

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 4.600 Definition of Electric Transmission Facility
in 30 V.S.A. § 248**

/s/ Anthony Z. Roisman
(signature)

, on 09/19/2022
(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 4.600 Definition of Electric Transmission Facility
in 30 V.S.A. § 248**

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE

22P013

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: Micah Howe, Staff Attorney

Agency: Vermont Public Utility Commission

Mailing Address: 112 State Street, Montpelier, VT 05620-2701

Telephone: (802) 828-2358 Fax: (802) 828-3351

E-Mail: micah.howe@vermont.gov

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

<https://puc.vermont.gov/about-us/statutes-and-rules>

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: Mary Jo Krolewski

Agency: Vermont Public Utility Commission

Mailing Address: 112 State Street, Montpelier, VT 05620-2701

Telephone: (802) 828-2358 Fax: (802) 828-3351

E-Mail: mary-jo.krolewski@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. § 2(c); 30 V.S.A. § 209; 30 V.S.A. § 248

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

30 V.S.A. § 2(c) allows the Public Utility Commission ("Commission") to initiate rulemaking proceedings on issues within its jurisdiction. 30 V.S.A. § 248(a)(2) gives the Commission jurisdiction over the construction of any "electric transmission facility" in Vermont.

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 NOT 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 NOT 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):

30 V.S.A. § 248 requires utilities to obtain a certificate of public good from the Commission before beginning site preparation or construction of an "electric transmission facility." The proposed rule defines the term "electric transmission facility," clarifying which projects require a certificate of public good from the Commission.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

The Commission issued General Order 51 in 1972 to provide a definition of the term "electric transmission facility." In 1994, two utilities petitioned the Commission for waivers of the definition contained in General Order 51 to reflect changes in the design of transmission and distribution networks. The Commission granted the waivers and commenced a rulemaking to

develop a revised definition, but never completed the rule. The proposed rule will provide an updated, firm definition of electric transmission facility and eliminate the need for the Commission to annually renew waivers of the definition established in General Order 51.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

Before filing this rulemaking, Commission staff conducted a workshop and received several rounds of comments from stakeholders, which informed this filing. Stakeholders included the Vermont Department of Public Service and Vermont distribution and transmission utilities. The most recent workshop continues discussions that began with the initial rulemaking proceeding in 1995, which resulted in draft language proposals in 1998, 2003, and 2006. The proposed rule language reflects a consensus revision of the draft rule language from 2006 by the stakeholders that participated in the workshop.

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

The Department of Public Service
Vermont distribution utilities
Vermont transmission utilities

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

The definition of "electric transmission facility" will provide guidance to distribution utilities on whether a project should be classified as a transmission or distribution facility, reducing uncertainty about whether a project requires Commission approval under 30 V.S.A. § 248 and avoiding filings by distribution utilities with the Commission for projects that do not require Commission approval. Eliminating unnecessary filings will reduce the regulatory burden on distribution utilities and save Commission resources.

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: 8/4/2022

Time: 02:00 PM

Street Address: <https://meet.goto.com/552587277> OR call
1 (571) 317-3129 and enter Pin # 552-587-277

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):

8/12/2022

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

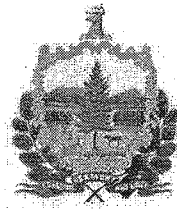
Transmission

Public Utility Commission

Electric

Section 248

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 19, 2022

The Hon. Mark A. MacDonald, Chair
Legislative Committee on Legislative Rules
Vermont State House
Montpelier, Vermont 05602

Re: Rulemaking 22-P013 – Modifications made to final proposed rule.

Dear Chairperson MacDonald and Members,

The Commission has made one change to its initial proposed rule to correct a typographical error in the numbering of the sections as follows:

Section 4.603: Section 4.603 has three subsections, the last two of which were both enumerated "(B)." The third subsection has been changed from "(B)" to "(C)."

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 4.600 Definition of Electric Transmission Facility
in 30 V.S.A. § 248**

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 **A NEW RULE** .

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



INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: June 13, 2022, virtually via Microsoft Teams

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

Members Absent: John Kessler and Diane Bothfeld

Minutes By: Melissa Mazza-Paquette

- 2:01 p.m. meeting called to order, welcome and introductions.
- Committee discussion on process improvements is scheduled for the August meeting to allow for participation from all members.
- Review and approval of minutes from the May 9, 2022 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- Note: An emergency rule titled 'Vital Records Emergency Rule', provided by the Agency of Human Services, Department of Health, was supported by ICAR Chair Farnham on May 16, 2022. This rulemaking implements a process for individuals to amend the marker on their birth certificate to reflect the individual's gender identity. Specifically, it does the following: 1) Defines the term "non-binary" to describe the additional gender identities that may be reflected on a birth certificate. 2) Creates a process for registrants to file their Affidavit of Gender Identity with the Department.
- One public comment made by Venn [Saint Wilder].
- Presentation of Proposed Rules on pages 2-10 to follow.
 1. 2021 Vermont Plumbing Rules, Department of Public Safety & Plumbers Examining Board, page 2
 2. Vital Records Rule, Agency of Human Services, Department of Health, page 3
 3. Rule 4.600 Definition of Electric Transmission Facility in 30 V.S.A. § 248, Public Utility Commission, page 4
 4. Health Benefits Eligibility and Enrollment Rule, General Provisions and Definitions (Part 1), Agency of Human Services, page 5
 5. Health Benefits Eligibility and Enrollment Rule, Eligibility Standards (Part 2), Agency of Human Services, page 6
 6. Health Benefits Eligibility and Enrollment Rule, Nonfinancial Eligibility Requirements (Part 3), Agency of Human Services, page 7
 7. Health Benefits Eligibility and Enrollment Rule, Financial Methodologies (Part 5), Agency of Human Services, page 8
 8. Health Benefits Eligibility and Enrollment Rule, Eligibility-and-Enrollment Procedures (Part 7), Agency of Human Services, page 9
 9. Administrative Rules of the Board of Nursing, Secretary of State, Office of Professional Regulation, page 10
- Next scheduled meeting is Monday, July 11, 2022 at 2:00 p.m.
- 3:25 p.m. meeting was paused for a 15-minute break
- Add discussion of strike-all rules for transparency at a future meeting as time allows.
- 3:50 p.m. meeting adjourned.

Proposed Rule: Rule 4.600 Definition of Electric Transmission Facility in 30 V.S.A. § 248, Public Utility Commission

Presented By: Micah Howe and Mary Jo Krolewski

Motion made to accept the rule by Brendan Atwood, seconded by Diane Sherman, and passed unanimously except for with the following recommendations:

1. Proposed Filing – Coversheet, #8: Include the impact of the definition.
2. Economic Impact Analysis, #7: Change ‘amended’ to ‘new’.
3. Public Input Maximization Plan, #3: Make clear that the participants listed in #4 were participants in the current 2020 era rule making process.

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 4.600 Definition of Electric Transmission Facility
in 30 V.S.A. § 248**

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:

The Department of Public Service.

Vermont electric distribution utilities.

Vermont electric transmission utilities.

Establishing a definition of "electric transmission facility" will provide guidance to distribution

utilities on whether a project should be classified as a transmission or distribution facility, reducing uncertainty about whether a project requires Commission approval and avoiding filings by distribution utilities with the Commission for projects that do not require Commission approval. Eliminating unnecessary filings will reduce the regulatory burden on distribution utilities and save Commission resources. Incorporating the definition into a rule will also eliminate the need for the Commission to annually provide waivers under General Order 51 for high-voltage distribution projects.

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 new rule will not have any impact on public education, public schools, local school districts, or taxpayers.

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.*

None. The new rule will not impose 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 new rule will not have any impact on small businesses.

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 new rule will not impose costs or burdens on small businesses.

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:

There is currently no modern definition of the term "electrical transmission facility" in 30 V.S.A. § 248 that a distribution utility can refer to for guidance when determining whether the utility is required to file a petition for a Certificate of Public Good under 30 V.S.A. § 248 with the Commission. The definition provided by the Commission in General Order 51 (1972) is outdated. As a result, distribution utilities petition the Commission each year for waivers to the guidance provided by the Commission in General Order 51. Providing a definition by rule will eliminate the need for the annual petition process and provide clarity on permitting requirements for distribution utility projects.

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

The Public Utility Commission conducted a workshop and solicited comments from stakeholders to identify the problems with General Order 51 and the appropriate solution.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

**Rule 4.600 Definition of Electric Transmission Facility
in 30 V.S.A. § 248**

2. ADOPTING AGENCY:

Vermont Public Utility Commission

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*
None.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*
None.

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
None.

6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*

None.

7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

None.

8. OTHER: *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

None.

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

The Public Utility Commission conducted a workshop and solicited comments from stakeholders to identify the problems with General Order 51 and the appropriate solution. Utilities will still be required to obtain Commission approval through a Certificate of Public Good for transmission projects in the state. The Commission reviews environmental impacts as a part of the Certificate of Public Good process. Distribution facilities may be subject to review under Act 250.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

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

1. TITLE OF RULE FILING:

**Rule 4.600 Definition of Electric Transmission Facility
in 30 V.S.A. § 248**

2. ADOPTING AGENCY:

Vermont Public Utility Commission

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

Before filing this formal rulemaking, Commission staff conducted a workshop on December 4, 2020, and received several rounds of comments from stakeholders, which informed this filing. The December 4 workshop continued discussions that began in the initial rulemaking proceeding in 1995 and produced several draft language proposals in 1998, 2003, and 2006. The proposed rule language reflects a consensus revision of the draft rule language from 2006 by the stakeholders that participated in this current proceeding.

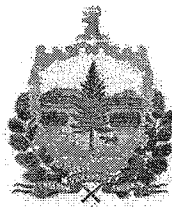
During the formal rulemaking process, the Commission held one public hearing on the rule on August 4, 2022, and had a public comment period as required by 3 V.S.A. § 840.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

Public Input

The following stakeholders were participants in the Commission's workshop proceeding (Case No. 17-4396-INV): the Vermont Department of Public Service; Barton Village Inc. Electric Department; Green Mountain Power Corporation; Swanton Village, Inc. Electric Department; Town of Hardwick Electric Department; Town of Northfield Electric Department; Town of Stowe Electric Department; Vermont Electric Cooperative Inc.; Vermont Electric Power Company, Inc.; Vermont Public Power Supply Authority; Village of Enosburg Falls Water & Light Department Inc.; Village of Hyde Park Electric Department; Village of Johnson Water & Light Department; Village of Ludlow Electric Light Department; Village of Lyndonville Electric Department; Village of Morrisville Water & Light Department; Village of Orleans Electric Department; Washington Electric Cooperative Inc.; and the City of Burlington Electric Department.

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Internet: <http://puc.vermont.gov>

**State of Vermont
Public Utility Commission**

RULE 4.600 DEFINITION OF ELECTRIC TRANSMISSION FACILITY IN 30 V.S.A. § 248

Responsiveness Summary

August 24, 2022

During the public comment period for Rule 4.600, Definition of Electric Transmission Facility in 30 V.S.A. § 248, the Vermont Public Utility Commission ("Commission") received one written comment filed jointly by the Vermont Public Power Supply Authority, Green Mountain Power Corporation, Vermont Electric Cooperative Inc., and the City of Burlington Electric Department. The commenters stated that they appreciate the Commission's efforts and support the proposed rule as filed with the Secretary of State.

The Commission has not made any changes to the rule in response to this comment.



