

Emergency Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” (CVR 04-000-001) adopted by the Office of the Secretary of State, this emergency filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, the Legislative Committee on Administrative Rules and a copy with the Chair of the Interagency Committee on Administrative Rules.

All forms shall be submitted to 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.

This emergency rule may remain in effect for a total of 180 days from the date it first takes effect.

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801(b)(11) for a definition), I believe there exists an imminent peril to public health, safety or welfare, requiring the adoption of this emergency rule.

The nature of the peril is as follows (*PLEASE USE ADDITIONAL SHEETS IF SPACE IS INSUFFICIENT*). Risk of exposure for members of the public and state agency staff to the COVID-19 virus established as a global pandemic by the World Health Organization as of March 11, 2020.

I approve the contents of this filing entitled:

PUC Emergency Rule 2.500 COVID-19 Emergency Procedures

_____/s/Anthony Z. Roisman_____, on 9/25/2023
(signature) (date)

Printed Name and Title:

Anthony Z. Roisman, Chair VT 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)

1. TITLE OF RULE FILING:

PUC Emergency Rule 2.500 COVID-19 Emergency Procedures

2. ADOPTING AGENCY:

Vermont Public Utility Commission ("Commission" or "PUC")

3. PRIMARY CONTACT PERSON:

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

Name: Steph Hoffman

Agency: PUC

Mailing Address: 112 State Street, 4th Floor, Montpelier,
VT 05620-2701

Telephone: 802-828-1187 **Fax:** 802-828-3351

E-Mail: steph.hoffman@vermont.gov

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

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

4. 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: Ann Bishop

Agency: PUC

Mailing Address: 112 State Street, 4th Floor, Montpelier,
VT 05620-2701

Telephone: 802-828-1170 **Fax:** 802-828-3351

E-Mail: ann.bishop@vermont.gov

5. 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:

6. 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. § 11

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

Title 30, Section 11 of the Vermont Statutes Annotated tasks the Commission with adopting rules for the forms, pleadings, and rules of practice and procedure before it. This emergency rule governs procedural requirements for filing and practice before the Commission.

8. CONCISE SUMMARY (150 WORDS OR LESS):

This emergency rule amends various filing and procedural requirements and provides alternative procedures to reduce or eliminate in-person contact between members of the public and Commission staff or other members of the public to reduce the risk of exposure to the COVID-19 virus. This is the seventh extension of the emergency rule filed in April 2020.

A number of measures included in this revised emergency rule have proven beneficial to those who appear before and interact with the Commission. The Commission is undertaking a process of adopting policies and promulgating permanent rules, where appropriate, so that the remaining measures in this revised emergency rule could either be phased out or incorporated into permanent rules. The revisions in this version reflect adoption of permanent Commission Rule 2. Two other Commission rules modified by this rule have entered formal rulemaking. The provisions in this revised emergency rule will be superseded when the permanent rules take effect.

9. EXPLANATION OF WHY THE RULE IS NECESSARY:

The rule is necessary to reduce the risk of exposure to state employees and the general public by providing alternative procedures that reduce or eliminate person-to-person contact.

10. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY AS DEFINED IN 3 V.S.A. § 801(b)(13(A):

The rule is not arbitrary as statute specifically tasks the Commission with rulemaking for the forms, pleadings, and rules of practice and procedure before it.

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

Agencies and parties appearing before the Commission;
adjoining landowners

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

Economic impacts are difficult to quantify in monetary terms, however the Commission anticipates a minimal positive impact from the reduction of gasoline usage, postage, printing costs, etc.

13. A HEARING IS NOT SCHEDULED .

14. 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 NEEDED FOR THE NOTICE OF RULEMAKING.

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

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

16. EMERGENCY RULE EFFECTIVE: 09/25/2023

17. EMERGENCY RULE WILL REMAIN IN EFFECT UNTIL

(A DATE NO LATER THAN 180 DAYS FOLLOWING ADOPTION OF THIS EMERGENCY RULE):

03/23/2024

18. NOTICE OF THIS EMERGENCY RULE SHOULD NOT BE PUBLISHED IN THE WEEKLY NOTICES OF RULEMAKING IN THE NEWSPAPERS OF RECORD.

