

STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

THE VANGUARD GROUP, INC.
Request for Limited Exemption from
Reorganization Approval Requirements
Pursuant to N.H. Rev. Stat. § 374:33

PETITION

Docket No. 2020-

The Vanguard Group, Inc., (“VGI”), on behalf of its Vanguard Advised Funds¹ (together VGI and Vanguard Advised Funds are “Petitioners”) hereby request, pursuant to N.H. Rev. Stat. § 374:33 that this Commission grant a limited exemption from the approval requirements of Section 374:33. In support of this request, Petitioners state as follows:

1. VGI is one of the world’s largest groups of mutual funds, with approximately \$5 trillion in assets under management. VGI offers approximately 200 separate low-cost United States-registered mutual funds and exchange traded shares (“ETFs”), as well as approximately 230 non-United States funds and ETFs, and approximately 80 collective investment trusts (each, a “Vanguard Investment Fund”). VGI also offers investment advice and related services. VGI is widely recognized as a leader in low-cost investing and a steadfast advocate for the interests of all investors. From its start over forty years ago, VGI has been structured as a client-owned

¹ For the purposes of this Petition, “Vanguard Advised Funds” refers to Vanguard’s *internally* managed investment funds as well as internally managed portions of those Vanguard funds that are otherwise externally managed. Vanguard Advised Funds excludes Vanguard funds that are entirely managed *externally* (or the portions of which are managed externally) by independent external advisors, who hold independent voting power and investment discretion over the assets managed by those independent advisors. With respect to the corporate organization, the Vanguard Advised Funds are considered to be the “Advisory “Level” in a roughly three tiered organizational structure consisting of (1) the “Complex Level”; (2) the “Advisory Level”; and (3) the individual “Fund Level.”

mutual fund company with no outside owners seeking profits. In this structure, which remains unique in the mutual fund industry, fund shareholders own the Vanguard U.S. mutual funds, which in turn own VGI. A more detailed description of VGI and its subsidiaries is set forth in Exhibit A. As Exhibit A demonstrates, the individual Vanguard Funds make investments on behalf of fund investors *exclusively* for investment purposes. Investments are not made for purposes of managing, controlling or entering into business transactions with portfolio companies, including the publicly-traded parent company of any New Hampshire public utilities

2. From time to time, through individual funds, Vanguard Advised Funds trade in shares of New Hampshire public utilities, either directly or indirectly by purchasing shares of the utilities' parent companies on the open market. Occasionally, although the New Hampshire utility holdings of any individual Fund may be small, the total holdings of any specific New Hampshire utility by all Vanguard Advised Funds when aggregated may exceed 10% resulting in a technical reorganization under Section 374:33.

3. The strict application of Section 374:33 to these investments creates business risks through the delay and uncertainty that results from the Section 374:33 approval process, in circumstances that do not implicate the interests to be protected by the Commission through Section 374:33.

4. Accordingly, Vanguard respectfully requests that this Commission exempt from the approval requirements of Section 374:33, acquisitions or sales of voting securities of any New Hampshire utility, directly or indirectly, so long as the total holdings in aggregate of all of the Vanguard Advised Funds do not exceed 25 percent ownership or exceed 10 percent

ownership by any individual Vanguard Fund. This exemption is no broader than necessary. It would apply to Vanguard's internally managed funds as well as portions of those funds that are internally managed, and exclude other Vanguard registered funds that are managed externally (or portions of which are managed externally) by independent external advisors, who hold voting power and investment discretion over the assets managed by those independent advisors.²

5. The proposed exemption is narrowly tailored to preserve the Commission's authority to approve other reorganizations that may financially or operationally affect any New Hampshire utility. The proposed exemption will only exclude from Commission review modest investments by an institutional investor, who will not have management or control over the utility's operations or investments. Petitioners will not acquire ownership in the aggregate of more than 25% percent of the voting securities of any New Hampshire utility, and no individual Vanguard Advised Fund will acquire ownership of 10 percent or more of the voting securities of any New Hampshire utility.