Via ePUC

August 12, 2022

Ms. Holly Anderson, Clerk
Vermont Public Utility Commission
112 State Street, 4th Floor
Montpelier, VT 05620-2071

Joint Distribution Utility Response

**RE: Case No. 22-2134-RULE - Proposed Vermont Public Utility Commission Rule 4.600
Defining "Electric Transmission Facility"**

On July 11, 2022, the Public Utility Commission submitted its proposed Rule 4.600 defining an "Electric Transmission Facility" and requested any written comments by August 12, 2022.

The undersigned utilities appreciate the Commission's effort and engagement to build consensus and clarity around defining electric transmission facilities in Vermont. To that end, we submit this letter of support for the Commission's proposed rule as filed with the Secretary of State.

Thank you for the opportunity to comment and please let us know if you have any questions.

Respectfully,

Sarah E. Braese
Vermont Public Power Supply Authority
Manager of Government & Member Relations

Liz Miller
Green Mountain Power Corporation
VP, Sustainable Supply and Resilient Systems,
Chief Legal Officer

Andrea Cohen
Vermont Electric Co-op.
Government Affairs and Member
Relations Manager

Amber Widmayer
Burlington Electric Department
Regulatory Specialist

New
Text

4.600 DEFINITION OF ELECTRIC TRANSMISSION FACILITY IN 30 V.S.A. § 248

4.601 PURPOSE

This rule defines the term “electric transmission facility” and clarifies the class of facilities that fall within the scope of 30 V.S.A. § 248. Facilities that are not electric transmission facilities as defined herein may be subject to review under other Vermont laws, such as 10 V.S.A. § 6001 (Act 250). A determination that a facility is or is not an electric transmission facility under this rule does not represent a finding for any other purpose, including with respect to 18 C.F.R. Parts 35 and 385 (Federal Energy Regulatory Commission Order No. 888 and amendments).

4.602 DEFINITION OF ELECTRIC TRANSMISSION FACILITY

For purposes of 30 V.S.A. § 248, a facility (including, but not limited to, an electric line) is an electric transmission facility if it is any one of the following:

- (A) a facility, other than an electric generation facility or an energy storage facility, constructed to be capable of operating at a nominal voltage greater than 34.5 kV line-to-line (19.9 kV line-to-ground);
- (B) a facility, other than an electric generation facility or an energy storage facility, constructed to be capable of operating at a nominal voltage equal to or less than 34.5 kV line-to-line (19.9 kV line-to-ground) if it delivers electric power:
 - (1) to a substation; or
 - (2) to or from a transmission line, subject to the exceptions provided below in Paragraph 4.603 of this rule;
- (C) a substation, including facilities located within the substation at any voltage, subject to the exceptions provided below in Paragraph 4.603 of this rule.

4.603 EXCEPTIONS

- (A) An electric transmission facility under 30 V.S.A. § 248 does not include a facility that operates at a nominal voltage of 34.5 kV line-to-line (19.9 kV line-to-ground) and delivers electric power from a transmission line or substation only to individual customers.
- (B) “Substation” does not include stepdown or single-customer transformers, as defined below.
 - (1) “Stepdown transformer” means a transformer, along with associated fuses and sectionalizing switches, that reduces voltage and connects two or more facilities, where none of the connected facilities are electric transmission facilities.
 - (2) “Single-customer transformer” means one or more transformers and associated facilities that:
 - (a) serves only one customer;
 - (b) has a top nameplate capacity of no more than 5 MVA; and

(c) delivers nominal secondary voltage of 600 volts or less.

(C) A "transmission line" does not include a line that:

- (1) existed as a distribution line prior to the interconnection of an electric generation facility or transmission line, and
- (2) will continue to be operated as a distribution line after such interconnection.

Clean
Copy

4.600 DEFINITION OF ELECTRIC TRANSMISSION FACILITY IN 30 V.S.A. § 248

4.601 PURPOSE

This rule defines the term “electric transmission facility” and clarifies the class of facilities that fall within the scope of 30 V.S.A. § 248. Facilities that are not electric transmission facilities as defined herein may be subject to review under other Vermont laws, such as 10 V.S.A. § 6001 (Act 250). A determination that a facility is or is not an electric transmission facility under this rule does not represent a finding for any other purpose, including with respect to 18 C.F.R. Parts 35 and 385 (Federal Energy Regulatory Commission Order No. 888 and amendments).

4.602 DEFINITION OF ELECTRIC TRANSMISSION FACILITY

For purposes of 30 V.S.A. § 248, a facility (including, but not limited to, an electric line) is an electric transmission facility if it is any one of the following:

- (A) a facility, other than an electric generation facility or an energy storage facility, constructed to be capable of operating at a nominal voltage greater than 34.5 kV line-to-line (19.9 kV line-to-ground);
- (B) a facility, other than an electric generation facility or an energy storage facility, constructed to be capable of operating at a nominal voltage equal to or less than 34.5 kV line-to-line (19.9 kV line-to-ground) if it delivers electric power:
 - (1) to a substation; or
 - (2) to or from a transmission line, subject to the exceptions provided below in Paragraph 4.603 of this rule;
- (C) a substation, including facilities located within the substation at any voltage, subject to the exceptions provided below in Paragraph 4.603 of this rule.

4.603 EXCEPTIONS

- (A) An electric transmission facility under 30 V.S.A. § 248 does not include a facility that operates at a nominal voltage of 34.5 kV line-to-line (19.9 kV line-to-ground) and delivers electric power from a transmission line or substation only to individual customers.
- (B) “Substation” does not include stepdown or single-customer transformers, as defined below.
 - (1) “Stepdown transformer” means a transformer, along with associated fuses and sectionalizing switches, that reduces voltage and connects two or more facilities, where none of the connected facilities are electric transmission facilities.
 - (2) “Single-customer transformer” means one or more transformers and associated facilities that:
 - (a) serves only one customer;
 - (b) has a top nameplate capacity of no more than 5 MVA; and

(c) delivers nominal secondary voltage of 600 volts or less.

(C) A “transmission line” does not include a line that:

- (1) existed as a distribution line prior to the interconnection of an electric generation facility or transmission line, and
- (2) will continue to be operated as a distribution line after such interconnection.

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 30 : Public Service

Chapter 001 : Appointment, General Powers, And Duties

(Cite as: 30 V.S.A. § 2)

§ 2. Department powers

(a) The Department of Public Service shall supervise and direct the execution of all laws relating to public service corporations and firms and individuals engaged in such business, including the:

(1) formation, organization, ownership, and acquisition of facilities of public service corporations under chapter 3 of this title;

(2) participation in planning for proper utility service as provided in section 202 of this title through the Director for Regulated Utility Planning;

(3) supervision and evaluation under chapters 5 and 77 of this title of the quality of service of public utility companies;

(4) interconnection and interchange of facilities of electric companies under sections 210, 213, and 214 of this title;

(5) representation of the State in the negotiations and proceedings for the procurement of electric energy from any source outside this State and from any generation facility inside the State under sections 211 and 212 of this title;

(6) review of proposed changes in rate schedules and petition to the Public Utility Commission, and representation of the interests of the consuming public in proceedings to change rate schedules of public service companies under chapter 5 of this title;

(7) siting of electric generation and transmission facilities under section 248 of this title;

(8) consolidations and mergers of public service corporations under chapter 7 of this title;

(9) supervision and regulation of cable television systems under chapter 13 of this title;

(10) supervision and regulation of telegraph and telephone companies under chapters 71, 73, and 75 of this title;

(11) supervision and regulation of the organization and operation of municipal plants under chapter 79 of this title; and

(12) supervision and regulation of the organization and operation of electric cooperatives under chapter 81 of this title.

(b) In cases requiring hearings by the Commission, the Department, through the Director for Public Advocacy, shall represent the interests of the people of the State, unless otherwise specified by law. In any hearing, the Commission may, if it determines that the public interest would be served, request the Attorney General or a member of the Vermont bar to represent the public or the State. In addition, the Department may intervene, appear, and participate in Federal Energy Regulatory Commission proceedings, Federal Communications Commission proceedings, or other federal administrative proceedings on behalf of the Vermont public.

(c) The Department may bring proceedings on its own motion before the Public Utility Commission, with respect to any matter within the jurisdiction of the Public Utility Commission, and may initiate rulemaking proceedings before that Commission. The Public Utility Commission, with respect to any matter within its jurisdiction, may issue orders on its own motion and may initiate rulemaking proceedings.

(d) In any proceeding where the decommissioning fund for the Vermont Yankee Nuclear Facility is involved, the Department shall represent the consuming public in a manner that acknowledges that the general public interest requires that the consuming public, rather than either the State's future consumers who never obtain benefits from the facility or the State's taxpayers, ought to provide for all costs of decommissioning. The Department shall seek to have the decommissioning fund be based on all reasonably expected costs.

(e) The Commissioner of Public Service (the Commissioner) will work with the Director of the Office of Economic Opportunity (the Director), the Commissioner of Housing and Community Development, the Vermont Housing and Conservation Board (VHCB), the Vermont Housing Finance Agency (VHFA), the Vermont Community Action Partnership, and the efficiency entity or entities appointed under subdivision 209(d)(2) of this title and such other affected persons or entities as the Commissioner considers relevant to improve the energy efficiency of both single- and multi-family affordable housing units, including multi-family housing units previously funded by VHCB and VHFA and subject to the Multifamily Energy Design Standards adopted by the VHCB and VHFA. In consultation with the other entities identified in this subsection, the Commissioner and the Director together shall report twice to the House Committee on Energy and Technology and the Senate Committee on Natural Resources and Energy, on or before January 31, 2015 and 2017, respectively, on their joint efforts to improve energy savings of affordable housing units and increase the number of units assisted, including their efforts to:

(1) simplify access to funding and other resources for energy efficiency and renewable energy available for single- and multi-family affordable housing. For the

purpose of this subsection, "renewable energy" shall have the same meaning as under section 8002 of this title;

(2) ensure the delivery of energy services in a manner that is timely, comprehensive, and cost-effective;

(3) implement the energy efficiency standards applicable to single- and multi-family affordable housing;

(4) measure the results and performance of energy improvements;

(5) develop guidance for the owners and residents of affordable housing to maximize energy savings from improvements; and

(6) determine how to enhance energy efficiency resources for the affordable housing sector in a manner that avoids or reduces the need for assistance under 33 V.S.A. chapter 26 (home heating fuel assistance).

(f) In performing its duties under this section, the Department shall give heightened consideration to the interests of ratepayer classes who are not independently represented parties in proceedings before the Commission, including residential, low-income, and small business consumers, as well as other consumers whose interests might otherwise not be adequately represented but for the Department's advocacy.

(g) In all forums affecting policy and decision making for the New England region's electric system, including matters before the Federal Energy Regulatory Commission and the Independent System Operator of New England, the Department of Public Service shall advance positions that are consistent with the statutory policies and goals set forth in 10 V.S.A. §§ 578, 580, and 581 and sections 202a, 8001, 8004, and 8005 of this title. In those forums, the Department also shall advance positions that avoid or minimize adverse consequences to Vermont and its ratepayers from regional and inter-regional cost allocation for transmission projects. This subsection shall not compel the Department to initiate or participate in litigation and shall not preclude the Department from entering into agreements that represent a reasonable advance to these statutory policies and goals.

(h) The Department shall investigate when it receives a complaint that there has been noncompliance with section 246, 248, 248a, or 8010 of this title, any rule adopted pursuant to those sections, or any certificate of public good issued pursuant to those sections, including a complaint of such noncompliance received pursuant to section 208 of this title or the complaint protocol established under 2016 Acts and Resolves No. 130, Sec. 5c. (Amended 1979, No. 204 (Adj. Sess.), § 2, eff. Feb. 1, 1981; 1989, No. 296 (Adj. Sess.), § 5, eff. June 29, 1990; 2013, No. 89, § 12a; 2013, No. 91 (Adj. Sess.), §§ 1, 5, eff. Feb. 4, 2014; 2013, No. 99 (Adj. Sess.), § 9a, eff. April 1, 2014; 2015, No. 11, § 31; 2015, No. 56, § 22; 2017, No. 53, § 7; 2017, No. 113 (Adj. Sess.), § 173.)

