

Final Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the "Rule on Rulemaking" adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of "Proposed Rule Postings" online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

Rule 8.00 Cable Television

/S Anthony Z. Roisman
(signature)

, on 9/20/2022
(date)

Printed Name and Title:

Anthony Z. Roisman
Chair, Vermont Public Utility Commission

RECEIVED BY: _____

- Coversheet
- Adopting Page
- Economic Impact Analysis
- Environmental Impact Analysis
- Strategy for Maximizing Public Input
- Scientific Information Statement (if applicable)
- Incorporated by Reference Statement (if applicable)
- Clean text of the rule (Amended text without annotation)
- Annotated text (Clearly marking changes from previous rule)
- ICAR Minutes
- Copy of Comments
- Responsiveness Summary



1. TITLE OF RULE FILING:

Rule 8.00 Cable Television

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

22P 005

3. ADOPTING AGENCY:

Vermont Public Utility Commission

4. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Jake Marren, Esq.

Agency: Vermont Public Utility Commission

Mailing Address: 112 State Street 4th Fl. Montpelier, VT
05602

Telephone: (802) 828-1167 Fax:

E-Mail: jake.marren@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://epuc.vermont.gov/?q=node/64/166982>

5. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Micah Howe

Agency: Vermont Public Utility Commission

Mailing Address: 112 State Street 4th Fl. Montpelier VT
05602

Telephone: (802) 828-2358 Fax:

E-Mail: micah.howe@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:



(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

30 V.S.A. §§ 209(b) and 517

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

The Commission has "jurisdiction to hear, determine, render judgment, and make orders and decrees in all matters" related to the provision of utility services in Vermont. 30 V.S.A. § 209(a). The Commission is required to adopt rules that "regulate or prescribe terms and conditions of extension of utility service to customers or applicants for service . . . including the extension of service lines." 30 V.S.A. § 209(b)(1). Section 517(e) of Title 30 states that "the Commission may require the construction of cable television line extensions when a company receives a bona fide request for service from a reasonable number of verified customers or with reasonable contributions in aid of construction from customers."

9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.
10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.
11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.
12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.
13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.
14. CONCISE SUMMARY (150 WORDS OR LESS):

The proposed rule will standardize the method of calculating and the format of presenting the construction cost estimates that cable operators provide to customers requesting cable line extensions. The rule also amends the timeframes within which cable operators are required to provide such construction cost estimates.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

When a customer in an unserved area requests cable service, a line extension must be built. State statute requires the Commission to adopt a rule prescribing the terms of line extensions and authorizes the Commission to require cable line extensions where requested by a new customer, subject to a customer's reasonable contribution in aid of construction. Providing reasonable, accurate, and consistent estimates of construction costs will allow potential cable customers to better assess the feasibility of cable line extensions and facilitate the expansion of cable service in Vermont.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

For over twenty years, the Commission has used a formula to allocate line extension construction costs between new subscribers and the cable operator depending on how many new subscribers there are per mile of a line extension. The rule clarifies how two inputs to the formula, the construction costs and the length of a line extension, are derived. First, the rule clarifies that only necessary costs may be included in the estimate of line extension construction costs.

Second, the rule clarifies that only the length of the new line extension, as opposed to parts of the existing cable system, can be used in the formula. These changes are not arbitrary because it would be unreasonable to require new subscribers to pay for the cost of infrastructure that is not necessary to extend service. It would also be unreasonable to use a length that exceeds the length of the new line extension because it would disproportionately shift the cost of the extension onto new subscribers.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

The rule will affect persons in uncabled areas that are interested in receiving cable service, Vermont cable operators, and the Vermont Department of Public Service.

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):



The rule will not have a significant economic impact. The stakeholders did not identify any significant economic impacts associated with the rule. To the extent that the rule encourages the expansion of cable service, there may be economic benefits to both the cable operators and to customers receiving cable service.

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 5/3/2022

Time: 06:30 PM

Street Address: <https://meet.goto.com/146547341> OR call (866)899-4679 and enter Pin# 146-547-341

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

5/10/2022

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

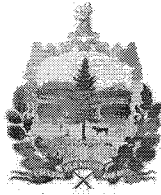
Cable Television



Public Utility Commission
Line Extensions



112 State Street
4th Floor
Montpelier, VT 05620-2701
TEL: 802-828-2358



TTY/TDD (VT: 800-253-0191)
FAX: 802-828-3351
E-mail: puc.clerk@vermont.gov
Internet: <http://puc.vermont.gov>

**State of Vermont
Public Utility Commission**

September 20, 2022

The Hon. Mark A. MacDonald
Legislative Committee on Legislative Rules

Re: Rulemaking 22-P005

Dear Senator MacDonald,

This letter concerns the Vermont Public Utility Commission's proposed changes to Rule 8.000, rulemaking 22-P005. The Commission has made the following changes to its Initial Proposal in response to comments received.