CONCLUSION

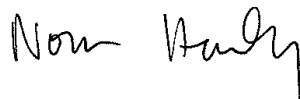
WHEREFORE, Petitioners respectfully request that the Commission grant:

A limited exemption of the Section 374:33 reorganization approval requirements to Petitioners for acquisitions or sales of voting securities of any New Hampshire utility, directly or indirectly, so long as the total holdings in aggregate of all of the Vanguard Advised Funds do not exceed 25 percent ownership or exceed 10 percent ownership by any individual Vanguard Advised Fund. For the purposes of this exemption, "Vanguard Advised Funds" refers to Vanguard's internally managed funds as well as portions of those funds that are internally managed, and

² It is Vanguard's position that those externally managed funds (or portions of funds that are externally managed) should not be subject to any aggregation with respect to Section 374:33 because they are completely controlled by external advisors.

it excludes other Vanguard registered funds that are managed externally (or portions of which are managed externally) by independent external advisors, who hold voting power and investment discretion over the assets managed by those independent advisors.

Respectfully submitted on July 31, 2020.



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Exhibit A
Detailed Description of Vanguard Group, Inc.

The following is a more detailed description of Vanguard Group, Inc. and its subsidiaries.

Vanguard. Vanguard Group, Inc. (“VGI”) VGI is a leading investment management company that was founded in 1975. VGI and certain of its subsidiaries are registered as investment advisers under the Investment Advisers Act of 1940 (the “1940 Act”), and VGI is registered as a transfer agent under the Securities Exchange Act of 1934. VGI is wholly and jointly owned by 35 investment companies registered under the Investment Company Act of 140 that offer, in the aggregate, more than 190 distinct mutual funds (the “Vanguard Funds”). VGI’s mutual ownership structure – VGI has no shareholders other than the 35 investment companies – is unique in the mutual fund industry and is designed to reduce costs to individual and institutional investors in the Vanguard Funds and to minimize the potential for the kinds of conflicts that sometimes exist.

VGI is governed by a 10-member board of directors, whose members also serve as members of the board of trustees for each Vanguard Mutual Fund. Nine of the 10 board members are independent directors/trustees who, apart from any personal investments they may choose to make as private individuals, have no affiliation with either Vanguard or the Vanguard Funds they oversee.

The board of trustees of a Vanguard Mutual Fund establishes investment guidelines and has the ability to hire (or terminate) a fund manager to provide advisory services to the mutual fund. The board also reviews the advisory contract with the manager annually and has adopted

proxy voting procedures and guidelines to govern each mutual fund's proxy voting of securities it has acquired.

The Vanguard Funds. The Vanguard Funds make investments on behalf of fund investors *exclusively* for investment purposes. Investments are not for purposes of managing, controlling or entering into business transactions with portfolio companies, including the publicly-traded parent company of any New Hampshire public utilities.³

As relevant here, the Vanguard Funds can be classified into (a) mutual funds and similar vehicles that track the performance of a specified reference index and are therefore passively managed because investment decisions are not based on Vanguard's investment judgment (the "Vanguard Index Funds"); and (b) funds that are managed according to traditional methods of active investment management, involving the buying and selling of securities based on economic, financial and market analyses and investment judgment (the "Vanguard Non-Index Funds"). Vanguard acts as the sole investment adviser for all the Vanguard Index Funds. The board of many of the Vanguard Non-Index Funds has hired one or more third-party investment managers to provide them with investment advisory services. In no cases, do the Vanguard Funds, either individually or in coordination, seek to control the companies in which they invest.

³ For example, the following disclosure is set forth in the offering documents for Vanguard Mutual Funds that invest in equity securities: "The Vanguard funds invest in securities and other instruments for the sole purpose of achieving a specific investment objective. As such, they do not seek to acquire enough of a company's outstanding voting stock to have control over management decisions. The Vanguard funds do not invest for the purpose of controlling a company's management." *E.g.*, Vanguard S&P 500 Growth Index Fund Registration Statement on Form N-1A dated Dec. 14, 2015, page B-12 (part of the Statement of Additional Information), retrieved from the SEC website <http://www.sec.gov/Archives/edgar/data/891190/000093247115009321/admiral485bfinal.htm>.