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 30 : Public Service

Chapter 005 : State Policy; Plans; Jurisdiction And Regulatory Authority Of Commission And Department

Subchapter 001 : General Powers

(Cite as: 30 V.S.A. § 209)

§ 209. Jurisdiction; general scope

(a) General jurisdiction. On due notice, the Commission shall have jurisdiction to hear, determine, render judgment, and make orders and decrees in all matters provided for in the charter or articles of any corporation owning or operating any plant, line, or property subject to supervision under this chapter, and shall have like jurisdiction in all matters respecting:

(1) the purity, quantity, or quality of any product furnished or sold by any company subject to supervision under this chapter, and may prescribe the equipment for and standard of measurement, pressure, or initial voltage of such product;

(2) the providing for each kind of business subject to supervision under this chapter, suitable and convenient standard commercial units of product or service, which standards shall be lawful for the purposes of this chapter;

(3) the manner of operating and conducting any business subject to supervision under this chapter, so as to be reasonable and expedient, and to promote the safety, convenience, and accommodation of the public;

(4) the price, toll, rate, or rental charged by any company subject to supervision under this chapter, when unreasonable or in violation of law;

(5) the sufficiency and maintenance of proper systems, plants, conduits, appliances, wires, and exchanges, and when the public safety and welfare require the location of such wires or any portion thereof underground;

(6) to restrain any company subject to supervision under this chapter from violations of law, unjust discriminations, usurpation, or extortion;

(7) the issue of stock, mortgages, bonds, or other securities as provided in section 108 of this title;

(8) the sale to electric companies of electricity generated by facilities:

(A) that produce electric energy solely by the use of biomass, waste, renewable resources, cogeneration, or any combination thereof; and

(B) that are owned by a person not primarily engaged in the generation or sale of electric power, excluding power derived from facilities described in subdivision (A) of this subdivision (8); and

(C) that have a power production capacity that, together with any other facilities located at the same site, is not greater than 80 megawatts; and

(9) the issuance of qualified cost mitigation charge orders pertaining to facilities described in subdivision (8) of this subsection, subject to the terms and conditions of section 209a of this title.

(b) Required rules. The provisions of section 218 of this title notwithstanding, the Public Utility Commission shall, under 3 V.S.A. §§ 803-804, adopt rules applicable to companies subject to this chapter that:

(1) regulate or prescribe terms and conditions of extension of utility service to customers or applicants for service including:

(A) the conditions under which a deposit may be required, if any;

(B) the extension of service lines;

(C) the terms of payment of any required deposit; and

(D) the return of any deposit;

(2) regulate or prescribe the grounds upon which the companies may disconnect or refuse to reconnect service to customers; and

(3) regulate and prescribe reasonable procedures used by companies in disconnecting or reconnecting services and billing customers in regard thereto.

(c) Uninterrupted service; reasonable terms. Rules adopted under subsection (b) of this section shall be aimed at protection of the health and safety of utility customers so that uninterrupted utility service may be continued on reasonable terms for the utility and its customers. Such rules shall also ensure that a reasonable rate of interest, adjusted for variations in market interest rates, be set on security deposits held by utility companies.

(d) Energy efficiency.

(1) Programs and measures. The Department of Public Service, any entity appointed by the Commission under subdivision (2) of this subsection, all gas and electric utility companies, and the Commission upon its own motion are encouraged to propose, develop, solicit, and monitor energy efficiency and conservation programs and measures, including appropriate combined heat and power systems that result in the conservation and efficient use of energy and meet the applicable air quality standards of the Agency of Natural Resources. Such programs and measures, and their implementation, may be approved by the Commission if it determines they will be beneficial to the ratepayers of the companies after such notice and hearings as the

Commission may require by order or by rule. The Department of Public Service shall investigate the feasibility of enhancing and expanding the efficiency programs of gas utilities and shall make any appropriate proposals to the Commission.

(2) Appointment of independent efficiency entities.

(A) Electricity and natural gas. In place of utility-specific programs developed pursuant to this section and section 218c of this title, the Commission shall, after notice and opportunity for hearing, provide for the development, implementation, and monitoring of gas and electric energy efficiency and conservation programs and measures, including programs and measures delivered in multiple service territories, by one or more entities appointed by the Commission for these purposes. The Commission may include appropriate combined heat and power systems that result in the conservation and efficient use of energy and meet the applicable air quality standards of the Agency of Natural Resources. Except with regard to a transmission company, the Commission may specify that the appointment of an energy efficiency utility to deliver services within an electric utility's service territory satisfies that electric utility's corresponding obligations, in whole or in part, under section 218c of this title and under any prior orders of the Commission.

(B) Thermal energy and process-fuel customers. The Commission shall provide for the coordinated development, implementation, and monitoring of cost-effective efficiency and conservation programs to thermal energy and process-fuel customers on a whole buildings basis by one or more entities appointed by the Commission for this purpose.

(i) In this section, "thermal energy" means the use of fuels to control the temperature of space within buildings and to heat water.

(ii) Periodically on a schedule directed by the Commission, the appointed entity or entities shall propose to the Commission a plan to implement this subdivision (d)(2)(B). The proposed plan shall comply with subsections (e)-(g) of this section and shall be subject to the Commission's approval. The Commission shall not conduct the review of the proposed plan as a contested case under 3 V.S.A. chapter 25 but shall provide notice and an opportunity for written and oral comments to the public and affected parties and State agencies.

(3) Energy efficiency charge; regulated fuels. In addition to its existing authority, the Commission may establish by order or rule a volumetric charge to customers for the support of energy efficiency programs that meet the requirements of section 218c of this title, with due consideration to the State's energy policy under section 202a of this title and to its energy and economic policy interests under section 218e of this title to maintain and enhance the State's economic vitality. The charge shall be known as the energy efficiency charge, shall be shown separately on each customer's bill, and shall be paid to a fund administrator appointed by the Commission and deposited into the

Electric Efficiency Fund. When such a charge is shown, notice as to how to obtain information about energy efficiency programs approved under this section shall be provided in a manner directed by the Commission. This notice shall include, at a minimum, a toll-free telephone number, and to the extent feasible shall be on the customer's bill and near the energy efficiency charge.

(A) Balances in the Electric Efficiency Fund shall be ratepayer funds, shall be used to support the activities authorized in this subdivision, and shall be carried forward and remain in the Fund at the end of each fiscal year. These monies shall not be available to meet the general obligations of the State. Interest earned shall remain in the Fund. The Commission will annually provide the General Assembly with a report detailing the revenues collected and the expenditures made for energy efficiency programs under this section. The provisions of 2 V.S.A. § 20(d) (expiration of required reports) shall not apply to the report to be made under this subsection (d).

(B) The charge established by the Commission pursuant to this subdivision (3) shall be in an amount determined by the Commission by rule or order that is consistent with the principles of least-cost integrated planning as defined in section 218c of this title. As circumstances and programs evolve, the amount of the charge shall be reviewed for unrealized energy efficiency potential and shall be adjusted as necessary in order to realize all reasonably available, cost-effective energy efficiency savings. In setting the amount of the charge and its allocation, the Commission shall determine an appropriate balance among the following objectives; provided, however, that particular emphasis shall be accorded to the first four of these objectives: reducing the size of future power purchases; reducing the generation of greenhouse gases; limiting the need to upgrade the State's transmission and distribution infrastructure; minimizing the costs of electricity; reducing Vermont's total energy demand, consumption, and expenditures; providing efficiency and conservation as a part of a comprehensive resource supply strategy; providing the opportunity for all Vermonters to participate in efficiency and conservation programs; and targeting efficiency and conservation efforts to locations, markets, or customers where they may provide the greatest value. The Commission, by rule or order, shall establish a process by which a customer who pays an average annual energy efficiency charge under this subdivision (3) of at least \$5,000.00 may apply to the Commission to self-administer energy efficiency through the use of an energy savings account which shall contain a percentage of the customer's energy efficiency charge payments as determined by the Commission. The remaining portion of the charge shall be used for systemwide energy benefits. The Commission in its rules or order shall establish criteria for approval of these applications.

(C) The Commission may authorize the use of funds raised through an energy efficiency charge on electric ratepayers to reduce the use of fossil fuels for space heating by supporting electric technologies that may increase electric consumption, such as air source or geothermal heat pumps if, after investigation, it finds that

deployment of the technology:

(i) will be beneficial to electric ratepayers as a whole;

(ii) will result in cost-effective energy savings to the end-user and to the State as a whole;

(iii) will result in a net reduction in State energy consumption and greenhouse gas emissions on a life-cycle basis and will not have a detrimental impact on the environment through other means such as release of refrigerants or disposal. In making a finding under this subdivision, the Commission shall consider the use of the technology at all times of year and any likely new electricity demand created by such use;

(iv) will be part of a comprehensive energy efficiency and conservation program that meets the requirements of subsections (d)-(g) of this section and that makes support for the technology contingent on the energy performance of the building in which the technology is to be installed. The building's energy performance shall achieve or shall be improved to achieve an energy performance level that is approved by the Commission and that is consistent with meeting or exceeding the goals of 10 V.S.A. § 581 (building efficiency);

(v) among the product models of the technology that are suitable for use in Vermont, will employ the product models that are the most efficient available;

(vi) will be promoted in conjunction with demand management strategies offered by the customer's distribution utility to address any increase in peak electric consumption that may be caused by the deployment;

(vii) will be coordinated between the energy efficiency and distribution utilities, consistent with subdivision (f)(5) of this section; and

(viii) will be supported by an appropriate allocation of funds among the funding sources described in this subsection (d) and subsection (e) of this section. In the case of measures used to increase the energy performance of a building in which the technology is to be installed, the Commission shall assume installation of the technology in the building and then determine the allocation according to the proportion of the benefits provided to the regulated fuel and unregulated fuel sectors. In this subdivision (viii), "regulated fuel" and "unregulated fuel" shall have the same meaning as under subsection (e) of this section.

(4) Contract or order of appointment. Appointment of an entity under subdivision (2) of this subsection may be by contract or by an order of appointment. An appointment, whether by order of appointment or by contract, may only be issued after notice and opportunity for hearing. An order of appointment shall be for a limited duration not to exceed 12 years, although an entity may be reappointed by order or contract. An order of appointment may include any conditions and requirements that the Commission deems appropriate to promote the public good. For good cause, after notice and

opportunity for hearing, the Commission may amend or revoke an order of appointment.

(5) Appointed entity; supervision. Any entity appointed by order of appointment under subdivisions (2) and (4) of this subsection that is not an electric or gas utility already regulated under this title shall not be considered to be a company as defined under section 201 of this title, but shall be subject to the provisions of sections 18-21, 30-32, 205-208, subsection 209(a), sections 219, 221, and subsection 231(b) of this title, to the same extent as a company as defined under section 201 of this title. The Commission and the Department of Public Service shall have jurisdiction under those sections over the entity, its directors, receivers, trustees, lessees, or other persons or companies owning or operating the entity and of all plants, equipment, and property of that entity used in or about the business carried on by it in this State as covered and included in this section. This jurisdiction shall be exercised by the Commission and the Department so far as may be necessary to enable them to perform the duties and exercise the powers conferred upon them by law. The Commission and the Department each may, when they deem the public good requires, examine the plants, equipment, and property of any entity appointed by order of appointment under subdivisions (2) and (4) of this subsection.