1. The Vermont Department of Public Service and the cable operators requested clarification about whether the length of cable line extensions should be measured from the end of the existing cable plant or from the last serviceable pole. In response, the Commission has amended Section 8.313(B)(1) to reflect that the length of a cable line extension is measured from the end of the existing cable plant. The modifier "standard" was also deleted from the "standard subscriber drops" language that was added in the initial proposed rule to clarify that subscriber drops are not included in the length of the line extension.
2. The Vermont Department of Public Service and the cable operators requested clarification about whether network upgrades may be included in the cost of a cable line extension. In response, the Commission has added Section 8.313(B)(6), which states that network upgrades may be included in the cost of a cable line extension, but only if such upgrades "are necessary and would not be installed but for the line extension."

The Commission provided the Department of Public Service and the cable operators an additional 30 days to comment on these revisions, and both responded that they agree with the revisions described above.

Sincerely,

Anthony Roisman

Anthony Z. Roisman, Chair
Vermont Public Utility Commission



Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

Rule 8.00 Cable Television

2. ADOPTING AGENCY:

Vermont Public Utility Commission

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

09P-025, Cable Television, effective 2/12/2010





INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: March 14, 2022, virtually via Microsoft Teams

Members Present: Chair Douglas Farnham, Brendan Atwood, Diane Bothfeld, Jennifer Mojo, John Kessler, Diane Sherman and Michael Obuchowski

Members Absent: Jared Adler

Minutes By: Melissa Mazza-Paquette

- 2:01 p.m. meeting called to order, welcome and introductions.
 - Introduction of new ICAR member Jared Adler, Department of Labor
 - Resignation of ICAR member Clare O'Shaughnessy, Agency of Education
- Review and approval of minutes from the January 12, 2022 meeting.
 - Motion made to accept the minutes by John Kessler and seconded by Diane Sherman – all approved.
- Note: An emergency rule titled 'Emergency Administrative Rules for Notaries Public and Remote Notarization' by the Office of the Secretary of State, Office of Professional Regulation was supported by ICAR Chair Farnham on 03/14/22.
- No additions/deletions to agenda. Agenda approved as drafted.
- Public comments:
 - Sylvia Knight/'Earth Community Advocate' spoke and comments were submitted via email and shared with ICAR members.
 - Mike Bald/'Got Weeds?' comments were submitted via email and shared with ICAR members.
- Presentation of Proposed Rules on pages 2-4 to follow.
 1. Vermont Regulations for Control of Pesticides, Agency of Agriculture, Food and Markets, page 2
 2. VOSHA Rule: 29 CRF 1926.1124, 29 CRF 1915.1024; Updates to the Beryllium Standard for the Construction and Shipyard Industry' by the Department of Labor, page 3
 3. Rule 8.00 Cable Television, Vermont Public Utility Commission, page 4
- Next regularly scheduled meeting is Monday, April 11, 2022 at 2:00 p.m.
 - A special meeting will be held late March/early April as needed to review an updated filing of the Vermont Regulations for Control of Pesticides if submitted in a timely manner from the Agency of Agriculture, Food and Markets.
- 4:08 p.m. meeting adjourned.

Proposed Rule: Vermont Regulations for Control of Pesticides, Agency of Agriculture, Food and Markets

Presented By: Dave Huber and Cary Giguere

No motions were made. Presenters Dave Huber and Cary Giguere agreed to resubmit a new proposed rule filing that incorporates the following recommendations prior to a special hearing which will be scheduled for a time that works best for all near the end of March 2021 for ICAR's consideration of the proposed rule.

