

1 H.39

2 Introduced by Representatives Botzow of Pownal and Marcotte of Coventry

3 Referred to Committee on

4 Date:

5 Subject: Utilities; Public Service Board; electronic filing; case management;

6 condemnation hearings; rate schedule filing; certificates of public

7 good

8 Statement of purpose of bill as introduced: This bill proposes to make

9 miscellaneous amendments to matters within the jurisdiction of the Department

10 of Public Service and the Public Service Board.

11 An act relating to the Public Service Board and the Department of Public
12 Service

13 It is hereby enacted by the General Assembly of the State of Vermont:

14 * * * Electronic Filings and Case Management * * *

15 Sec. 1. 30 V.S.A. § 11(a) is amended to read:

16 (a) The forms, pleadings, and rules of practice and procedure before the
17 ~~board~~ Board shall be prescribed by it. The ~~board~~ Board shall promulgate and
18 adopt rules which include, among other things, provisions that:

19 (1) A utility whose rates are suspended under the provisions of section
20 226 of this title shall, within 30 days from the date of the suspension order, file

1 with the ~~board 10 copies of~~ Board all exhibits it intends to use in the hearing
2 thereon together with the names of witnesses it intends to produce in its direct
3 case and a short statement of the purposes of the testimony of each witness.

4 Except in the discretion of the ~~board~~ Board, a utility shall not be permitted to
5 introduce into evidence in its direct case exhibits which are not filed in
6 accordance with this rule.

7 * * *

8 Sec. 2. 30 V.S.A. § 11a is added to read:

9 § 11a. ELECTRONIC FILING AND ISSUANCE

10 (a) As used in this section:

11 (1) "Confidential document" means a document containing information
12 for which confidentiality has been asserted and that has been filed with the
13 Board and parties in a proceeding subject to a protective order duly issued by
14 the Board.

15 (2) "Document" means information inscribed on a tangible medium or
16 stored in an electronic or other medium and retrievable in perceivable form.

17 (3) "Electronic filing" means the transmission of documents to the
18 Board by electronic means.

19 (4) "Electronic filing system" means a board-designated system that
20 provides for the electronic filing of documents with the Board and for the
21 electronic issuance of documents by the Board. If the system provides for the

1 filing or issuance of confidential documents, it shall be capable of maintaining
2 the confidentiality of confidential documents and of limiting access to
3 confidential documents to individuals explicitly authorized to access such
4 confidential documents.

5 (5) “Electronic issuance” means:

6 (A) the transmission by electronic means of a document that the
7 Board has issued, including an order, proposal for decision, or notice; or

8 (B) the transmission of a message from the Board by electronic
9 means informing the recipients that the Board has issued a document,
10 including an order, proposal for decision, or notice, and that it is available for
11 viewing and retrieval from an electronic filing system.

12 (6) “Electronic means” means any Board-authorized method of
13 electronic transmission of a document.

14 (b) The Board by order, rule, procedure, or practice may:

15 (1) provide for electronic issuance of any notice, order, proposal for
16 decision, or other process issued by the Board, notwithstanding any other
17 service requirements set forth in this title or in 10 V.S.A. chapter 43;

18 (2) require electronic filing of documents with the Board;

19 (3) for any filing or submittal to the Board for which the filing or
20 submitting entity is required to provide notice or a copy to another state agency
21 under this title or under 10 V.S.A. chapter 43, waive such requirement if the

1 state agency will receive notice of and access to the filing or submittal through
2 an electronic filing system; and

3 (4) for any filing, order, proposal for decision, notice, or other process
4 required to be served or delivered by first-class mail or personal delivery under
5 this title or under 10 V.S.A. chapter 43, waive such requirement to the extent
6 the required recipients will receive the filing, order, proposal of decision,
7 notice, or other process by electronic means or will receive notice of and
8 access to the filing, order, proposal for decision, notice, or other process
9 through an electronic filing system.

10 (c) Any order, rule, procedure, or practice issued under subsection (b) of
11 this section shall include exceptions to accommodate parties and other
12 participants who are unable to file or receive documents by electronic means.

13 (d) Subsection (b) of this section shall not apply to the requirements for
14 service of citations and notices in writing as set forth in sections 111(b),
15 111a(i), and 2804 of this title.

16 Sec. 3. 30 V.S.A. § 20(a) is amended to read:

17 (a)(1) The ~~board or department~~ Board or Department may authorize or
18 retain legal counsel, ~~official stenographers~~, expert witnesses, advisors,
19 temporary employees, and other research services:

20 * * *

1 (4) The Board or Department may authorize or retain official
2 stenographers in any proceeding within their jurisdiction, including
3 proceedings listed in subsection (b) of this section.

4 * * * Condemnation Hearing: Service of Citation * * *

5 Sec. 4. 30 V.S.A. § 111(b) is amended to read:

6 (b) The citation shall be served upon each person having any legal interest
7 in the property, including each municipality and each planning body where the
8 property is situate like a summons, or on absent persons in such manner as the
9 ~~supreme court~~ Supreme Court may by rule provide for service of process in
10 civil actions. The Board shall also give notice of the hearing to each
11 municipality and each planning body where the property is located. ~~The board~~
12 Board, in its discretion, may schedule a joint hearing of some or all petitions
13 relating to the same project and concerning properties or rights located in the
14 same town or abutting towns.

