those errors."[7] Specifically, VELCO requests that the Commission correct the Liability Order's finding that Vermont Gas

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[5] *See Allco Renewable Energy v. Kulkin*, Civ A. No. 2:20-cv-44-jmc, 2020 WL 6397928 (D. Vt. Nov. 2, 2020), at *6 ("It is a basic rule of appellate procedure that issues not briefed in the appellant's or the appellee's original briefs may not be raised for the first time in a reply brief."); *see also Bigelow v. Department of Taxes*, 163 Vt. 33, 37-38, 652 A.2d 985, 988 (1994).

[6] Vermont Gas Motion at 2.

[7] VELCO Response at 1.

failed to meet the loading standard that would result from the four-foot burial depth required in the memorandum of understanding between VELCO and Vermont Gas in Docket 7970 ("VELCO MOU") and correct the conclusion that the less-than-four-foot burial depth actually achieved in the Clay Plains swamp has the potential to affect the future use of VELCO's right-of-way in New Haven. VELCO does not take a position regarding the Liability Order's other proposed legal conclusions.

The Department

The Department requests that the Commission conduct interlocutory review because it contends that the Liability Order: (1) erred in finding Vermont Gas failed to meet the loading-standard requirement in the VELCO MOU; (2) erred in concluding that Vermont Gas's failure to test soil compaction constitutes a substantial change; and (3) erred in concluding that Vermont Gas's failure to secure a seal and signature of a responsible engineer on the construction plans was a substantial change. The Department believes that the Liability Order correctly determined that Vermont Gas's failure to achieve the seven-foot depth-of-cover standard for non-jurisdictional streams constitutes a broad alteration and therefore is a material deviation from the plans and evidence submitted in Docket 7970.

The Intervenors

The Intervenors argue that all of Vermont Gas's objections to the Liability Order are misplaced because Vermont Gas seeks a review of the hearing officer's factual conclusions and interlocutory review is only permitted for questions of law. According to the Intervenors, the only question of law addressed in the Vermont Gas Motion — whether failing to bury the pipeline seven feet below non-jurisdictional streams is a material deviation — was legally correct and therefore its review would not advance the termination of the litigation. The Intervenors assert that each of the factual conclusions challenged by Vermont Gas is supported by the evidence.

V. DISCUSSION

The Commission has reviewed the Vermont Gas Motion and denies the request for interlocutory review of the hearing officer's Liability Order because the request does not meet the standard for interlocutory review. Because we are denying the request for interlocutory review, we do not reach the merits of the parties' arguments on the proposed findings and conclusions in the Liability Order. Those arguments will be considered and addressed as comments on the ultimate proposal for decision.

A. The Vermont Gas Motion Does Not Meet the Standard for Interlocutory Review

The Commission looks to the Vermont Rules of Appellate Procedure for guidance in deciding whether to engage in an interlocutory review of a hearing officer's interim decision. In particular, the Commission looks to rules 5(b) and 5.1(a).[8]

1. Vermont Gas Does Not Meet the Requirements of Rule 5(b)

Under Rule 5(b) three criteria must each be met before interlocutory review is granted. First, the order being reviewed must involve a "controlling question of law." Second, there must be a "substantial ground for difference of opinion" about the correctness of the order. Third, an interlocutory order should "materially advance the termination of the litigation."[9] A failure to satisfy any of the 5(b) criteria precludes interlocutory review.[10]

i. The Vermont Gas Motion Does Not Present a Controlling Question of Law

"Whether a question of law is 'controlling' is not defined by whether the question governs the outcome of the litigation. This factor requires a practical application that focuses upon the potential consequences of the order at issue."[11] "At one extreme, an order that

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[8] *Investigation into New England Telephone and Telegraph Company's tariff filing re: Open Network Architecture*, Docket No. 5713, Order of 6/4/99 at 3; *see also Petition of Portland Street Solar LLC for a certificate of public good, pursuant to 30 V.S.A. §§ 248 and 8010, authorizing the installation and operation of a 500 kW (AC) group net-metering solar electric generation system in St. Johnsbury, Vermont*, Case No, 19-2484-NMP, Order of 8/19/20 (Commission looks to rules 5(b) and 5.1(a) when determining whether to conduct interlocutory review).

[9] V.R.A.P. 5(b)(1)(A) & (B); *See, also In re Pyramid Company of Burlington*, 141 Vt. 294, 449 A.2d 915 (1982) ("Pyramid").

[10] *Pyramid*, 141 Vt. 294, 302, 449 A.2d 915, 919.