Vanguard is known, in particular, for its many low-cost Vanguard Index Funds and is credited with having created the first index mutual fund available to individual investors and having popularized index funds generally. Today, out of approximately 430 total funds that Vanguard sponsors, manages or advises, more than 330 are Vanguard Index Funds. In addition, Vanguard Index Funds comprise approximately 3/4s of the global fund assets that Vanguard manages.

As noted above, the Vanguard Index Funds are not managed according to traditional methods of active investment management, involving the buying and selling of securities based on economic, financial and market analyses, and investment judgment. Instead, each of the Vanguard Index Funds uses an indexing investment approach. Under this approach, Vanguard, as fund manager, attempts to replicate the investment performance of such fund's specified benchmark, or "index," by investing in a portfolio of securities that tracks the performance of the relevant index. The index providers (*e.g.*, Standard & Poor's) determine the composition of their respective indexes and the relative weightings of the securities in those indexes. Index performance is disseminated periodically throughout the day, and at the end of each day. All indexes followed by the Vanguard Index Funds were created by, and are adjusted periodically by, third party providers, and not by Vanguard. For example, Vanguard Index 500 Fund seeks to track the performance of large-capitalization stocks that comprise the Standard & Poor's 500 Index.

The Vanguard Index Funds generally purchase the security of an issuer only in the approximate proportion that such security represents in a fund's reference index – sometimes

called the replication method of indexing – and adjust their respective holdings of a particular security only as necessary to reflect any changes to the underlying index or to respond to net cash flow into or out of the funds by investors. This net cash flow, in turn, requires the purchase or sale of securities in the appropriate proportions to continue to track the index.⁴

The Vanguard Non-Index Funds operate under the discretion of the investment managers that provide these funds with investment advisory services. The Vanguard Non-Index Funds each have their own, separate investment mandates, and each fund owes a duty to its investors to act solely for their benefit. This means that each fund makes its own investment decisions, such as whether to acquire or sell a stake in the publicly traded parent company of a New Hampshire public utility. Moreover, because no Vanguard Funds, inclusive of the Vanguard Non-Index Funds, seek control over the companies in which they invest, they never operate with a common goal or purpose to acquire control of a company.

From time to time, and as part of their ordinary course investment activities, the Vanguard Funds, including the Vanguard Index Funds, may acquire, directly or more than likely indirectly shares of the publicly-traded parent companies of New Hampshire public utilities. These investments are, of course, made on behalf of fund shareholders and are in no case proprietary investments of Vanguard. The Vanguard Funds make such investments with an

⁴ A minority of Vanguard Index Funds use a sampling technique of indexing, which means that they may not own each security in the index. Sampling typically occurs when an index includes foreign or small-capitalization securities which are sometimes difficult to acquire and which individually comprise a very small percentage of the index. The sampling technique has the advantage of avoiding transactions on thinly-traded securities but has the potential to introduce an undesirable tracking error, which could harm investment performance. Tracking error is the difference between actual investment results in a fund as compared with the investment results which one would have expected by replicating the index exactly.

expectation of resale and participation in the change in market value of the shares, but not to control or influence the management or policies of any public utility.

Any investments by one particular Vanguard Fund also are made pursuant to that fund's investment mandate and requirements; in all cases, investments are made without regard to or consideration of investment stakes that may be held by any other Vanguard Fund. In addition, as explained above, each Vanguard Index Fund generally purchases and maintains its positions in securities only in the approximate proportion that such securities are represented in such fund's respective index. Accordingly, a Vanguard Index Fund may be obligated to acquire securities issued by a the publicly-traded parent company of a New Hampshire public utility if that company is included in the fund's reference index or to adjust the funds' holdings in such security as necessary to reflect changes to the underlying index and/or net cash flow into the funds from investors. In some cases, these investment mandates, considered across all the Vanguard Funds, could require that the funds hold an aggregated position above 10% of the publicly traded parent company of a New Hampshire public utility.