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

Vermont Public Utility Commission

Procedural Rules

Filing

Application

Petition

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: www.puc.vermont.gov

State of Vermont
Public Utility Commission

September 25, 2023

Charlene Dindo
Legislative Council
115 State Street
Montpelier, VT 05602

SENT ELECTRONICALLY

**RE: Vermont Public Utility Commission Emergency Rule 2.500 COVID-19
Emergency Procedures Rule**

Dear Ms. Dindo:

The Vermont Public Utility Commission (“Commission”) submits this letter in support of its revised emergency rule, entitled Vermont Public Utility Commission Emergency Rule 2.500 COVID-19 Emergency Procedures Rule.

As we explained to the Legislative Committee on Administrative Rules last April, we believe that Emergency Rule 2.500 continues to meet the criteria for emergency rulemaking, pursuant to 3 V.S.A. § 844(a). Section 844(a) provides that an agency may adopt an emergency rule when it “believes that there exists an imminent peril to public health, safety, or welfare.” We have explained in our filing paperwork that the Commission has adopted the procedural provisions contained in this emergency rule since the onset of the COVID-19 pandemic to minimize or eliminate in-person contact.¹ The changes implemented in Rule 2.500 reduce or eliminate in-person contact in the following ways:

- Subsection 2.505 converts the requirement that mailings be certified to first class mail, so applicants need not go into a United States Post Office.
- Subsection 2.506 allows adjoining landowner identification to be performed using online resources provided by Vermont towns rather than in-person in town offices across the state.
- Subsection 2.510 provides for digital and mail correspondence for project document review rather than in-person document viewing arrangements so that adjoining property owners do not have to meet at town or regional planning offices to inspect project materials.

¹ See, e.g., Rule 23-E03, Emergency Filing – Coversheet ¶ 8.

Further, Subsection 2.509 recognizes that applicants have encountered supply-chain issues that impact the timing of constructing renewable energy projects, and thus recognizes the Commission's ability to respond to these COVID-related market factors by issuing blanket orders providing additional time to bring projects into operation. Denying such an extension of time could risk a project's economic viability, which implicates the economic wellbeing meaning of "welfare" under the statute.²

In the last few years, the Commission initiated three separate rulemakings that contain portions of Rule 2.500. These rulemakings memorialize the emergency procedures adopted in 2020 that have been supported by those who regularly appear before us. Discontinuity in our procedures makes practice in front of the Commission unpredictable and difficult, especially for *pro se* litigants. Maintaining stability in our procedures is consistent with the intent of Act 174 of 2016, which created a working group to make recommendations to promote increased ease of citizen participation in Commission proceedings. Maintaining this emergency rule until all three rules become permanent is necessary to maintain that continuity for only a short time longer.

On January 18, 2023, the Commission's updated Rule 2.000 (Rules of Practice) went into effect. The repealed portions of the current version of Rule 2.500 reflect the implementation of Rule 2.000. Over half of the provisions of Rule 2.500 were eliminated as a result of permanent Rule 2.000 taking effect.

Commission Rules 5.100 (Regulations Pertaining to Construction and Operation of Net-Metering Systems) and 5.400 (Requirements for Petitions to Construct Electric and Gas Facilities Pursuant to 30 V.S.A. § 248) are also needed to fully retire the emergency rule.³ As anticipated at our last appearance at LCAR, both of these rules have entered the formal rulemaking process with filings with ICAR on May 5, 2023 (Rule 5.400), and May 18, 2023 (Rule 5.100), and filings with the Secretary of State on June 22, 2023 (Rule 5.400), and June 23, 2023 (Rule 5.100). Public hearings have been held on the initial proposed rules and the deadlines for filing public comments on the initial proposed rules have now passed (August 15, 2023, for Rule 5.400 and August 17, 2023, for Rule 5.100). The Commission anticipates filing both final proposed rules with LCAR in October.⁴

As such, we are seeking one final Rule 2.500 extension to provide time for the permanent rules to be adopted. Rule 2.500 will be withdrawn with the adoption of these permanent rules.

Thank you for your consideration of this additional information in conjunction with our rule filing. Please let me know if you have any questions or concerns.

² Welfare is defined as "well-being in any respect; prosperity." BLACK'S LAW DICTIONARY (11th ed. 2019). Public welfare also includes this economic component. BLACK'S LAW DICTIONARY (11th ed. 2019) (defining "public welfare" as "A society's well-being in matters of health, safety, order, morality, economics, and politics.").

