

Public Records Exemption

Section 317 of Title 1 shall be amended as follows:

(c) The following public records are exempt from public inspection and copying:

(27) Information and records provided to the Department of Public Service or the Public Utility Commission by an individual for the purposes of having the Department or Commission assist that individual in resolving a dispute with a utility regulated by the Department or Commission, or by the utility or any other person in connection with the individual's dispute.

Rationale: Although most consumer complaints are filed with the Department of Public Service, the Commission also receives a regular stream of these complaints. These communications often contain personal information that Vermonters likely expect to be kept confidential, particularly as the exact same communication is kept confidential when sent to the Department.

Required Hearings in Non-controversial Section 248 Cases

Section 248(a)(4)(A) shall be amended as follows:

(4)(A) With respect to a facility located in the State, in response to a request from one or more members of the public or a party, the Public Utility Commission shall hold a non-evidentiary technical public hearing on each petition for such finding and certificate in at least one county in which any portion of the construction of the facility is proposed to be located. The Commission in its discretion may hold a non-evidentiary public hearing in the absence of any request from a member of the public or a party. From the comments made at the public hearing, the Commission shall derive areas of inquiry that are relevant to the findings to be made under this section and shall address each such area in its decision. Prior to making findings, if the record does not contain evidence on such an area, the Commission shall direct the parties to provide evidence on the area. This subdivision does not require the Commission to respond to each individual comment.

Rationale: Many projects proposed for construction under Section 248 are non-controversial and generate no public interest. The requirement that a non-evidentiary public hearing be held for every Section 248 petition that is filed for an in-state facility often results in convening hearings that no members of the public attend to provide comments. Depending on the location of the proposed project, state agency personnel and petitioner representatives can expend several hours of time for travel to a hearing that goes unattended. This results in an unnecessary expenditure of resources and time, and the imposition of unnecessary costs such as travel-related expenses, costs for securing a location for the hearing, and court reporter costs. The proposed change leaves in place the requirement for a public hearing if even a single member of the public

or a party requests that one be held. It also leaves to the Commission's discretion whether to hold a public hearing if, in its experience and judgment, it deems that holding such a hearing is in the public interest even in the absence of a request from a member of the public or a party that a hearing be held. The proposed changes also replace the word "technical" with the word "evidentiary" to be consistent with the changes being proposed for 30 V.S.A. § 248(a)(4)B.

Section 248(a)(4)(B) shall be amended as follows:

(B) The Public Utility Commission shall hold technical evidentiary hearings at locations that it selects in any case conducted under this section in which any contested issues remain or when any party to a case requests that an evidentiary hearing be held. In the event a case is fully resolved and no party requests a hearing, the Commission may exercise its discretion and determine that an evidentiary hearing is not necessary to protect the interests of the parties or the public, or for the Commission to reach its decision in the matter.

Rationale: It is not unusual for a Section 248 case to be fully resolved in advance of an evidentiary hearing. Parties sometimes settle a case in its entirety through a stipulation and at other times simply by noting that they have no objection to the proposal before the Commission and have no need to present testimony or examine any witnesses. The current requirement that an evidentiary hearing be held in Section 248 cases means that even in uncontested and settled cases, all parties must travel to and assemble in the hearing location even though the only business to be conducted is to enter testimony and exhibits into the evidentiary record, typically done by stipulation with no witness examination. This largely administrative function can be carried out without an evidentiary hearing, which is made even more efficient with the adoption and use of ePUC, the Commission's online electronic filing and case management system. The proposed changes still require that an evidentiary hearing be held if any issues remain in dispute or if any party requests that such a hearing be held. This ensures that party interests are adequately protected. It also leaves to the discretion of the Commission the question of whether to hold an evidentiary hearing in cases where one may not be necessary. This allows the Commission to ensure that any issues not raised by the parties themselves will be adequately addressed by the parties. For example, even when the parties are satisfied with the evidentiary record in the absence of a hearing, the Commission or Commission staff may seek clarification from party witnesses on issues they have identified or that were perhaps raised in public comments on a petition. The proposed changes also replace the word "technical" with the word "evidentiary" to more accurately reflect the nature of Section 248 hearings.