(e) Thermal energy and process fuel efficiency funding.

(1) Each of the following shall be used to deliver thermal energy and process fuel energy efficiency services in accordance with this section for unregulated fuels to Vermont consumers of such fuels. In addition, the Commission may authorize an entity appointed to deliver such services under subdivision (d)(2)(B) of this section to use monies subject to this subsection for the engineering, design, and construction of facilities for the conversion of thermal energy customers using fossil fuels to district heat if the majority of the district's energy is from biomass sources, the district's distribution system is highly energy efficient, and such conversion is cost effective.

(A) Net revenues above costs associated with payments from the New England Independent System Operator (ISO-NE) for capacity savings resulting from the activities of the energy efficiency utility designated under subdivision (2)(A) of this subsection (e) that are not transferred to the State PACE Reserve Fund under 24 V.S.A. § 3270(c). These revenues shall be deposited into the Electric Efficiency Fund established by this section. In delivering services with respect to heating systems using the revenues subject to this subdivision (A), the entity shall give priority to incentives for the installation of high efficiency biomass heating systems and shall have a goal of offering an incentive that is equal to 25 percent of the installed cost of such a system. Provision of an incentive under this subdivision (A) for a biomass heating system shall not be contingent on the making of other energy efficiency improvements at the property on which the system will be installed.

(B) Net revenues above costs from the sale of carbon credits under the cap and

trade program established under section 255 of this title, which shall be deposited into the Electric Efficiency Fund established by this section.

(C) Any other monies that are appropriated to or deposited in the Electric Efficiency Fund for the delivery of thermal energy and process fuel energy efficiency services.

(2) If a program combines regulated fuel efficiency services with unregulated fuel efficiency services supported by funds under this section, the Commission shall allocate the costs of the program among the funding sources for the regulated and unregulated fuel sectors in proportion to the benefits provided to each sector.

(3) In this subsection:

(A) "Biomass" means organic nonfossil material constituting a source of renewable energy within the meaning of section 8002 of this title.

(B) "District heat" means a system through which steam or hot water from a central plant is piped into buildings to be used as a source of thermal energy.

(C) "Efficiency services" includes the establishment of a statewide information clearinghouse under subsection (g) of this section.

(D) "Fossil fuel" means an energy source formed in the earth's crust from decayed organic material. The common fossil fuels are petroleum, coal, and natural gas. A fossil fuel may be a regulated or unregulated fuel.

(E) "Regulated fuels" means electricity and natural gas delivered by a regulated utility.

(F) "Unregulated fuels" means fuels used by thermal energy and process fuel customers other than electricity and natural gas delivered by a regulated utility.

(f) Goals and criteria; all energy efficiency programs. With respect to all energy efficiency programs approved under this section, the Commission shall:

(1) Ensure that all retail consumers, regardless of retail electricity, gas, or heating or process fuel provider, will have an opportunity to participate in and benefit from a comprehensive set of cost-effective energy efficiency programs and initiatives designed to overcome barriers to participation.

(2) Require that continued or improved efficiencies be made in the production, delivery, and use of energy efficiency services, including the use of compensation mechanisms for any energy efficiency entity appointed under subdivision (d)(2) of this section that are based upon verified savings in energy usage and demand, and other performance targets specified by the Commission. The linkage between compensation and verified savings in energy usage and demand (and other performance targets) shall be reviewed and adjusted not less than triennially by the Commission.

- (3) Build on the energy efficiency expertise and capabilities that have developed or may develop in the State.
- (4) Promote program initiatives and market strategies that address the needs of persons or businesses facing the most significant barriers to participation, including those who do not own their place of residence.
- (5) Promote and ensure coordinated program delivery, including coordination with low-income weatherization programs, entities that fund and support affordable housing, regional and local efficiency entities within the State, other efficiency programs, and utility programs.
- (6) Consider innovative approaches to delivering energy efficiency, including strategies to encourage third party financing and customer contributions to the cost of efficiency measures.
- (7) Provide a reasonably stable multiyear budget and planning cycle in order to promote program improvement, program stability, enhanced access to capital and personnel, improved integration of program designs with the budgets of regulated companies providing energy services, and maturation of programs and delivery resources.
- (8) Approve programs, measures, and delivery mechanisms that reasonably reflect current and projected market conditions, technological options, and environmental benefits.
- (9) Provide for delivery of these programs as rapidly as possible, taking into consideration the need for these services, and cost-effective delivery mechanisms.
- (10) Provide for the independent evaluation of programs delivered under subsection (d) of this section.
- (11) Require that any entity appointed by the Commission under subsection (d) of this section deliver Commission-approved programs in an effective, efficient, timely, and competent manner and meet standards that are consistent with those in section 218c of this title, the Board's orders in Public Service Board docket 5270, and any relevant Board orders in subsequent energy efficiency proceedings.
- (12) Require verification, on or before January 1, 2003, and every three years thereafter, by an independent auditor of the reported energy and capacity savings and cost-effectiveness of programs delivered by any entity appointed by the Commission to deliver energy efficiency programs under subdivision (d)(2) of this section.
- (13) Ensure that any energy efficiency program approved by the Commission shall be reasonable and cost-effective.
- (14) Consider the impact on retail electric rates and bills of programs delivered under subsection (d) of this section and the impact on fuel prices and bills.

(15) Ensure that the energy efficiency programs implemented under this section are designed to make continuous and proportional progress toward attaining the overall State building efficiency goals established by 10 V.S.A. § 581, by promoting all forms of energy end-use efficiency and comprehensive sustainable building design.

(g) Thermal energy and process fuel efficiency programs; additional criteria. With respect to energy efficiency programs delivered under this section to thermal energy and process fuel customers, the Commission shall:

(1) Ensure that programs are delivered on a whole-buildings basis to help meet the State's building efficiency goals established by 10 V.S.A. § 581 and to reduce greenhouse gas emissions from thermal energy and process fuel use in Vermont.

(2) Require the establishment of a statewide information clearinghouse to enable effective access for customers to and effective coordination across programs. The clearinghouse shall serve as a portal for customers to access thermal energy and process fuel efficiency services and for coordination among State, regional, and local entities involved in the planning or delivery of such services, making referrals as appropriate to service providers and to entities having information on associated environmental issues such as the presence of asbestos in existing insulation.

(3) In consultation with the Agency of Natural Resources, establish annual interim goals starting in 2014 to meet the 2017 and 2020 goals for improving the energy fitness of housing stock stated in 10 V.S.A. § 581(1).

(4) Ensure the monitoring of the State's progress in meeting the goals of 10 V.S.A. § 581(1). This monitoring shall be performed according to a standard methodology and on a periodic basis that is not less than annual.

(h) Electricity labeling. The Public Utility Commission may prescribe, by rule or order, standards for the labeling of electricity delivered or intended for delivery to ultimate consumers as to price, terms, sources, and objective environmental impacts, along with such procedures as it deems necessary for verification of information contained in such labels. The Public Utility Commission may prescribe, by rule or by order, standards and criteria for the substantiation of such labeling or of any claims regarding the price, terms, sources, and environmental impacts of electricity delivered or intended for delivery to ultimate consumers in Vermont, along with enforcement procedures and penalties. When establishing standards for the labeling of electricity, the Commission shall weigh the cost, as well as the benefits, of compliance with such standards. With respect to companies distributing electricity to ultimate consumers, the Commission may order disclosure and publication, not to occur more than once each year, of any labeling required pursuant to the standards established by this subsection. Standards established under this subsection may include provisions for:

(1) the form of labels;

- (2) information on retail and wholesale price;
- (3) terms and conditions of service;
- (4) types of generation resources in a seller's mix and percentage of power produced from each source;
- (5) disclosure of the environmental effects of each energy source; and
- (6) a description of other services, including energy services or energy efficiency opportunities.

(i)(1) Pole attachments; broadband. For the purposes of Commission rules on attachments to poles owned by companies subject to regulation under this title, broadband service providers shall be considered "attaching entities" with equivalent rights to attach facilities as those provided to "attaching entities" in the rules, regardless of whether such broadband providers offer a service subject to the jurisdiction of the Commission. The Commission shall adopt rules in accordance with 3 V.S.A. chapter 25 to further implement this section. The rules shall be aimed at furthering the State's interest in ubiquitous deployment of mobile telecommunications and broadband services within the State.

(2) The rules adopted pursuant to this subsection shall specify that:

(A) The applicable make-ready completion period shall not be extended solely because a utility pole is jointly owned.

(B) At the time of an initial pole make-ready survey application, when a pole is jointly owned, the joint owners shall inform the applicant which owner is responsible for all subsequent stages and timely completion of the make-ready process.

(C) If the make-ready work is not completed within the applicable make-ready completion period, the pole owner, within 30 days of the expiration of the make-ready completion period, shall refund the portion of the payment received for make-ready work that is not yet completed, and the attaching entity may hire a qualified contractor to complete the make-ready work. All pole owners and attaching entities shall submit to the Commission a list of contractors whom they allow to perform make-ready surveys, make-ready installation or maintenance, or other specified tasks upon their equipment. The Commission shall provide the appropriate list to an attaching entity, upon request.

(j) Self-managed energy efficiency programs.

(1) There shall be a class of self-managed energy efficiency programs for transmission and industrial electric ratepayers only.

(2) The Commission, by order, shall enact this class of programs.

(3) Entities approved to participate in the self-managed energy efficiency program class shall be exempt from all statewide charges under subdivision (d)(3) of this section

that support energy efficiency programs performed by or on behalf of Vermont electric utilities. If an electric ratepayer approved to participate in this program class also is a customer of a natural gas utility, the ratepayer shall be exempt from all charges under subdivision (d)(3) of this section or contained within the rates charged by the natural gas utility to the ratepayer that support energy efficiency programs performed by or on behalf of that utility, provided that the ratepayer complies with this subsection.

(4) All of the following shall apply to a class of programs under this subsection:

(A) A member of the transmission or industrial electric rate class shall be eligible to apply to participate in the self-managed energy efficiency program class if the charges to the applicant, or to its predecessor in interest at the served property, under subdivision (d)(3) of this section were a minimum of:

- (i) \$1.5 million during calendar year 2008; or
- (ii) \$1.5 million during calendar year 2017.

(B) A cost-based fee to be determined by the Commission shall be charged to the applicant to cover the administrative costs, including savings verification, incurred by the Commission and Department. The Commission shall determine procedures for savings verification. Such procedures shall be consistent with savings verification procedures established for entities appointed under subdivision (d)(2) of this section and, when determined to be cost-effective under subdivision (L) of this subdivision (4), with the requirements of ISO-New England for the forward capacity market (FCM) program.

(C) An applicant shall demonstrate to the Commission that it has a comprehensive energy management program with annual objectives. Achievement of certification of ISO standard 14001 shall be eligible to satisfy the requirements of having a comprehensive program.

(D) An applicant eligible pursuant to subdivision (A)(i) of this subdivision (j)(4) shall commit to an annual average investment in energy efficiency and energy productivity programs and measures during each three-year period that the applicant participates in the program of not less than \$1 million. An applicant eligible pursuant to subdivision (A)(ii) of this subdivision (j)(4) shall commit to an annual average investment in energy efficiency and energy productivity programs and measures during each three-year period that the applicant participates in the program of not less than \$500,000.00. To achieve the exemption from energy efficiency charges related to natural gas under subdivision (3) of this subsection (j), an applicant shall make an additional annual energy efficiency investment in an amount not less than \$55,000.00. As used in this subsection (j), "energy productivity programs and measures" means investments that reduce the amount of energy required to produce a unit of product below baseline energy use. Baseline energy use shall be calculated as the average amount of energy required to make one unit of the same product in the two years preceding implementation of the program or measure.