³ Subsections 2.505, 2.506(A), and 2.509 of Rule 2.500 would be rendered obsolete with the implementation of permanent Rule 5.100. Subsections 2.506(B) and 2.510 would be rendered obsolete with the implementation of permanent Rule 5.400.

⁴ Further information about Rule 5.100 can be found in the Commission's electronic filing system, ePUC, under Case No. 19-0855-RULE. Further information about Rule 5.400 can be found in ePUC under Case No. 21-0861-RULE.

Sincerely,

P.P. Ann Bishop

Digitally signed by Ann
Bishop
Date: 2023.09.25
11:23:10 -04'00'

Steph Hoffman
Interim General Counsel

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:**

PUC Emergency Rule 2.500 COVID-19 Emergency Procedures

2. **ADOPTING AGENCY:**

Vermont Public Utility Commission ("Commission" or "PUC")

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 as long as the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

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

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

23-E03 - Vermont Public Utility Commission/PUC
Emergency Rule 2.500 COVID-19 Emergency Procedures,
03/29/2023

State of Vermont
Agency of Administration
Office of the Secretary
Pavilion Office Building
109 State Street, 5th Floor
Montpelier, VT 05609-0201
www.aoa.vermont.gov

[phone] 802-828-3322
[fax] 802-828-2428

Kristin L. Clouser, Secretary

MEMORANDUM

TO: Copeland Hanzas, Secretary of State Sean
FROM: Sean Brown, ICAR Chair Brown
DATE: September 25, 2023
RE: Emergency Rule Titled 'PUC Emergency Rule 2.500 COVID-19 Emergency Procedures' by the VT Public Utility Commission

Digitally signed
by Sean Brown
Date: 2023.09.25
16:05:59 -04'00'

I have reviewed the proposed rule titled 'PUC Emergency Rule 2.500 COVID-19 Emergency Procedures', provided by the VT Public Utility Commission. While I have concerns that emergency rulemaking is no longer supported as the state and federal COVID emergencies have ended, I support the emergency rule given formal rule making is in process and it is anticipated this will be the last emergency rule and it will be repealed upon passage of the final rule in the coming months.

###

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:

PUC Emergency Rule 2.500 COVID-19 Emergency Procedures

2. ADOPTING AGENCY:

Vermont Public Utility Commission ("Commission" or "PUC")

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:

Agencies and parties appearing before the Commission;
adjoining landowners

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:

This rule does not affect schools or taxpayers except to the extent that they are an adjoining landowner or party appearing before the Commission.

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.*

No alternatives are currently being considered as this rule does not affect local school districts.

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):

This rule may affect small businesses, such as renewable energy developers, that file with or appear before the Commission or are adjoining landowners. However, as detailed in the comparison section below, the Commission anticipates either a neutral or positive minor economic impact due to these procedural changes.

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 burden of compliance with these procedural changes is equivalent to the burden of following the permanent procedural requirements of filing with or appearing before the Commission.

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:

Though difficult to quantify, the impact of not providing alternative procedures for filing with and appearing before the Commission could be substantial as measured by increased exposure to the COVID-19 virus. In-person contact associated with various Commission procedures increases the risk of exposure to COVID-19 between state agency personnel and members of the public or members of the public with other members of the public; such exposure could result in the spread of the virus, which has both a health and economic impact.

Evaluating just the change in procedural requirements, this rule represents a minor change likely to result in cost savings for those who participate in cases before the Commission. Economic impacts are difficult to quantify in monetary terms, however the Commission anticipates a minimal positive impact from the reduction of gasoline usage, postage, printing costs, etc.

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

This economic impact analysis is somewhat limited due to the necessity to act quickly in response to the COVID-19 virus pandemic. Since the existing emergency rule has had minimal, if any, economic impacts, this extension to that emergency rulemaking regarding those procedures is also expected to have a minimal impact economically.

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:

PUC Emergency Rule 2.500 COVID-19 Emergency Procedures

2. ADOPTING AGENCY:

Vermont Public Utility Commission ("Commission" or "PUC")

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.):*

A negligible reduction in greenhouse gases could be expected by the reduction of vehicular travel to perform previous in-person requirements that are reduced or eliminated by this emergency rule.

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.):*

No impact anticipated.

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

No impact anticipated.

6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*
No impact anticipated.