Process for Reviewing Tariffs

Section 225(b) of Title 30 shall be amended as follows:

Immediately upon receipt of notice of a change in a rate schedule filed by a company, the Department shall investigate the justness and reasonableness of that change. At least 15 days prior to the date on which the change is to become effectiveWithin 30 days of receipt of this notice, the Department shall either report to the Commission the results of its investigations

together with its recommendation for acceptance of the change, or it shall notify the Commission and other parties that it opposes the change. If the Department of Public Service reports its acceptance of the change in rates, the Commission may accept the change, or it may on its own motion conduct an investigation into the justness and reasonableness of the change, or it may order the Department to appear before it to justify its recommendation to accept the change. In no event shall a change go into effect without the approval of the Commission, except when a rate change is suspended and temporary or permanent rates are allowed to go into effect pursuant to subsection 226(a) or 227(a) of this title. The Commission shall consider the Department's recommendation and take action pursuant to sections 226 and 227 of this title ~~before the date on which the changed rate is to become effective within 45 days of receipt of notice of a change in a rate schedule~~. In the event that the Department opposes the change, the Commission shall hear evidence on the matter and make such orders as justice and law require. In any hearing on a change in rates, whether or not opposed by the Department, the Commission may request the appearance of the Attorney General or appoint a member of the Vermont bar to represent the public or the State.

Rationale: Some utilities file notices of a change in rates many months prior to when they seek for the change to become effective. As a result, the Department could withhold its recommendation, and the Commission could put off taking action pursuant to section 226 and 227 for many months, essentially staying the company's filing. The proposed revision amends the timing for the Department and the Commission to act on a proposed change in rates, with triggers based on when notice is filed rather than on when the rates are proposed to take effect.

Section 226(c) of Title 30 shall be amended as follows:

If the Department does not oppose the change as provided in section 225 of this title, five persons adversely affected by the change, or, if the change adversely affects ~~less-fewer~~ than five persons, any one person so affected may apply at their own expense to the Commission by petition alleging why the change is unreasonable and unjust and asking that the Commission investigate the matter and make such orders as justice and law require. The petition shall be filed ~~at least seven days before the date the rates become effective within 38 days of the date the notice of rate change was filed pursuant to section 225 of this title~~. The Commission may suspend the rates as a result of the petition. The Commission may hold a hearing on the petition. Whether or not a hearing is held, the Commission shall make such orders as justice and law require.

Rationale: Same as for proposed revision to Section 225. The timing should trigger off the filing date and not the proposed effective date.

Section 227(a) of Title 30 shall be amended as follows:

If the Commission orders that a change shall not go into effect until final determination of the proceedings, it shall proceed to hear the matter as promptly as possible and shall make its determination within seven months from the date that ~~the change otherwise would have gone into effect if orders the investigation~~. If a company files for a change in rate design among classes of ratepayers, and the company has a rate case pending before the Commission, the Commission shall make its determination on the rate design change within seven months after the rate case is

decided by the Commission. If the Commission fails to make its determination within the time periods set by this subsection, the changed rate schedules filed by the company shall become effective and final.

Rationale: Similar to above. Timing should not trigger off the proposed effective date, but instead upon the Commission's determination that it will investigate a proposed rate change.

Clarify Hearing Terminology

Section 30 V.S.A. § 11(a)(2) shall be amended as follows:

A prehearing scheduling conference shall be ordered in every contested rate case. At such conference the Commission may require the State or any person opposing such rate increase to specify what items shown by the filed exhibits are conceded. Further proof of conceded items shall not be required.

Rationale: The Commission is continuing to implement changes to make it easier for citizens to participate in its processes. These changes include using plain English whenever possible. The term "prehearing conference" is confusing to many citizens who expect such an event to be immediately followed by an evidentiary hearing. The term "scheduling conference" more accurately conveys what happens at the event that the Commission now refers to as a prehearing conference.

Deputy Clerk Position

Notwithstanding any provision of law to the contrary, the general assembly authorizes the conversion of the permanent exempt position of Executive Assistant (#377021) within the public utility commission to the permanent exempt position of "Deputy Clerk."

Rationale: This change is necessary to address the significant change in this position's job duties, in large part as a result of the Commission's new online filing and case management system, known as ePUC. This position serves as the ePUC system administrator, which requires an in-depth understanding of how to use the system as well as the ability to think strategically about how to address unusual situations and improve the system. This position is the Commission's point person for all public inquiries about using the system and plays a key role in training external users and Commission employees on how to use the system. These new responsibilities require additional skills, including a facility for learning new software programs, excellent interpersonal and customer service skills, and an ability to think strategically and creatively. In addition, as a result of other management changes implemented by this position's supervisor (the Commission's clerk), this position's other responsibilities have increased such that the incumbent now performs many tasks that previously were handled only by the clerk. As a result, the position's previous title of Executive Assistant no longer accurately describes the position's responsibilities.