(E) Participation in the self-managed program includes efficiency and productivity programs and measures applicable to electric and other forms of energy. A participant may balance investments in such programs and measures across all types of energy or fuels without limitations.

(F) A participant shall provide to the Commission and Department annually an accounting of investments in energy efficiency and energy productivity programs and measures and the resultant energy savings in the form prescribed by the Commission, which may conduct reasonable audits to ensure the accuracy of the data provided.

(G) The Commission shall report to the General Assembly annually on or before April 30 concerning the prior calendar year's class of self-managed energy efficiency programs. The report shall include identification of participants, their annual investments and resulting savings, and any actions taken to exclude entities from the program.

(H) Upon approval of an application by the Commission, the applicant shall be able to participate in the class of self-managed energy efficiency programs.

(I) On a determination that, for a given three-year period, a participant in the self-managed efficiency program class did not meet or has not met the commitment required by subdivision (D) of this subdivision (j)(4), the Commission shall terminate the participant's eligibility for the self-managed program class.

(i) On such termination, the former participant will be subject fully to the then existing charges applicable to its rate class without exemption under subdivision (3) of this subsection (j), and within 90 days after such termination shall pay:

(I) the difference between the investment it made pursuant to the self-managed energy efficiency program during the three-year period of noncompliance and the full amount of the charges and rates related to energy efficiency it would have incurred during that period absent exemption under subdivision (3) of this subsection (j); and

(II) the difference between the investment it made pursuant to the program within the current three-year period, if different from the period of noncompliance, and the full amount of the charges and rates related to energy efficiency it would have incurred during the current period absent exemption under subdivision (3) of this subsection (j).

(ii) Payments under subdivision (i) of this subdivision (4)(I) shall be made to the entities to which the full amount of charges and rates would have been paid absent exemption under subdivision (3) of this subsection (j).

(iii) A former participant may not reapply for membership in the self-managed program after termination under this subdivision (4)(I).

(J) A participant in the self-managed program class may request confidentiality

of data it reports to the Commission if the data would qualify for exemption from disclosure under 1 V.S.A. § 317. If such confidentiality is requested, the Commission shall disclose the data only in accordance with a protective agreement approved by the Commission and signed by the recipient of the data, unless a court orders otherwise.

(K) Any data not subject to a confidentiality request under subdivision (J) of this subdivision (4) will be a public record.

(L) A participant in the self-managed program class shall work with the Department of Public Service to determine whether it is cost-effective to submit projects to ISO-New England for payments under the FCM program.

(i) As used in this subdivision (L), "cost-effective" requires that the estimated payments from the FCM program exceed the incremental cost of savings verification necessary for submission to that program.

(ii) If the Department determines the submission to be cost-effective, then an entity appointed to deliver electric energy efficiency services under subdivision (d)(2) of this section shall submit the project to the FCM program for payment and any resulting payments shall be remitted to the Electric Efficiency Fund for use in accordance with subdivision (e)(1)(A) of this section.

(M) A participant in the self-managed program class may receive funding from an energy program administered by a government or other entity that is not the participant and may count such funds received as part of the annual commitment to its self-managed energy efficiency program.

(N) If, at the end of every third year after an applicant's approval to participate in the self-managed efficiency program (the three-year period), the applicant has not met the commitment required by subdivision (4)(D) of this subsection, the applicant shall pay the difference between the investment the applicant made while in the self-managed energy efficiency program and the full amount of charges and rates that the applicant would have incurred absent the exemption under subdivision (3) of this subsection. This payment shall be made no later than 90 days after the end of the three-year period to the entities to which the full amount of those charges and rates would have been paid absent the exemption.

(5) This subdivision applies to a transferee of all or substantially all of the assets at the served property of an entity approved to participate in the self-managed energy efficiency program. The Commission shall allow the transferee to continue as a participant in the self-managed energy efficiency program class in the same manner and under the same terms and conditions that the transferor participant was authorized to participate, provided:

(A) the transferor participant met the requirements of subdivision (4)(A) of this subsection (j) and the transferee otherwise meets the requirements of this subsection;

and

(B) the transferee assumes the obligation to fulfill any outstanding commitment of the transferor participant under subdivision (4)(D) of this subsection.

(k) Energy storage facilities. Except when owned by a retail distribution utility, an energy efficiency utility, or the Vermont Electric Power Company, Inc., competitive suppliers of energy storage services that do not serve retail customers shall be exempt from sections 107, 108, and 109 of this title. (Amended 1959, No. 329 (Adj. Sess.), § 39(b), eff. March 1, 1961; 1961, No. 183, § 5; 1975, No. 56, § 1; 1979, No. 147 (Adj. Sess.), § 2; 1981, No. 245 (Adj. Sess.), § 2; 1989, No. 112, § 6, eff. June 22, 1989; 1995, No. 182 (Adj. Sess.), § 27a, eff. May 22, 1996; 1999, No. 60, § 1, eff. June 1, 1999; 1999, No. 143 (Adj. Sess.), § 28; 2001, No. 145 (Adj. Sess.), §§ 1, 2; 2005, No. 61, § 6; 2005, No. 208 (Adj. Sess.), § 10; 2007, No. 79, § 6, eff. June 9, 2007; 2007, No. 92 (Adj. Sess.), § 12; 2007, No. 190 (Adj. Sess.), §§ 52, 53, eff. June 6, 2008; 2009, No. 45, §§ 14, 14a, eff. May 27, 2009; 2009, No. 54, § 104, eff. June 1, 2009; 2009, No. 1 (Sp. Sess.), § E.235.1, eff. June 2, 2009; 2011, No. 47, §§ 3, 20b, eff. May 25, 2011; 2011, No. 170 (Adj. Sess.), § 16; 2013, No. 89, §§ 2, 3; 2013, No. 142 (Adj. Sess.), § 49; 2013, No. 184 (Adj. Sess.), § 1; 2015, No. 56, §§ 15, 15a; 2017, No. 77, § 6; 2017, No. 102 (Adj. Sess.), § 1; 2017, No. 150 (Adj. Sess.), § 1; 2019, No. 31, § 14; 2019, No. 79, § 20, eff. June 20, 2019; 2021, No. 54, § 7.)

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

Title 30 : Public Service

Chapter 005 : State Policy; Plans; Jurisdiction And Regulatory Authority Of Commission And Department

Subchapter 001 : General Powers

(Cite as: 30 V.S.A. § 248)

§ 248. New gas and electric purchases, investments, and facilities; certificate of public good

(a)(1) No company, as defined in section 201 of this title, may:

(A) in any way purchase electric capacity or energy from outside the State:

(i) for a period exceeding five years, that represents more than three percent of its historic peak demand, unless the purchase is from a plant as defined in section 8002 of this title that produces electricity from renewable energy as defined under section 8002; or

(ii) for a period exceeding 10 years, that represents more than 10 percent of its historic peak demand, if the purchase is from a plant as defined in section 8002 of this title that produces electricity from renewable energy as defined under section 8002; or

(B) invest in an electric generation facility, energy storage facility, or transmission facility located outside this State unless the Public Utility Commission first finds that the same will promote the general good of the State and issues a certificate to that effect.

(2) Except for the replacement of existing facilities with equivalent facilities in the usual course of business, and except for electric generation or energy storage facilities that are operated solely for on-site electricity consumption by the owner of those facilities and for hydroelectric generation facilities subject to licensing jurisdiction under the Federal Power Act, 16 U.S.C. chapter 12, subchapter 1:

(A) no company, as defined in section 201 of this title, and no person, as defined in 10 V.S.A. § 6001(14), may begin site preparation for or construction of an electric generation facility, energy storage facility, or electric transmission facility within the State that is designed for immediate or eventual operation at any voltage; and

(B) no such company may exercise the right of eminent domain in connection with site preparation for or construction of any such transmission facility, energy storage facility, or generation facility, unless the Public Utility Commission first finds that the same will promote the general good of the State and issues a certificate to that effect.

(3) No company, as defined in section 201 of this title, and no person, as defined in 10 V.S.A. § 6001(14), may in any way begin site preparation for or commence construction of any natural gas facility, except for the replacement of existing facilities with equivalent facilities in the usual course of business, unless the Public Utility Commission first finds that the same will promote the general good of the State and issues a certificate to that effect pursuant to this section.

(A) For the purposes of this section, the term "natural gas facility" shall mean any natural gas transmission line, storage facility, manufactured-gas facility, or other structure incident to any such line or facility. For purposes of this section, a "natural gas transmission line" shall include any feeder main or any pipeline facility constructed to deliver natural gas in Vermont directly from a natural gas pipeline facility that has been certified pursuant to the Natural Gas Act, 15 U.S.C. § 717 et seq.

(B) For the purposes of this section, the term "company" shall not include a "natural gas company" (including a "person which will be a natural gas company upon completion of any proposed construction or extension of facilities"), within the meaning of the Natural Gas Act, 15 U.S.C. § 717 et seq.; provided however, that the term "company" shall include any "natural gas company" to the extent it proposes to construct in Vermont a natural gas facility that is not solely subject to federal jurisdiction under the Natural Gas Act.

(C) The Public Utility Commission shall have the authority to, and may in its discretion, conduct a proceeding, as set forth in subsection (h) of this section, with respect to a natural gas facility proposed to be constructed in Vermont by a "natural gas company" for the purpose of developing an opinion in connection with federal certification or other federal approval proceedings.

(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 nonevidentiary public hearing on a 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 nonevidentiary public hearing in the absence of any request from a member of the public or a party. From the comments made at a 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.

(B) The Public Utility Commission shall hold evidentiary hearings at locations that it selects in any case conducted under this section in which 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 on the matter.

(C) Within two business days of notification from the Commission that the petition is complete, the petitioner shall serve copies of the complete petition on the Attorney General and the Department of Public Service, and, with respect to facilities within the State, the Department of Health; Agency of Natural Resources; Historic Preservation Division; Agency of Transportation; Agency of Agriculture, Food and Markets; and to the chair or director of the municipal and regional planning commissions and the municipal legislative body for each town and city in which the proposed facility will be located.

(D) Notice of the public hearing shall be published and maintained on the Commission's website for at least 12 days before the day appointed for the hearing. Notice of the public hearing shall be published once in a newspaper of general circulation in the county or counties in which the proposed facility will be located, and the notice shall include an Internet address where more information regarding the proposed facility may be viewed.

(E) The Agency of Natural Resources shall appear as a party in any proceedings held under this subsection, shall provide evidence and recommendations concerning any findings to be made under subdivision (b)(5) of this section, and may provide evidence and recommendations concerning any other matters to be determined by the Commission in such a proceeding.

(F) The following shall apply to the participation of the Agency of Agriculture, Food and Markets in proceedings held under this subsection:

[Subdivision (a)(4)(F)(i) effective until December 31, 2022; see also subdivision (a)(4)(F)(i) effective December 31, 2022 .]

(i) In any proceeding regarding an electric generation facility that will have a capacity greater than 500 kilowatts and will be sited on a tract containing primary agricultural soils as defined in 10 V.S.A. § 6001, the Agency shall appear as a party and provide evidence and recommendations concerning any findings to be made under subdivision (b)(5) of this section on those soils, and may provide evidence and recommendations concerning any other matters to be determined by the Commission in such a proceeding.

[Subdivision (a)(4)(F)(i) effective December 31, 2022; see also subdivision (a)(4)(F)(i) until effective December 31, 2022 .]