15 * * * Filing Rate Schedules with the Board * * *

16 Sec. 5. 30 V.S.A. § 225 is amended to read:

17 § 225. RATE SCHEDULES

18 (a) Within a time to be fixed by the board, each company subject to the
19 provisions of this chapter shall file with the ~~department~~ Department and the
20 Board, with separate filings to the ~~directors for regulated utility planning and~~
21 ~~public advocacy~~ Directors for Regulated Utility Planning and for Public

1 Advocacy, schedules which shall be open to public inspection, showing all
2 rates including joint rates for any service performed or any product furnished
3 by it within the ~~state~~ State, and as a part thereof shall file the rules and
4 regulations that in any manner affect the tolls or rates charged or to be charged
5 for any such service or product. Those schedules, or summaries of the
6 schedules approved by the ~~department~~ Department, shall be published by the
7 company in two newspapers with general circulation in the ~~state~~ State within
8 15 days after such filing. A change shall not thereafter be made in any such
9 schedules, including schedules of joint rates or in any such rules and
10 regulations, except upon 45 days notice to the ~~board and to the department of~~
11 ~~public service~~ Board and the Department, and such notice to parties affected by
12 such schedules as the ~~board~~ Board shall direct. The ~~board~~ Board shall consider
13 the ~~department's~~ Department's recommendation and take action pursuant to
14 sections 226 and 227 of this title before the date on which the changed rate is
15 to become effective. All such changes shall be plainly indicated upon existing
16 schedules, or by filing new schedules in lieu thereof 45 days prior to the time
17 the same are to take effect. Subject only to temporary increases, rates may not
18 thereafter be raised without strictly complying with the notice and filing
19 requirements set forth in this section. In no event may a company amend,
20 supplement, or alter an existing filing or substantially revise the proof in
21 support of such filing in order to increase, decrease, or substantiate a pending

1 rate request, unless, upon opportunity for hearing, the company demonstrates
2 that such a change in filing or proof is necessary for the purpose of providing
3 adequate and efficient service. However, upon application of any company
4 subject to the provisions of this chapter, and with the consent of the ~~department~~
5 ~~of public service~~ Department, the ~~board~~ Board may for good cause shown
6 prescribe a shorter time within which such change may be made; but a change
7 which in effect decreases such tolls or rates may be made upon five days'
8 notice to the ~~board and the department of public service~~ Board and the
9 Department and such notice to parties affected as the ~~board~~ Board shall direct.

10 (b) Immediately upon receipt of notice of a change in a rate schedule filed
11 by a company, the ~~department~~ Department shall investigate the justness and
12 reasonableness of that change. At least 15 days prior to the date on which the
13 change is to become effective, the ~~department~~ Department shall either report to
14 the ~~board~~ Board the results of its investigations together with its
15 recommendation for acceptance of the change, or it shall notify the ~~board~~
16 Board and other parties that it opposes the change. If the ~~department of public~~
17 ~~service~~ Department reports its acceptance of the change in rates, the ~~board~~
18 Board may accept the change, or it may on its own motion conduct an
19 investigation into the justness and reasonableness of the change, or it may
20 order the ~~department~~ Department to appear before it to justify its
21 recommendation to accept the change. In no event shall a change go into

1 effect without the approval of the ~~board~~ Board, except when a rate change is
2 suspended and temporary or permanent rates are allowed to go into effect
3 pursuant to subsection 226(a) or 227(a) of this title. The ~~board~~ Board shall
4 consider the ~~department's~~ Department's recommendation and take action
5 pursuant to sections 226 and 227 of this title before the date on which the
6 changed rate is to become effective. In the event that the ~~department~~
7 Department opposes the change, the ~~board~~ Board shall hear evidence on the
8 matter and make such orders as justice and law require. In any hearing on a
9 change in rates, whether or not opposed by the ~~department~~ Department, the
10 ~~board~~ Board may request the appearance of the ~~attorney general~~ Attorney
11 General or appoint a member of the Vermont ~~bar~~ Bar to represent the public or
12 the ~~state~~ State.

13 * * * CPG: Recommendations of Municipal and Regional Planning

14 Commissions * * *

15 Sec. 6. 30 V.S.A. § 248 is amended to read:

16 § 248. NEW GAS AND ELECTRIC PURCHASES, INVESTMENTS, AND
17 FACILITIES; CERTIFICATE OF PUBLIC GOOD

18 * * *

19 (f) However, the plans for the construction of such a facility within the
20 ~~state~~ State must be submitted by the petitioner to the municipality and regional
21 planning commissions no less than 45 days prior to application for a certificate

1 of public good under this section, unless the municipal and regional planning
2 commissions shall waive such requirement. Such municipal or regional
3 planning commission may hold a public hearing on the proposed plans. Such
4 commissions ~~shall~~ may make recommendations, ~~if any,~~ to the ~~public service~~
5 ~~board~~ Public Service Board and to the petitioner ~~at least seven days prior to~~
6 ~~filing of the petition~~ within 21 days after the date the petition is filed with the
7 ~~public service board~~ Board.

8 * * *

9 * * * Effective Date * * *

10 Sec. 7. EFFECTIVE DATE

11 This act shall take effect on passage.