

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).

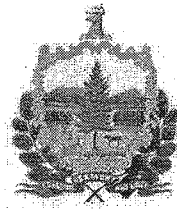
Transmission

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.