(i) In any proceeding regarding an electric generation facility that will have a capacity greater than 500 kilowatts or an energy storage facility that will have a capacity greater than 1 megawatt and will be sited on a tract containing primary agricultural soils

as defined in 10 V.S.A. § 6001, the Agency shall appear as a party and provide evidence and recommendations concerning any findings to be made under subdivision (b)(5) of this section on those soils, and may provide evidence and recommendations concerning any other matters to be determined by the Commission in such a proceeding.

(ii) In a proceeding other than one described in subdivision (i) of this subdivision (4)(F), the Agency shall have the right to appear and participate.

(G) The regional planning commission for the region in which the facility is located shall have the right to appear as a party in any proceedings held under this subsection. The regional planning commission of an adjacent region shall have the same right if the distance of the facility's nearest component to the boundary of that planning commission is within 500 feet or 10 times the height of the facility's tallest component, whichever is greater.

(H) The legislative body and the planning commission for the municipality in which a facility is located shall have the right to appear as a party in any proceedings held under this subsection. The legislative body and planning commission of an adjacent municipality shall have the same right if the distance of the facility's nearest component to the boundary of that adjacent municipality is within 500 feet or 10 times the height of the facility's tallest component, whichever is greater.

(I) When a person has the right to appear as a party in a proceeding before the Commission under this chapter, the person may exercise this right by filing a letter with the Commission stating that the person appears through the person's duly authorized representative, signed by that representative.

[Subdivision (a)(4)(J) effective until December 31, 2022; see also subdivision (a)(4)(J) effective December 31, 2022 .]

(J) This subdivision (J) applies to an application for an electric generation facility with a capacity that is greater than 50 kilowatts, unless the facility is located on a new or existing structure the primary purpose of which is not the generation of electricity. In addition to any other information required by the Commission, the application for such a facility shall include information that delineates:

(i) the full limits of physical disturbance due to the construction and operation of the facility and related infrastructure, including areas disturbed due to the creation or modification of access roads and utility lines and the clearing or management of vegetation;

(ii) the presence and total acreage of primary agricultural soils as defined in 10 V.S.A. § 6001 on each tract to be physically disturbed in connection with the construction and operation of the facility, the amount of those soils to be disturbed, and any other proposed impacts to those soils;

(iii) all visible infrastructure associated with the facility; and

(iv) all impacts of the facility's construction and operation under subdivision (b)(5) of this section, including impacts due to the creation or modification of access roads and utility lines and the clearing or management of vegetation.

[Subdivision (a)(4)(J) effective December 31, 2022; see also subdivision (a)(4)(J) effective until December 31, 2022 .]

(J) This subdivision (J) applies to an application for an electric generation facility with a capacity that is greater than 50 kilowatts and to an application for an energy storage facility that is greater than 1 megawatt, unless the facility is located on a new or existing structure the primary purpose of which is not the generation of electricity. In addition to any other information required by the Commission, the application for such a facility shall include information that delineates:

(i) the full limits of physical disturbance due to the construction and operation of the facility and related infrastructure, including areas disturbed due to the creation or modification of access roads and utility lines and the clearing or management of vegetation;

(ii) the presence and total acreage of primary agricultural soils as defined in 10 V.S.A. § 6001 on each tract to be physically disturbed in connection with the construction and operation of the facility, the amount of those soils to be disturbed, and any other proposed impacts to those soils;

(iii) all visible infrastructure associated with the facility; and

(iv) all impacts of the facility's construction and operation under subdivision (b)(5) of this section, including impacts due to the creation or modification of access roads and utility lines and the clearing or management of vegetation.

(5) The Commission shall adopt rules regarding standard conditions on postconstruction inspection and maintenance of aesthetic mitigation and on decommissioning to be included in certificates of public good for in-state facilities approved under this section. The purpose of these standard conditions shall be to ensure that all required aesthetic mitigation is performed and maintained and that facilities are removed once they are no longer in service.

(6) In any certificate of public good issued under this section for an in-state plant as defined in section 8002 of this title that generates electricity from wind, the Commission shall require the plant to install radar-controlled obstruction lights on all wind turbines for which the Federal Aviation Administration (FAA) requires obstruction lights, if the plant includes four or more wind turbines and the FAA allows the use of radar-controlled lighting technology.

(A) Nothing in this subdivision shall allow the Commission to approve obstruction lights that do not meet FAA standards.

(B) The purpose of this subdivision (6) is to reduce the visual impact of wind turbine obstruction lights on the environment and nearby properties. The General Assembly finds that wind turbine obstruction lights that remain illuminated through the night create light pollution. Radar-controlled obstruction lights are only illuminated when aircraft are detected in the area, and therefore the use of these lights will reduce the negative environmental impacts of obstruction lights.

(7) When a certificate of public good under this section or amendment to such a certificate is issued for an in-state electric generation or energy storage facility with a capacity that is greater than 15 kilowatts, the certificate holder within 45 days shall record a notice of the certificate or amended certificate, on a form prescribed by the Commission, in the land records of each municipality in which a facility subject to the certificate is located and shall submit proof of this recording to the Commission. The recording under this subsection shall be indexed as though the certificate holder were the grantor of a deed. The prescribed form shall not exceed one page and shall require identification of the land on which the facility is to be located by reference to the conveyance to the current landowner, the number of the certificate, and the name of each person to which the certificate was issued, and shall include information on how to contact the Commission to view the certificate and supporting documents.

(b) Before the Public Utility Commission issues a certificate of public good as required under subsection (a) of this section, it shall find that the purchase, investment, or construction:

(1) With respect to an in-state facility, will not unduly interfere with the orderly development of the region with due consideration having been given to the recommendations of the municipal and regional planning commissions, the recommendations of the municipal legislative bodies, and the land conservation measures contained in the plan of any affected municipality. However:

(A) With respect to a natural gas transmission line subject to Commission review, the line shall be in conformance with any applicable provisions concerning such lines contained in the duly adopted regional plan; and, in addition, upon application of any party, the Commission shall condition any certificate of public good for a natural gas transmission line issued under this section so as to prohibit service connections that would not be in conformance with the adopted municipal plan in any municipality in which the line is located.

(B) With respect to a ground-mounted solar electric generation facility, the facility shall comply with the screening requirements of a municipal bylaw adopted under 24 V.S.A. § 4414(15) or a municipal ordinance adopted under 24 V.S.A. § 2291(28), and the recommendation of a municipality applying such a bylaw or ordinance, unless the Commission finds that requiring such compliance would prohibit or have the effect of prohibiting the installation of such a facility or have the effect of interfering with the

facility's intended functional use.

(C) With respect to an in-state electric generation facility, the Commission shall give substantial deference to the land conservation measures and specific policies contained in a duly adopted regional and municipal plan that has received an affirmative determination of energy compliance under 24 V.S.A. § 4352. In this subdivision (C), "substantial deference" means that a land conservation measure or specific policy shall be applied in accordance with its terms unless there is a clear and convincing demonstration that other factors affecting the general good of the State outweigh the application of the measure or policy. The term shall not include consideration of whether the determination of energy compliance should or should not have been affirmative under 24 V.S.A. § 4352.

(2) Is required to meet the need for present and future demand for service that could not otherwise be provided in a more cost-effective manner through energy conservation programs and measures and energy-efficiency and load management measures, including those developed pursuant to the provisions of subsection 209(d), section 218c, and subsection 218(b) of this title. In determining whether this criterion is met, the Commission shall assess the environmental and economic costs of the purchase, investment, or construction in the manner set out under subdivision 218c(a)(1) (least cost integrated plan) of this title and, as to a generation facility, shall consider whether the facility will avoid, reduce, or defer transmission or distribution system investments.

(3) Will not adversely affect system stability and reliability.

(4) Will result in an economic benefit to the State and its residents.

(5) With respect to an in-state facility, will not have an undue adverse effect on aesthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and the public health and safety, with due consideration having been given to the criteria specified in 10 V.S.A. §§ 1424a(d) and 6086(a)(1) through (8) and (9)(K), impacts to primary agricultural soils as defined in 10 V.S.A. § 6001, and greenhouse gas impacts.

(6) With respect to purchases, investments, or construction by a company, is consistent with the principles for resource selection expressed in that company's approved least-cost integrated plan.

(7) Except as to a natural gas facility that is not part of or incidental to an electric generating facility, is in compliance with the electric energy plan approved by the Department under section 202 of this title, or that there exists good cause to permit the proposed action.

(8) Does not involve a facility affecting or located on any segment of the waters of the State that has been designated as outstanding resource waters by the Secretary of Natural Resources, except that with respect to a natural gas or electric transmission

facility, the facility does not have an undue adverse effect on those outstanding resource waters.

(9) With respect to a waste to energy facility:

(A) is included in a solid waste management plan adopted pursuant to 24 V.S.A. § 2202a, which is consistent with the State Solid Waste Management Plan; and

(B) is included in a solid waste management plan adopted pursuant to 24 V.S.A. § 2202a for the municipality and solid waste district from which 1,000 tons or more per year of the waste is to originate, if that municipality or district owns an operating facility that already beneficially uses a portion of the waste.

(10) Except as to a natural gas facility that is not part of or incidental to an electric generating facility, can be served economically by existing or planned transmission facilities without undue adverse effect on Vermont utilities or customers.

(11) With respect to an in-state generation facility that produces electric energy using woody biomass, will:

(A) comply with the applicable air pollution control requirements under the federal Clean Air Act, 42 U.S.C. § 7401 et seq.;

(B) achieve the highest design system efficiency that is commercially available, feasible, and cost-effective for the type and design of the proposed facility; and

(C) comply with harvesting procedures and procurement standards that ensure long-term forest health and sustainability. These procedures and standards at a minimum shall be consistent with the guidelines and standards developed pursuant to 10 V.S.A. § 2750 (harvesting guidelines and procurement standards) when adopted under that statute.

(c)(1) Except as otherwise provided in subdivision (j)(3) of this section, in the case of a municipal plant or department formed under local charter or chapter 79 of this title or a cooperative formed under chapter 81 of this title, any proposed investment, construction, or contract subject to this section shall be approved by a majority of the voters of a municipality or the members of a cooperative voting upon the question at a duly warned annual or special meeting to be held for that purpose. However, in the case of a cooperative formed under chapter 81 of this title, an investment in or construction of an in-state electric transmission facility shall not be subject to the requirements of this subsection if the investment or construction is solely for reliability purposes and does not include new construction or upgrades to serve a new generation facility.

(2) The municipal department or cooperative shall provide to the voters or members, as the case may be, written assessment of the risks and benefits of the proposed investment, construction, or contract that were identified by the Public Utility Commission in the certificate issued under this section. The municipal department or

cooperative also may provide to the voters an assessment of any other risks and benefits.

(d) Nothing in this section shall be construed to prohibit a company from executing a letter of intent or entering into a contract before the issuance of a certificate of public good under this section, provided that the company's obligations under that letter of intent or contract are made subject to compliance with the requirements of this section.

(e)(1) Before a certificate of public good is issued for the construction of a nuclear energy generating plant within the State, the Public Utility Commission shall obtain the approval of the General Assembly and the Assembly's determination that the construction of the proposed facility will promote the general welfare. The Public Utility Commission shall advise the General Assembly of any petition submitted under this section for the construction of a nuclear energy generating plant within this State, by written notice delivered to the Speaker of the House of Representatives and to the President of the Senate. The Department of Public Service shall submit recommendations relating to the proposed plant, and shall make available to the General Assembly all relevant material. The requirements of this subsection shall be in addition to the findings set forth in subsection (b) of this section.

(2) No nuclear energy generating plant within this State may be operated beyond the date permitted in any certificate of public good granted pursuant to this title, including any certificate in force as of January 1, 2006, unless the General Assembly approves and determines that the operation will promote the general welfare, and until the Public Utility Commission issues a certificate of public good under this section. If the General Assembly has not acted under this subsection by July 1, 2008, the Commission may commence proceedings under this section and under 10 V.S.A. chapter 157, relating to the storage of radioactive material, but may not issue a final order or certificate of public good until the General Assembly determines that operation will promote the general welfare and grants approval for that operation.