1. Proposed Filing Coversheet, #7: Include reference to the legal authority/enabling legislation as noted in #6.
2. Proposed Filing Coversheet, #8: Include a general description of what this rule does and doesn't do to begin with and then go into detail as to what this rule amendment does. Be clear, transparent and specific when explaining exactly what is being changed.
3. Proposed Filing Coversheet, #9: Include more detail as to why the rule is being amended.
4. Proposed Filing Coversheet, #10: Include more detail as to how the rule is not arbitrary as defined by 3 V.S.A. §801(b)(13)(A).
5. Proposed Filing Coversheet, #11: Consider housing associations and include the public.
6. Proposed Filing Coversheet, #12: Provide more information pertaining to 'significant' and reflect the work done as defined in the Economic Impact Analysis. Include conforming efforts with the federal laws and regulations and costs incurred. Identify that the Vermont changes won't be in addition to the costs already incurred. Use consistency with the Economic Impact Analysis. Explain costs.
7. Economic Impact Analysis: Review for grammar and spelling.
8. Economic Impact Analysis, #3: Request a new certification category for terrestrial invasive plants versus the broader category of emerging forest pests. In the 'Property Management Companies/Landlords' section – add 'to' between 'ought' and 'be'. In the 'Pest Applicators, Pesticide applicator businesses, and dealers' section, define the 'changed permitting requirements' and 'training materials'. Overall, clarify each section and define the economic impact to each.
9. Economic Impact Analysis, #8: Complete 'Alternative 3'.
10. Economic Impact Analysis, #9: Highlight positive impacts in other areas. Include the public.
11. Environmental Impact Analysis, #3: Include the why and how in the first sentence and more detail if warranted in the second sentence.
12. Environmental Impact Analysis, #9: Expand response to describe how the analysis was conducted, identifying relevant internal and/or external sources of information used.
13. Public Input Maximization Plan: Expand beyond homeowners to include the public as well.
14. Public Input Maximization Plan, #3: Define time frame of outreach. Include steps taken and to be done for public outreach and engagement. Detail public hearing information if known.
15. Incorporation by Reference, #5: Include URL web links and phone number. Note that libraries are a valuable resource for those who need internet access to materials listed.



Proposed Rule: Rule 8.00 Cable Television, Vermont Public Utility Commission
Presented By: Jake Marren

Motion made to accept the rule by John Kessler, seconded by Diane Bothfeld, and passed unanimously with the following recommendations:

1. Proposed Filing – Coversheet: Check for spelling (such as in #9 third line).
2. Proposed Filing – Coversheet, #8: Include ‘to’ between ‘required’ and ‘provide’ in the last sentence.
3. Proposed Filing – Coversheet, #10: Include reasoning.
4. Proposed Filing – Coversheet, #12: Change ‘little or no’ – perhaps to ‘negligible’.
5. Final Proposed Filing – Coversheet: Remove.
6. Adopted Filing – Coversheet: Remove.
7. Economic Impact Analysis, #9: Include reference for ‘any material costs’ to explain why. Include language from the Environmental Impact Analysis, #9.
8. Scientific Information Statement: Remove.
9. Incorporation by Reference: Remove.



Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn’t appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

Rule 8.00 Cable Television

2. ADOPTING AGENCY:

Vermont Public Utility Commission

3. CATEGORY OF AFFECTED PARTIES:

LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

This rule will affect cable operators and individuals seeking extensions of cable service to their residences. The rule clarifies the method of calculating the cost of line extension projects and determining a customer's reasonable contribution in aid of construction. The clarifications will ensure that only necessary costs are included in the cost of line



extension projects and will ensure that those costs are apportioned fairly between the cable operator and any new customers. The cable operators have not identified any material costs to providing construction cost estimates using the standards in the proposed rule. The rule will promote consistency in the development of line extension projects and, therefore, will encourage the expansion of cable service to new customers.

4. **IMPACT ON SCHOOLS:**

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

The rule will not have any effect on public schools unless the school is requesting a cable line extension. In those circumstances, the school will benefit from a more transparent and reliable construction cost estimate.

5. **ALTERNATIVES: CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.**

The rule will impose no additional costs on schools.

6. **IMPACT ON SMALL BUSINESSES:**

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

The rule will have no impact on small businesses unless those businesses are requesting an extension of cable service. The rule will benefit those businesses by ensuring that they receive transparent and reasonable estimates of the cost to extend cable service. The rule will also ensure that small businesses are not required to contribute more than their fair share towards the cost of constructing a line extension. If the small business is a Vermont cable operator, that business will benefit from having more detailed guidance on how to calculate a customer's contribution in aid of construction. The Rule will also benefit small cable operators by providing a standardized Line Extension Form and expanded timeframes to develop construction cost estimates.

7. **SMALL BUSINESS COMPLIANCE:** *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

The rule will not result in any cost of compliance for most small businesses. Small cable operators will need to change their estimate procedures to include the standardized Line Extension Form that will be provided by the Commission. No small cable businesses participating in the workshops objected to the proposed rule revisions.

8. **COMPARISON:**

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

The Commission is required by 30 V.S.A. § 209(b) to have a rule addressing line extensions. Without the rule, small businesses might have less transparency into how the estimated cost of a line extension is derived.

9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

This rule was developed in consultation with the cable operators, the Department of Public Service, and the public. Participants were provided opportunities to provide feedback on several drafts of the rule, submit legal briefing, and speak directly with Commission staff at a workshop before the initial proposal was filed. The Commission revised its initial proposal in response to stakeholder comments on the initial proposal. Participants were then provided an additional 30 days to comment on these revisions. No participant identified any material economic impact from the rule.

