

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 2.000 Rules of Practice

/s/Anthony Z. Roisman

(signature)

, on 8/24/2022

(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 2.000 Rules of Practice

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

22P010

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: Kyle Landis-Marinello, Esq.

Agency: Vermont Public Utility Commission

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

Telephone: (802) 828-1158 Fax: (802) 828-3352

E-Mail: kyle.landis-marinello@vermont.gov

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

<https://epuc.vermont.gov/?q=node/64/151626>

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: John Cotter, Esq.

Agency: Vermont Public Utility Commission

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

Telephone: (802) 828-1161 Fax: (802) 828-3352

E-Mail: john.cotter@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. §§ 9, 11(a), 11a(b), & 208.

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

Title 30 V.S.A. § 11(a) provides that "The forms, pleadings, and rules of practice and procedure before the Commission shall be prescribed by it. The Commission shall adopt rules . . ." Title 30 V.S.A. § 11a(b) authorizes the Commission to implement electronic filing and issuance of documents "by order, rule, procedure, or practice." Title 30 V.S.A. § 9 states that the Commission "shall have the powers of a court of record in the determination and adjudication of all matters over which it is given jurisdiction. It may render judgments, make orders and decrees, and enforce the same by any suitable process issuable by courts in this State." Title 30 V.S.A. § 208 provides that "A complaint to the Public Utility Commission may be made against a company subject to supervision under the provisions of this chapter concerning any claimed unlawful act or neglect adversely affecting the complainant . . ." The proposed amendments address each of the above-listed areas.

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 Commission has not comprehensively revised its rules of practice in many years. The proposed rule

will update the Commission's rules of practice to, among other things, (1) reflect the implementation of the Commission's electronic filing system, (2) more clearly identify the portions of the Vermont Rules of Civil Procedure that apply in Commission proceedings, (3) better facilitate public participation by non-lawyers in Commission proceedings by incorporating all rules of procedure into a single source and clarifying their meaning and application, making it easier for public participants to understand what rules apply, and (4) incorporate certain procedural changes that were made on an emergency basis during the COVID-19 pandemic, including clarifying that the Commission may hold status conferences and hearings remotely (and allow remote participation even at in-person hearings) and that parties may file documents without notarization.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

Clear and consistent rules of practice make it easier for stakeholders to participate in Commission proceedings and ensure that all stakeholders' procedural rights are protected.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

There are currently three different sources that must be consulted to effectively participate in Commission proceedings: (1) the current version of Rule 2.000, (2) the Vermont Rules of Civil Procedure, which are currently incorporated by reference into Rule 2.000, and (3) the Commission's Procedures for Electronic Filing Using ePUC. This causes a degree of difficulty for participation in Commission proceedings because of the need to consult three different procedural rule sources, especially for non-attorney, citizen participants. The changes are intended to alleviate this difficulty by incorporating all rules of procedure into a single source and clarifying their meaning and application. The changes reflect the input and requests from a great many individuals and entities that have practiced before the Commission.

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

Any individual, entity, or government agency appearing in proceedings before the Public Utility Commission. Examples include Vermont utilities, ratepayers, developers of and neighbors to proposed generation or transmission projects, public interest entities, state agencies such as the Vermont Department of Public Service, Agency of Natural Resources, and Agency of Agriculture, Food and Markets, and attorneys and non-attorneys representing the same.

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

It is possible that the changes to Rule 2.000 will result in some economic impacts on parties in contested cases before the Public Utility Commission, including regulated utilities and their customers (Vermont ratepayers). Specifically, the rule amendments may help to facilitate additional public participation in contested cases at the Commission. This could result in an increase in the number of formal parties in more controversial cases, potentially raising litigation costs, although it could also lead to a decrease in costs by making the process of participation easier for all parties.