(f) However, plans for the construction of such a facility within the State must be submitted by the petitioner to the municipal and regional planning commissions no less than 45 days prior to application for a certificate of public good under this section, unless the municipal and regional planning commissions shall waive such requirement.

(1) The municipal or regional planning commission may take one or more of the following actions:

(A) Hold a public hearing on the proposed plans. The planning commission may request that the petitioner or the Department of Public Service, or both, attend the hearing. The petitioner and the Department each shall have an obligation to comply with such a request. The Department shall consider the comments made and information obtained at the hearing in making recommendations to the Commission on the application and in determining whether to retain additional personnel under subdivision

(1)(B) of this subsection.

(B) Request that the Department of Public Service exercise its authority under section 20 of this title to retain experts and other personnel to review the proposed facility. The Department may commence retention of these personnel once the petitioner has submitted proposed plans under this subsection. The Department may allocate the expenses incurred in retaining these personnel to the petitioner in accordance with section 21 of this title. Granting a request by a planning commission pursuant to this subdivision shall not oblige the Department or the personnel it retains to agree with the position of the commission.

(C) Make recommendations to the petitioner within 40 days of the petitioner's submittal to the planning commission under this subsection.

(D) Once the petition is filed with the Public Utility Commission, make recommendations to the Commission by the deadline for submitting comments or testimony set forth in the applicable provision of this section, Commission rule, or scheduling order issued by the Commission.

(2) The petitioner's application shall address the substantive written comments related to the criteria of subsection (b) of this section received by the petitioner within 45 days of the submittal made under this subsection and the substantive oral comments related to those criteria made at a public hearing under subdivision (1) of this subsection.

(g) Notwithstanding the 45 days' notice required by subsection (f) of this section, plans involving the relocation of an existing transmission line within the State must be submitted to the municipal and regional planning commissions no less than 21 days prior to application for a certificate of public good under this section.

(h) The position of the State of Vermont in federal certification or other approval proceedings for natural gas facilities shall be developed in accordance with this subsection.

(1) A natural gas facility requiring federal approval shall apply to the Public Utility Commission for an opinion under this section (on or before the date on which the facility applies for such federal approval in the case of a facility that has not applied for federal approval before January 16, 1988). Any opinion issued under this subsection shall be developed based upon the criteria established in subsection (b) of this section.

(2) If the Commission conducts proceedings under this subsection, the Department shall give due consideration to the Commission's opinion as to facilities of a natural gas company, and that opinion shall guide the position taken before federal agencies by the State of Vermont, acting through the Department of Public Service under section 215 of this title.

(3) If the Commission conducts proceedings under this subsection, it may consolidate them, solely for purposes of creating a common record, with any related

proceedings conducted under subdivision (a)(3) of this section.

(i)(1) No company, as defined in sections 201 and 203 of this title, without approval by the Commission, after giving notice of such investment, or filing a copy of that contract, with the Commission and the Department at least 30 days prior to the proposed effective date of that contract or investment:

(A) may invest in a gas-production facility located outside this State; or

(B) may execute a contract for the purchase of gas from outside the State, for resale to firm-tariff customers, that:

(i) is for a period exceeding five years; or

(ii) represents more than 10 percent of that company's peak demand for resale to firm-tariff customers.

(2) The Department and the Commission shall consider within 30 days whether to investigate the proposed investment or contract.

(3) The Commission, upon its own motion, or upon the recommendation of the Department, may determine to initiate an investigation. If the Commission does not initiate an investigation within such 30-day period, the contract or investment shall be deemed to be approved. If the Commission determines to initiate an investigation, it shall give notice of that decision to the company proposing the investment or contract, the Department, and such other persons as the Commission determines are appropriate. The Commission shall conclude its investigation within 120 days of issuance of its notice of investigation, or within such shorter period as it deems appropriate. If the Commission fails to issue a decision within that 120-day period, the contract or investment shall be deemed to be approved. The Commission may hold informal, public, or evidentiary hearings on the proposed investment or contract.

(4) Nothing in this subsection shall prohibit a company from negotiating or adjusting periodically the price of other terms of supply through a supplement to such a contract, provided that the supplement falls within the terms specified in such a contract, as approved. The Commission's authority to investigate such adjustments under other authorities of this title shall not be impaired. Such a company shall file with the Department and the Commission a copy of any such supplement to the contract or other documentation that states any terms that have been renegotiated or adjusted by the company at least 30 days prior to the effective date of the renegotiated or adjusted price or other terms.

(5) Nothing in this subsection shall be construed to prohibit a gas company from executing a development contract, a contract for design and engineering, a contract to seek regulatory approvals for a gas-production facility, or a letter of intent for such purchase of gas that makes the company's obligations under that letter of intent subject to the requirements of this subsection, prior to the filing with the Commission and

Department of such notice or proposed contract or pending any investigation under this subsection.

(j)(1) The Commission may, subject to such conditions as it may otherwise lawfully impose, issue a certificate of public good in accordance with the provisions of this subsection and without the notice and hearings otherwise required by this chapter if the Commission finds that:

(A) approval is sought for construction of facilities described in subdivision (a)(2) or (3) of this section;

(B) such facilities will be of limited size and scope;

(C) the petition does not raise a significant issue with respect to the substantive criteria of this section; and

(D) the public interest is satisfied by the procedures authorized by this subsection.

(2) Any party seeking to proceed under the procedures authorized by this subsection shall file a proposed certificate of public good and proposed findings of fact with its petition. Within two business days of notification by the Commission that the filing is complete, the party shall serve copies of the complete filing on the parties specified in subdivision (a)(4)(C) of this section and the party shall give written notice of the proposed certificate and of the Commission's determination that the filing is complete to those parties, to any public interest organization that has in writing requested notice of applications to proceed under this subsection, and to any other person found by the Commission to have a substantial interest in the matter. The notice shall request comment within 30 days of the date of service of the complete filing on the question of whether the petition raises a significant issue with respect to the substantive criteria of this section. If the Commission finds that the petition raises a significant issue with respect to the substantive criteria of this section, the Commission shall hear evidence on any such issue.

(3) The construction of facilities authorized by a certificate issued under this subsection shall not require the approval of voters of a municipality or the members of a cooperative, as would otherwise be required under subsection (c) of this section.

[Subdivision (k)(1) effective until December 31, 2022; see also subdivision (k)(1) effective December 31, 2022 .]

(k)(1) Notwithstanding any other provisions of this section, the Commission may waive, for a specified and limited time, the prohibitions contained in this section upon site preparation for or construction of an electric transmission facility or a generation facility necessary to ensure the stability or reliability of the electric system or a natural gas facility, pending full review under this section.

[Subdivision (k)(1) effective December 31, 2022; see also subdivision (k)(1) effective until December 31, 2022 .]

(k)(1) Notwithstanding any other provisions of this section, the Commission may waive, for a specified and limited time, the prohibitions contained in this section upon site preparation for or construction of an electric transmission facility, a generation facility, or an energy storage facility as necessary to ensure the stability or reliability of the electric system or a natural gas facility, pending full review under this section.

(2) A person seeking a waiver under this subsection shall file a petition with the Commission and shall provide copies to the Department of Public Service and the Agency of Natural Resources. Upon receiving the petition, the Commission shall conduct an expedited preliminary hearing, upon such notice to the governmental bodies listed in subdivision (a)(4)(C) of this section as the Commission may require.

(3) An order granting a waiver may include terms, conditions, and safeguards, including the posting of a bond or other security, as the Commission deems proper, considering the scope and duration of the requested waiver.

(4) A waiver shall be granted only upon a showing that:

(A) good cause exists because an emergency situation has occurred;

(B) the waiver is necessary to provide adequate and efficient service or to preserve the property of the public service company devoted to public use;

(C) measures will be taken, as the Commission deems appropriate, to minimize significant adverse impacts under the criteria specified in subdivisions (b)(5) and (8) of this section; and

(D) taking into account any terms, conditions, and safeguards that the Commission may require, the waiver will promote the general good of the State.

(5) Upon the expiration of a waiver, if a certificate of public good has not been issued under this section, the Commission shall require the removal, relocation or alteration of the facilities subject to the waiver, as it finds will best promote the general good of the State.

[Subsection (l) effective until December 31, 2022; see also subsection (l) effective December 31, 2022 .]

(l) Notwithstanding other provisions of this section, and without limiting any existing authority of the Governor, and pursuant to 20 V.S.A. § 9(10) and (11), when the Governor has proclaimed a state of emergency pursuant to 20 V.S.A. § 9, the Governor, in consultation with the Chair of the Public Utility Commission and the Commissioner of Public Service or their designees, may waive the prohibitions contained in this section upon site preparation for or construction of an electric transmission facility or a generation facility necessary to ensure the stability or reliability of the electric system or

a natural gas facility. Waivers issued under this subsection shall be subject to such conditions as are required by the Governor and shall be valid for the duration of the declared emergency plus 180 days or such lesser overall term as determined by the Governor. Upon the expiration of a waiver under this subsection, if a certificate of public good has not been issued under this section, the Commission shall require the removal, relocation, or alteration of the facilities, subject to the waiver, as the Commission finds will best promote the general good of the State.

[Subsection (l) effective December 31, 2022; see also subsection (l) effective until December 31, 2022 .]

(l) Notwithstanding other provisions of this section, and without limiting any existing authority of the Governor, and pursuant to 20 V.S.A. § 9(10) and (11), when the Governor has proclaimed a state of emergency pursuant to 20 V.S.A. § 9, the Governor, in consultation with the Chair of the Public Utility Commission and the Commissioner of Public Service or their designees, may waive the prohibitions contained in this section upon site preparation for or construction of an electric transmission facility, a generation facility, or an energy storage facility as necessary to ensure the stability or reliability of the electric system or a natural gas facility. Waivers issued under this subsection shall be subject to such conditions as are required by the Governor and shall be valid for the duration of the declared emergency plus 180 days or such lesser overall term as determined by the Governor. Upon the expiration of a waiver under this subsection, if a certificate of public good has not been issued under this section, the Commission shall require the removal, relocation, or alteration of the facilities, subject to the waiver, as the Commission finds will best promote the general good of the State.

(m) In any matter with respect to which the Commission considers the operation of a nuclear energy generating plant beyond the date permitted in any certificate of public good granted under this title, including any certificate in effect as of January 1, 2006, the Commission shall evaluate the application under current assumptions and analyses and not an extension of the cost benefit assumptions and analyses forming the basis of the previous certificate of public good for the operation of the facility.

(n)(1) No company as defined in section 201 of this title and no person as defined in 10 V.S.A. § 6001(14) may place or allow the placement of wireless communications facilities on an electric transmission or generation facility located in this State, including a net metering system, without receiving a certificate of public good from the Public Utility Commission pursuant to this subsection. The Public Utility Commission may issue a certificate of public good for the placement of wireless communications facilities on electric transmission and generation facilities if such placement is in compliance with the criteria of this section and Commission rules or orders implementing this section. In developing such rules and orders, the Commission:

(A) may waive the requirements of this section that are not applicable to wireless

telecommunication facilities, including criteria that are generally applicable to public service companies as defined in this title;

(B) may modify notice and hearing requirements of this title as it deems appropriate;

(C) shall seek to simplify the application and review process as appropriate; and

(D) shall be aimed at furthering the State's interest in ubiquitous mobile telecommunications and broadband service in the State.