[11] *Id*., 141 Vt. at 302-303 (citations omitted).

preordains the outcome of litigation is certainly controlling. Further down the continuum, an order may be 'controlling' if reversal would have a substantial impact on the litigation, either by saving substantial litigation time, or by significantly narrowing the range of issues, claims, or defenses at trial."[12]

Here, Vermont Gas argues that the Liability Order misapplied the law regarding substantial changes and material deviations. However, Vermont Gas does not contend that the hearing officer misidentified the controlling law in reaching his determinations. Rather, Vermont Gas relies on its review of the evidentiary record and concludes that the hearing officer's application of that controlling area of the law to the facts was erroneous because the hearing officer's proposed findings did not accurately reflect the evidence in the record. As a result, there is no dispute regarding a controlling question of law. Rather, there is a disagreement as to the application of that law to the facts in evidence in this case.

While it could be argued in this case that the questions presented by the Vermont Gas Motion are controlling in that their resolution determines the outcome of Vermont Gas's potential liability one way or the other, they are not controlling questions of *law*. "Interlocutory appeal is proper for questions of law, not fact."[13] "A question of law is one capable of accurate resolution by an appellate court without the benefit of a factual record. If factual distinctions could control the legal result, the issue is not an appropriate subject for interlocutory appeal."[14]

In this case, the parties' disagreements with the hearing officer's Liability Order are based largely on their disagreements with the hearing officer's interpretation of the factual record. The legal aspects raised by the parties in their respective motions are not capable of resolution without reference to a fully developed factual record. Therefore, they are not appropriate for interlocutory review because they are not purely questions of law.

This point is further reinforced by our decision to direct the hearing officer to take additional evidence on the question of whether a required loading standard was met in the VELCO right-of-way in New Haven. Because further development of the factual record on this issue could have an impact on the proposed findings and conclusions in the Liability Order, the questions presented here for interlocutory review are particularly inappropriate.

[12] *Pyramid*, 141 Vt. at 303.
[13] *Id.*, 141 Vt. at 304.
[14] *Id*.

We will review the full factual record of this case and the parties' arguments about the hearing officer's proposed findings when the hearing officer submits a proposal for decision recommending final action in this case.

Vermont Gas contends that the hearing officer failed to observe the controlling legal standard in the Liability Order. Specifically, Vermont Gas asserts that the Liability Order "fails to assess why the impacts should be potentially significant in some instances and does not address the impacts at all in others."[15] We disagree. For each of the Liability Order's five findings of substantial changes, the hearing officer articulates a potentially significant impact as required by the controlling legal standard. Below is a summary of the Liability Order's findings of substantial changes and their potential impacts as addressed in the Liability Order.

By this summary we do not make any determination as to the merits of the hearing officer's conclusions about the potential impacts. Rather, we simply respond to Vermont Gas's assertion that the hearing officer did not observe the controlling legal standard by failing to cite potential impacts from the alleged violations in the Liability Order.

Findings of Substantial Changes	**Potential for Significant Impact**
A. Failure to bury the pipeline in the Clay Plains Swamp using the approved burial methods	On a rare and irreplaceable natural area in violation of the natural resources criteria in § 248(b)(5) (*see* Discussion at page 20)
B. Failure to achieve the approved burial depth in the Clay Plains Swamp	On the ability of VELCO to build a second transmission line affecting future electrical transmission under § 248(b)(2), stability and reliability of transmission system under § 248(b)(3), the economy of the State under § 248(b)(4), and public safety under § 248(b)(5) (*see* Discussion at page 28)
C. Failure to conform with trench bottom and trench breaker specifications	On public health and safety in violation of § 248(b)(5) (*see* Discussion at page 31)
D. Failure to comply with compaction requirements	On public health and safety in violation of § 248(b)(5) (*see* Discussion at page 33)

[15] Vermont Gas Reply at 4.

<table>
<tr><td>E. Failure to staff the Project with a Vermont-licensed professional engineer serving as the responsible charge engineer</td><td>On the ability of VELCO to build a second transmission line affecting future electrical transmission under § 248(b)(2), stability and reliability of transmission system under § 248(b)(3), the economy of the State under § 248(b)(4), and public safety under § 248(b)(5) (see Discussion at page 38)</td></tr>
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Vermont Gas argues that the controlling legal standards were not accurately applied. However, we are not persuaded that Vermont Gas has shown that the Liability Order does not observe the controlling legal standard in its discussion of the alleged violations of the 2013 Final Order and CPG.

ii. <u>Substantial Grounds for Differing Opinions</u>

We recognize that the parties disagree with the hearing officer's application of the law and question the correctness of the Liability Order. However, that disagreement goes to the merits of the Liability Order, which we need not address here because the Vermont Gas Motion fails on the other two required criteria.

iii. <u>Interlocutory Review Would Not Materially Advance the Termination of the Case</u>

Interlocutory review is appropriate "only if it may advance the *ultimate* termination of a case. A trial court must consider not only the time saved at trial, but also the time expended on appeal."[16]

In this case, the only way that interlocutory review would advance the ultimate termination of this case is if Vermont Gas prevailed on all of its claims and the Commission ruled that the case should be dismissed and closed. As discussed above, the parties' disagreements with the Liability Order largely arise from disagreements with the hearing officer's interpretation of the factual record. Those disagreements are not appropriate for resolution in an interlocutory review and therefore such a review cannot advance the termination of this litigation.