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: 6/21/2022

Time: 05:30 PM

Street Address: <https://meet.goto.com/911317925> OR call (877)309-2073 and enter Pin# 911-317-925

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):

6/28/2022

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

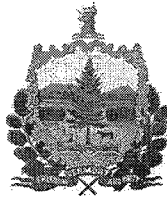
Public Utility Commission

rules of practice

Rule 2.000

ePUC

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**State of Vermont
Public Utility Commission**

August 24, 2022

To Whom It May Concern,

As explained in detail in the Responsiveness Summary that accompanies this filing, the August 24, 2022, final proposed filing of Public Utility Commission Rule 2 contains the following changes to the May 18, 2022, proposed filing:

- Rule 2.204(A) now requires service to (among others) all entities entitled to service under Rule 2.205.
- Rule 2.205(A) in turn provides as follows: "At the beginning of a proceeding that proposes to make changes to existing pole-attachment terms or tariffs, proposes a new pole-attachment tariff, or seeks approval of a program involving pole-attachment rates, the pole-owning entity must provide notice of the filing to all entities that currently have equipment attached or have applied to attach equipment to one or more poles owned by the pole-owning entity."
- Rule 2.201(A)(3) now contains similar language that appears in Rule 2.201(A)(2) regarding automatic notices of appearance.
- Rule 2.219(B) regarding motions for summary judgment now includes the following: "The moving party may file a reply memorandum within 14 days after service of the opposition. The Commission may also allow a surreply memorandum."

Sincerely,

A handwritten signature in black ink, appearing to read "K Landis-Marinello".

Kyle Landis-Marinello, Esq.

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 2.000 Rules of Practice

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*):

#18-038, 30 000 2000 Rules of Practice, 09/15/2018



INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: April 11, 2022, virtually via Microsoft Teams

Members Present: Chair Douglas Farnham, Brendan Atwood, Diane Bothfeld, Jared Adler, Jennifer Mojo, John Kessler, Diane Sherman, Michael Obuchowski and Donna Russo-Savage

Members Absent: None

Minutes By: Melissa Mazza-Paquette

- 2:02 p.m. meeting called to order, welcome and introductions of new ICAR members: Jared Adler, Department of Labor; and Donna Russo-Savage, Agency of Education
- Review and approval of minutes from the March 29, 2022 meeting
- No additions/deletions to agenda. Agenda approved as drafted.
- The following emergency rules were supported by ICAR Chair Farnham:
 - ‘Transitional Housing Program Emergency Rules’, Agency of Human Services, Department for Children and Families, on 03/31/22
 - The purpose of the Transitional Housing Program is to offer more stability to households experiencing homelessness. The Transitional Housing Program will provide financial assistance to eligible households for up to 18 months in the form of direct monthly payments to motel and hotel owners who have executed an Occupancy Agreement with an eligible household. Eligible households include households experiencing homelessness category one or two as defined by the Department of Housing and Urban Development (HUD) with income at or below 80% of the Area Median Income (AMI) in the town in which the household is seeking housing. Recipients of Transitional Housing Program assistance must participate in Coordinated Entry - the system to refer and connect households to housing assistance – to find long term housing. The Transitional Housing Program will be funded by the federal Emergency Rental Assistance Program (ERAP) and will conform to all federal law and guidance governing ERAP.
 - ‘Access to Health Care Services Related to COVID-19’, Department of Financial Regulation, on 04/01/22
 - The emergency rule requires health insurers to provide continuing coverage of COVID-19 diagnosis, testing (including rapid antigen testing), and treatment without member cost-sharing.

- 'Reportable and Communicable Diseases Emergency Rule', Agency of Human Services, Department of Health, on 04/01/22
 - This rulemaking does the following:
 - 1) Adds COVID-19 and multisystem inflammatory syndrome in children to the list of reportable diseases;
 - 2) Adds SARS-CoV-2 to the list of reportable laboratory findings and requires that all results be reported including positive, negative, and indeterminate.
 - 3) Adds race and ethnicity data as required reporting content;
 - 4) Adds the definition of electronic reporting to clarify approved methods of reporting and establishes a basis to share data between the Department and Vermont Information Technology Leaders (VITL);
 - 5) Adds standardization procedures for administrative specimen collection;
 - 6) Clarifies the timeframe for reporting laboratory findings to the Department;
 - 7) Removes certain animal diseases from the list of reportable diseases;
 - 8) Reorganizes sections for clarity.