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
Negligible impact expected from reduced vehicular travel as explained above.

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*
Negligible impact expected from reduced vehicular travel as explained above.

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

This environmental impact analysis is somewhat limited due to the necessity to act quickly in response to the COVID-19 virus pandemic. Since the existing emergency rule has had minimal, if any, environmental impacts, this extension to that emergency rulemaking regarding those procedures is also expected to have a minimal impact environmentally.

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:**

PUC Emergency Rule 2.500 COVID-19 Emergency Procedures

2. **ADOPTING AGENCY:**

Vermont Public Utility Commission ("Commission" or "PUC")

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:**

The Commission notified lists of parties frequently appearing before the Commission of the emergency rule that became effective on 04/30/2020, and again with the 10/15/2020, 04/13/2021, 10/07/2021, 04/05/2022, 09/30/2022, and 03/29/2023 revised versions of the rule. A case in the Commission's e-filing system (ePUC) was created with each filing of this emergency rule to allow for comment. Notice was also posted on the Commission's website where rules and statutes are posted. The same procedures will be used when filing this version of the emergency rule.

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

Those that have commented on the rule during each phase of the emergency rule filings. These comments have been reported to LCAR and SOS during each extension filing. No comments were received on the last five extension

filings of the emergency rule. Otherwise, not applicable.

2.500 COVID-19 EMERGENCY PROCEDURES

2.501 Purpose, Scope, and Period of Applicability

(A) Due to the outbreak of the novel coronavirus, COVID-19, the Governor of Vermont declared a state of emergency. The Vermont Supreme Court declared a judicial emergency in Administrative Order 49 and amendments to that order. Although the Governor has lifted the state of emergency, the risk of virus spread and the consequences of the pandemic persist. This revised emergency rule amends various filing and procedural requirements and provides alternative procedures to reduce or eliminate in-person contact between members of the public and Commission staff or other members of the public to reduce the risk of exposure to the COVID-19 virus. A number of measures included in this revised emergency rule have proven beneficial to those who appear before and interact with the Commission. The Commission is undertaking a process of adopting policies and promulgating permanent rules, where appropriate, so that the remaining measures in this revised emergency rule could either be phased out or incorporated into permanent rules. The provisions in this revised emergency rule will be superseded when permanent rules regarding those measures take effect.

(B) This rule shall take effect on the date of its filing, and shall remain in effect for six months, or until the Commission withdraws it. This revised rule supplants in its entirety the prior Emergency Rule 2.500, which became effective ~~September 30~~ March 29, 2022, and will continue to be referred to as Emergency Rule 2.500.

(C) [Repealed.]

2.502 Amendments to Commission Rule 2.202 Relating to Initiation of Proceedings
[Repealed.]

2.503 Amendments to Commission Rule 2.204 Relating to Pleadings and Other Filings; Service and Filing
[Repealed.]

2.504 Amendments to Commission Rule 2.216 Relating to Evidence
[Repealed.]

2.505 Amendments to Commission Rules 5.106 and 5.107 Relating to Method of Service for Net-Metering System Applications and Petitions

(A) **Advance Submission.**

(1) The Commission amends Commission Rule 5.106(C)(2) as follows. The applicant must cause the advance submission to be served to the entities listed in Commission Rule 5.106(C)(1)(a) through (c) by first-class mail. The applicant must cause the advance submission to be transmitted to the entities listed in Commission Rule 5.106(C)(1)(d) through (i) using the Commission's electronic

- filing system, unless the applicant is making a paper filing in accordance with the Commission's rules, in which case service must be by first-class mail.
- (2) The Commission amends Commission Rule 5.107(B)(2) as follows. The applicant must cause the advance submission to be served to the entities listed in Commission Rule 5.107(B)(1)(a) through (c) by first-class mail. The applicant must cause the advance submission to be transmitted to the entities listed in Commission Rule 5.107(B)(1)(d) through (i) using the Commission's electronic filing system, unless the applicant is making a paper filing in accordance with the Commission's rules, in which case service must be by first-class mail.
- (B) Service of Copies of Applications.
- (1) The Commission amends Commission Rule 5.106(F)(2) as follows. The applicant must provide a copy of the application to the entities named in Commission Rule 5.106(F)(1)(a) through (c) by first-class mail. The applicant must cause copies of the application to be transmitted to the entities listed under Commission Rule 5.106(F)(1)(d) through (i), using the Commission's electronic filing system, or if the applicant is making a paper filing, then using first-class mail.
- (2) The Commission amends Commission Rule 5.107(E)(2) as follows. The applicant must provide a copy of the application to the entities named in Commission Rule 5.107(E)(1)(a), (h), and (i) by first-class mail. The applicant must cause copies of the application to be transmitted to the entities listed under Commission Rule 5.107(E)(1)(b) through (g), using the Commission's electronic filing system, or if the applicant is making a paper filing, then using first-class mail.