Additionally, because we see a need for the hearing officer to reopen the record to collect evidence on the loading-standard issue in the VELCO right-of-way in New Haven, this matter

[16] *Pyramid*, 141 Vt. at 305 (emphasis in original).

will continue in any event. We believe that the efficient path forward is for the hearing officer to take evidence on the loading-standard issue at the same time that he takes evidence on penalty amounts, and to then issue his ultimate proposal for decision that will reflect not only a recommended penalty but also any needed changes to his recommendations in the Liability Order based on the new evidence.

This case has a long procedural history dating back to July 14, 2017, when the Commission initiated this investigation in Case No. 17-3550-INV. At the request of the parties, the Commission hired an expert to conduct an independent investigation. This substantially extended the time this proceeding has taken and the breadth of its record. While this proceeding has taken time, the hearing officer has diligently addressed every issue as it arose, and we have no reason to expect that the hearing officer will not manage the remainder of this proceeding in a similar manner.

We also observe that addressing the penalty criteria in Section 30 may occur primarily through written filings that will take a fraction of the time that the independent investigation and its evidentiary hearing required.

In summary, we do not believe that our review of the Liability Order at this time would materially advance the termination of this litigation.

After taking new evidence on both the loading-standard issue and on penalty amounts, the hearing officer will issue a proposal for decision that makes recommendations as to whether Vermont Gas violated the 2013 Final Order and CPG, reflecting any new evidence regarding the loading standard, and as to the amount of a civil penalty for any violations. The liability and penalty phases of this proceeding will then be complete. A final judgment in this matter will then be rendered by the Commission after the parties are provided an opportunity to file further comments and present oral arguments to the Commission on the hearing officer's proposal for decision consistent with the requirements of 30 V.S.A. § 8 and 3 V.S.A. § 811.

2. Vermont Gas Does Not Meet the Standard Under Rule 5.1(a)

We also find no support in Rule 5.1(a) of the Vermont Rules of Appellate Procedure for interlocutory review of the Liability Order. Rule 5.1(a) allows for an appeal from an interlocutory order or ruling if "the order or ruling conclusively determines a disputed question,

resolves an important issue completely separate from the merits of the action, and will be effectively unreviewable on appeal from a final judgment."[17] All three of these requirements must be met before interlocutory review will be granted.

In this case, the third element is not met, because the Liability Order will be reviewed and ruled upon by the Commission as part of its review of the proposal for decision. The Liability Order is not a final Commission order addressing whether Vermont Gas violated the 2013 Final Order and CPG because that will be decided by the Commission after the hearing officer issues his proposal for decision and the parties are provided an opportunity to file comments and present oral argument on that proposed decision. Further, any final order of the Commission will be subject to appeal to the Vermont Supreme Court.

B. Additional Evidence on the Loading Standard

After reviewing the parties' filings on the question of whether Vermont Gas met the loading standard required in VELCO's right-of-way in New Haven, we conclude that it would be judicially efficient for the hearing officer to take additional evidence on that issue and to amend, as necessary, any of his proposed findings in the Liability Order and to include those amended findings as part of his overall proposal for decision. The need for more information on the loading standard demonstrates that there is a dispute of fact that needs resolution because its resolution may flow through the legal analysis in a significant way and dictate a variety of different possible outcomes depending on the facts.

A key finding in the Liability Order is that the burial depth that Vermont Gas achieved in the VELCO right-of-way in New Haven has the potential to limit VELCO's future use of its right-of-way for additional transmission lines. VELCO only recently sought party status in this case and therefore did not participate in the evidentiary hearing. However, in its recent filing VELCO has now opined that the hearing officer's proposed findings on the burial-depth issue, and thus whether the applicable loading standard has been met, are incorrect. We believe that there would be value in hearing testimony from VELCO in this proceeding on why it believes the loading standard has been met.

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[17] V.R.A.P. 5.1(a)(1)(A)-(C).