(2) Notwithstanding subdivision (1)(B) of this subsection, if the Commission finds that a petition filed pursuant to this subsection does not raise a significant issue with respect to the criteria enumerated in subdivisions (b)(1), (3), (4), (5), and (8) of this section, the Commission shall issue a certificate of public good without a hearing. If the Commission fails to issue a final decision or identify a significant issue with regard to a completed petition made under this section within 60 days of its filing with the Clerk of the Commission and service to the Director of Public Advocacy for the Department of Public Service, the petition is deemed approved by operation of law. The rules required by this subsection shall be adopted within six months of the effective date of this section, and rules under this section may be adopted on an emergency basis to comply with the dates required by this section. As used in this subsection, "wireless communication facilities" include antennae, related equipment, and equipment shelter, but do not include equipment used by utilities exclusively for intra- and inter-utility communications.

(o) The Commission shall not reject as incomplete a petition under this section for a wind generation facility on the grounds that the petition does not specify the exact make or dimensions of the turbines and rotors to be installed at the facility as long as the petition provides the maximum horizontal and vertical dimensions of those turbines and rotors and the maximum decibel level that the turbines and rotors will produce as measured at the nearest residential structure over a 12-hour period commencing at 7:00 p.m.

(p) An in-state generation facility receiving a certificate under this section that produces electric energy using woody biomass shall annually disclose to the Commission the amount, type, and source of wood acquired to generate energy.

(q)(1) A certificate under this section shall be required for a plant using methane derived from an agricultural operation as follows:

(A) With respect to a plant that constitutes farming pursuant to 10 V.S.A. § 6001(22)(F), only for the equipment used to generate electricity from biogas, the equipment used to refine biogas into natural gas, the structures housing such equipment used to generate electricity or refine biogas, and the interconnection to electric and natural gas distribution and transmission systems. The certificate shall not be required for the methane digester, the digester influents and non-gas effluents, the buildings and

equipment used to handle such influents and non-gas effluents, or the on-farm use of heat and exhaust produced by the generation of electricity, and these components shall not be subject to jurisdiction under this section.

(B) With respect to a plant that does not constitute farming pursuant to 10 V.S.A. § 6001(22)(F) but which receives feedstock from off-site farms, for all on-site components of the plant, for the transportation of feedstock to the plant from off-site contributing farms, and the transportation of effluent or digestate back to those farms. The certificate shall not regulate any farming activities conducted on the contributing farms that provide feedstock to a plant or use of effluent or digestate returned to the contributing farms from the plant.

(2) Notwithstanding 1 V.S.A. § 214 and Commission Rule 5.408, if the Commission issued a certificate to a plant using methane derived from an agricultural operation prior to July 1, 2013, such certificate shall require an amendment only when there is a substantial change, pursuant to Commission Rule 5.408, to the equipment used to generate electricity from biogas, the equipment used to refine biogas into natural gas, the structures housing such equipment used to generate electricity or refine biogas, or the interconnection to electric and natural gas distribution and transmission systems. The Commission's jurisdiction in any future proceedings concerning such a certificate shall be limited pursuant to subdivision (1) of this subsection.

(3) This subsection shall not affect the determination, under section 8005a of this title, of the price for a standard offer to a plant using methane derived from an agricultural operation.

(4) As used in this section, "biogas" means a gas resulting from the action of microorganisms on organic material such as manure or food processing waste.

(r) The Commission may provide that, in any proceeding under subdivision (a)(2)(A) of this section for the construction of a renewable energy plant, a demonstration of compliance with subdivision (b)(2) of this section, relating to establishing need for the plant, shall not be required if all or part of the electricity to be generated by the plant is under contract to one or more Vermont electric distribution companies and if no part of the plant is financed directly or indirectly through investments, other than power contracts, backed by Vermont electricity ratepayers. In this subsection, "plant" and "renewable energy" shall be as defined in section 8002 of this title.

(s) This subsection sets minimum setback requirements that shall apply to in-state ground-mounted solar electric generation facilities approved under this section, unless the facility is installed on a canopy constructed on an area primarily used for parking vehicles that is in existence or permitted on the date the application for the facility is filed.

(1) The minimum setbacks shall be:

(A) from a State or municipal highway, measured from the edge of the traveled way:

(i) 100 feet for a facility with a plant capacity exceeding 150 kW; and

(ii) 40 feet for a facility with a plant capacity less than or equal to 150 kW but greater than 15 kW.

(B) From each property boundary that is not a State or municipal highway:

(i) 50 feet for a facility with a plant capacity exceeding 150 kW; and

(ii) 25 feet for a facility with a plant capacity less than or equal to 150 kW but greater than 15 kW.

(2) This subsection does not require a setback for a facility with a plant capacity equal to or less than 15 kW.

(3) On review of an application, the Commission may:

(A) require a larger setback than this subsection requires;

(B) approve an agreement to a smaller setback among the applicant, the municipal legislative body, and each owner of property adjoining the smaller setback; or

(C) require a setback for a facility constructed on an area primarily used for parking vehicles, if the application concerns such a facility.

(4) In this subsection:

(A) "kW" and "plant capacity" shall have the same meaning as in section 8002 of this title.

(B) "Setback" means the shortest distance between the nearest portion of a solar panel or support structure for a solar panel, at its point of attachment to the ground, and a property boundary or the edge of a highway's traveled way.

(t) Notwithstanding any contrary provision of the law, primary agricultural soils as defined in 10 V.S.A. § 6001 located on the site of a solar electric generation facility approved under this section shall remain classified as such soils, and the review of any change in use of the site subsequent to the construction of the facility shall treat the soils as if the facility had never been constructed. Each certificate of public good issued by the Commission for a ground-mounted solar generation facility shall state the contents of this subsection.

[Subsection (u) effective until December 31, 2022; see also subsection (u) effective December 31, 2022 .]

(u) A certificate under this section shall only be required for an energy storage facility that has a capacity of 500 kW or greater.

[Subsection (u) effective December 31, 2022; see also subsection (u) effective until

December 31, 2022 .]

(u) For an energy storage facility, a certificate under this section shall only be required for a stationary facility exporting to the grid that has a capacity of 100 kW or greater, unless the Commission establishes a larger threshold by rule. The Commission shall establish a simplified application process for energy storage facilities subject to this section with a capacity of up to 1 MW, unless it establishes a larger threshold by rule. For facilities eligible for this simplified application process, a certificate of public good will be issued by the Commission by the forty-sixth day following filing of a complete application, unless a substantive objection is timely filed with the Commission or the Commission itself raises an issue. The Commission may require facilities eligible for the simplified application process to include a letter from the interconnecting utility indicating the absence or resolution of interconnection issues as part of the application. (Added 1969, No. 69, § 1, eff. April 18, 1969; amended 1969, No. 207 (Adj. Sess.), § 12, eff. March 24, 1970; 1971, No. 208 (Adj. Sess.), eff. March 31, 1972; 1975, No. 23; 1977, No. 11, §§ 1, 2; 1979, No. 204 (Adj. Sess.), § 31, eff. Feb. 1, 1981; 1981, No. 111 (Adj. Sess.); 1983, No. 45; 1985, No. 48, § 1; 1987, No. 65, § 1, eff. May 28, 1987; 1987, No. 67, § 14; 1987, No. 273 (Adj. Sess.) § 1, eff. June 21, 1988; 1989, No. 256 (Adj. Sess.), § 10(a), eff. Jan. 1, 1991; 1991, No. 99, §§ 3, 4; 1991, No. 259 (Adj. Sess.), §§ 6, 7; 1993, No. 21, § 10, eff. May 12, 1993; 1993, No. 159 (Adj. Sess.), § 1a, eff. May 19, 1994; 2003, No. 42, § 2, eff. May 27, 2003; 2003, No. 82 (Adj. Sess.), §§ 2, 3; 2005, No. 160 (Adj. Sess.), §§ 2, 3; 2007, No. 79, § 16, eff. June 9, 2007; 2009, No. 6, §§ 1, 2, 3, eff. April 30, 2009; 2009, No. 45, § 7, eff. May 27, 2009; 2009, No. 146 (Adj. Sess.), § F30; 2011, No. 47, § 5; 2011, No. 62, § 26; 2011, No. 138 (Adj. Sess.), § 27, eff. May 14, 2012; 2011, No. 170 (Adj. Sess.), § 12, eff. May 18, 2012; 2013, No. 24, § 4, eff. May 13, 2013; 2013, No. 88, § 1; 2015, No. 23, § 151; 2015, No. 40, § 31; 2015, No. 51, § F.9, eff. June 3, 2015; 2015, No. 56, §§ 19, 20; 2015, No. 56, §§ 26a, 26b, 26c, eff. June 11, 2015; 2015, No. 174 (Adj. Sess.), § 11, eff. June 13, 2016; 2017, No. 53, §§ 1, 3, 4; 2017, No. 74, § 125; 2017, No. 163 (Adj. Sess.), § 1; 2019, No. 31, §§ 17, 25; 2021, No. 42, § 6; 2021, No. 54, § 9, eff. Dec. 31, 2022.)



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Deadline For Public Comment

Deadline: Aug 12, 2022

The deadline for public comment has expired. Contact the agency or primary contact person listed below for assistance.

Rule Details

Rule Number:	22P013
Title:	Rule 4.600 Definition of Electric Transmission Facility in 30 V.S.A. § 248.
Type:	Standard
Status:	Proposed
Agency:	Vermont Public Utility Commission
Legal Authority:	30 V.S.A. § 2(c); 30 V.S.A. § 209; 30 V.S.A. § 248 30 V.S.A. § 248 requires utilities to obtain a certificate of public good from the Commission before beginning site preparation or construction of an "electric transmission facility." The proposed rule defines the term "electric transmission facility,"
Summary:	

clarifying which projects require a certificate of public good from the Commission.

Persons Affected: The Department of Public Service; Vermont distribution utilities; Vermont transmission utilities; The definition of "electric transmission facility" will provide guidance to distribution utilities on whether a project should be classified as a transmission or distribution facility, reducing uncertainty about whether a project requires Commission approval under 30 V.S.A. § 248 and avoiding filings by distribution utilities with the Commission for projects that do not require Commission approval. Eliminating unnecessary filings will reduce the regulatory burden on distribution utilities and save Commission resources.

Economic Impact:

Posting date: Jun 29,2022

Hearing Information

Information for Hearing # 1

Hearing date: 08-04-2022 2:00 PM [ADD TO YOUR CALENDAR](#)

Location: Virtual Hearing via GoToMeeting.

Address: <https://meet.goto.com/552587277> or Call 1 (571) 317-3129 and enter Pin # 552-587-277

City: n/a

State: VT

Zip: n/a

Hearing Notes:

Contact Information

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Keyword Information

Keywords:

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Public Utility Commission
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Section 248

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FROM: APA Coordinator, VSARA

Date of Fax: June 28, 2022

RE: The "Proposed State Rules " ad copy to run on

July 7, 2022

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To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

Rule 4.600 Definition of Electric Transmission Facility in 30 V.S.A. § 248.

Vermont Proposed Rule: 22P013

AGENCY: Public Utility Commission

CONCISE SUMMARY: 30 V.S.A. § 248 requires utilities to obtain a certificate of public good from the Commission before beginning site preparation or construction of an "electric transmission facility." The proposed rule defines the term "electric transmission facility," clarifying which projects require a certificate of public good from the Commission.

FOR FURTHER INFORMATION, CONTACT: Micah Howe, Staff Attorney, Vermont Public Utility Commission 112 State Street, Montpelier, VT 05620-2701 Tel: 802-828-2358 Fax: 802-828-3351 Email: micah.howe@vermont.gov URL: <https://puc.vermont.gov/about-us/statutes-and-rules>.

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