Formal rulemaking is already underway, which will include the proposed changes to this emergency rule.

- 'PUC Emergency Rule 2.500 COVID-19 Emergency Procedures', Public Utility Commission, on April 7, 2022
- No public comments made.
- Presentation of Proposed Rules on pages 3-4 to follow.
 1. Rules and Regulations: Visitor Conduct and Fees and Charges for State Park Services and Commercial Activities on Department Lands, Agency of Natural Resources, page 3
 2. Rule 2.000 Rules of Practice, Public Utility Commission, page 4
- Next scheduled meeting is May 9, 2022 at 2:00 p.m.
- 3:20 p.m. meeting adjourned.

**Proposed Rule: Rule 2.000 Rules of Practice, Public Utility Commission
Presented By: John Cotter**

Motion made to accept the rule by Brendan Atwood, seconded by Diane Bothfeld, and passed unanimously except for Mike Obuchowski who left the meeting early therefore did not vote, with the following recommendations:

1. Proposed Rule Coversheet, #16: Change 'Commission' to spell out 'Public Utility Commission'.
2. Proposed Rule Coversheet #8: In (3) and (4) provide a succinct summary of how the rules are changing to facilitate participation and include what the procedural changes around COVID-19 were focused on.
3. Include ways that the rule was changed to increase the likelihood of public participation in the hearings themselves.
4. Proposed Rule, page 24, #2.216: Consider clarifying language to include virtual participation.
5. If appropriate, clarify that the rule follows the Supreme Court and how that impacts your proceedings and how you're interpreting that.
6. If appropriate, clarify that if a change is implemented by an order, is that change then integrated into the text, so others don't have to look at the text and then look at a series of orders as well.
7. Proposed Rule, #2.104: If appropriate, switch language order of 'Commission order' and 'Commission rule'.

DRAFT

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 2.000 Rules of Practice

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:

(1) Regulated utilities and project developers: Costs. Regulated utilities and developers of generation and transmission projects may experience an increase in litigation costs to the extent the rule amendments result in an increase in the number of parties to contested case proceedings, such as rate cases and siting cases for generation and transmission

facilities. It is not possible to anticipate or quantify any cost increases that may result in any given case. However, cost increases, if any, are expected only in a limited number of more controversial cases. Benefits. All rules of procedure are in one location, providing efficiency and a reduction in costs to petitioning utilities and project developers. Further, opportunities for increased public participation can decrease litigation costs if it leads to an earlier resolution of issues.

(2) Government agencies. Costs. It is possible that government agencies may see a small increase in costs from the amendments if the amendments result in an increase in the number of parties in more controversial cases. Any such increases are expected to be limited in most cases given that state agencies, with the exception of the Department of Public Service, tend to participate on a limited number of issues in most cases. Benefits. All rules of procedure are in one location, providing efficiency to participating state agencies. Further, opportunities for increased public participation can decrease litigation costs if it leads to an earlier resolution of issues.

(3) Vermont Ratepayers. Costs. To the extent that the amendments result in increased litigation costs to rate-regulated utilities, those utilities will likely seek to recover the costs in rates from Vermont ratepayers. However, impacts on individual ratepayers are expected to be small because those costs would be distributed among all of a utility's ratepayers. Benefits. Obtaining information on how to participate in contested case proceedings before the Commission will be simplified for ratepayers that wish to participate in those proceedings. Further, opportunities for increased public participation can decrease litigation costs if it leads to an earlier resolution of issues.

(4) Intervenors. Costs. The rule amendments are not expected to increase costs for citizens and entities (such as public interest groups) seeking to participate in contested case proceedings before the Commission.