The hearing officer concludes that the failure to bury the pipeline at the proper depth in the VELCO right-of-way, a fact that is undisputed in the parties' motion filings, was a substantial change and a violation of the 2013 Final Order and CPG. He reached this conclusion because the engineering study relied on by Vermont Gas and VELCO in their conclusions that the loading standard was achieved was based on flawed assumptions about: (1) the diameter of the pipeline (12 inches versus 15 inches); (2) the method of burial (sink-in-the-swamp versus horizontal directional drilling); and (3) the density of the soil surrounding the pipeline (an inchoate mix of swamp water and mud versus compacted soil).

In its filing in support of Vermont Gas's request for interlocutory review, VELCO disagrees with the hearing officer and asserts that the evidence supports the conclusion that the desired loading standard was achieved. However, the VELCO MOU from Docket 7970 required a four-foot-burial depth in VELCO's right-of-way to ensure that the necessary loading standard was achieved. The evidence in the record documents that the burial depth in the VELCO right-of way in the Clay Plains swamp in New Haven was less than four feet, and in some places less than three feet.

The evidence relied upon by VELCO includes the opinions of the experts who testified in the evidentiary hearing about their assessment of an engineering study of the loading standard in the swamp.[18] Based on the engineering study, the experts concluded that the loading standard was achieved in the Clay Plains swamp despite the reduced burial depths. However, the hearing officer determined that the study's conclusions were based on the flawed assumptions noted above. In its argument that the loading standard would be met, VELCO does not address the flawed assumptions identified by the hearing officer and relied on by him in reaching his conclusion.

We believe it would be judicially efficient for VELCO to provide testimony as to whether the pipeline as buried in the swamp would, or would not, limit its future use of its right-of-way for additional transmission lines. If VELCO relies on the previously filed study to support its conclusions, then it must account for the flawed assumptions in the study identified by the hearing officer. After accounting for those flawed assumptions, if VELCO concludes in its testimony that the reduced burial depth would not limit its use of the right-of-way, then the

[18] VELCO Response at 2.

hearing officer should take that into consideration when he issues his overall proposal for decision and, if necessary, amend any of his proposed findings from the Liability Order.[19] Therefore, we direct the hearing officer to reopen the evidentiary record and establish a schedule for the limited purpose of exploring the loading-standard issue.

VI. Conclusion and Order

This is a particularly complex case reflecting more than a year of investigation and resulting in hundreds of pages of prefiled testimony and exhibits and three days of live testimony. Vermont Gas contends that we should review that entire record and overturn the Liability Order because "the key findings in the Order are clearly erroneous and the Order fails to apply the Commission's legal standards."[20] We are not persuaded that Vermont Gas has met the standard for interlocutory review, we do not grant the motion for interlocutory review, and therefore we do not address the merits of Vermont Gas's argument that we should overturn the Liability Order.

Our determination here is based on our review of the Liability Order, the Vermont Gas Motion and Memo, the parties' filings responding to the Vermont Gas Motion, and the Vermont Gas Reply to those filings. While we make no final factual conclusions here, we do observe that the Liability Order made factual conclusions that differ with some of the experts' opinions. However, these differences, which were discussed by the hearing officer, do not necessarily make the Liability Order factually erroneous. All testimony is subject to the scrutiny of a factfinder.

We will reserve our conclusion as to whether the proper legal standard was accurately applied to the evidence in the record until the hearing officer issues a proposal for decision with recommendations as to both liability and an appropriate civil penalty.

We emphasize that this is not a ruling on the merits of Vermont Gas's position as to whether it violated the 2013 Final Order and CPG. We will issue our ruling on that issue when we issue our final decision in this matter, which will occur only after the hearing officer issues a proposal for decision and the parties have had an opportunity to file comments and present oral argument to the Commission consistent with 30 V.S.A. § 8 and 3 V.S.A. § 811.

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[19] VELCO's testimony would be subject to discovery, cross-examination, and rebuttal, as necessary.
[20] Vermont Gas Memo at 1.

For these reasons, Vermont Gas's motion seeking interlocutory review of the Liability Order is denied.

The hearing officer is directed to reopen the evidentiary record and set a schedule for the limited purpose of taking evidence on the loading-standard issue as well as the penalty criteria in 30 V.S.A. § 30 as soon as practicable.

SO ORDERED.

Dated at Montpelier, Vermont, this 30th day of April, 2021.

______________________	)	
Anthony Z. Roisman	)	PUBLIC UTILITY
	)	
	)	
______________________	)	COMMISSION
Margaret Cheney	)	
	)	
	)	OF VERMONT
______________________	)	
Sarah Hofmann	)	

OFFICE OF THE CLERK

Filed: April 30, 2021

Attest: ______________________
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)

PUC Case No. 18-0395-PET - SERVICE LIST

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