2.506 Use of Grand Lists

- (A) Notwithstanding the provisions of Commission Rules 5.106(D)(3) and 5.107(C)(3), or any other rule or order inconsistent with this emergency rule, in circumstances in which the Commission requires that the names and addresses of all adjoining landowners as obtained from the most recent version of the town's grand list be compiled to provide a notice, an applicant may obtain adjoining property owner information online through the Vermont Center for Geographic Information database, municipality-specific databases, the Vermont Department of Taxes grand lists, and/or electronic versions of grand lists maintained by municipalities.
- (B) Notwithstanding the provisions of Commission Rules 5.402(B) and 5.402(F)(3), Commission orders issued in Case No. 17-5090-INV and Case No. 18-2940-INV, or any other rule or order inconsistent with this emergency rule, in circumstances in which the Commission requires that the names and addresses of all adjoining landowners as obtained from the most recent version of the town's grand list be compiled to provide a notice, an applicant may obtain adjoining property owner information online through the Vermont Center for

Geographic Information database, municipality-specific databases, the Vermont Department of Taxes grand lists, and/or electronic versions of grand lists maintained by municipalities.

- (C) An applicant must verify the online information with the relevant municipal office within 60 days before providing the notice. An applicant must document the municipal office verification, including the name of the municipal staff member and date on which the verification occurred, or, alternatively, must document at least three attempts at verifying the online information. Documentation of verification shall be signed and attested to by an applicant in the manner provided in Commission Rule 2.213(C)(6).

2.507 Notarization and Oaths
[Repealed.]

2.508 Commencement of Construction
[Repealed.]

2.509 Amendments to Commission Rule 5.110(C) Relating to Abandonment of Certificates of Public Good

The Commission amends Commission Rule 5.110(C) as follows. Non-use of a CPG for a period of one year following the date the CPG is issued will result in the revocation of the CPG. For the purpose of this section, for a CPG to be considered used, the net-metering system must be commissioned. The Commission may grant by order generic extensions of time as a result of the COVID-19 pandemic. Any other extensions of time will only be granted upon written request and for good cause shown. Before site preparation, a certificate holder may abandon a CPG at any time by filing written notice to the Commission, the Department, the Agency of Natural Resources, and the electric company.

2.510 Amendments to Commission Rule 5.402(B) Relating to Filing Requirements for Petitions to Construct Electric and Gas Facilities Pursuant to 30 V.S.A. § 248

The Commission amends Commission Rule 5.402(B) as follows. A petitioner must provide notice of the proposed project to each adjoining property owner at the time that the petition is filed with the Commission. This notice shall include, at a minimum, a general description of the type and approximate location of the facilities and upgrades proposed, a statement that a petition for approval is being filed with the Commission, instructions on how to download electronically a copy of the complete project plans and petition, and instructions on how an adjoining landowner can contact the petitioner to obtain a copy of the complete project plans and petition if the adjoining landowner is not able to access them electronically. This notice shall also include a reference and a link to the Commission document "Public Participation and Intervention in Proceedings Before the Public Utility Commission," found on the Commission's website at <https://puc.vermont.gov/document/public-participation-and-intervention-proceedings-public-utility-commission>. In addition, the notice shall include either (a) if the petition is filed under Section 248, a reference and a link to the Commission's Section

248 procedures document, found on the Commission's website at: <https://puc.vermont.gov/document/section-248-procedures>; or (b) if the petition is filed under Section 248(j), a reference and a link to the Commission's Section 248(j) procedures document, found on the Commission's website at <https://puc.vermont.gov/document/section-248j-procedures>.

If an adjoining landowner asks the petitioner for a copy of the complete project plans and petition, the petitioner must provide paper copies by first-class mail, or, if the requester has the required technology to read digital copies and has agreed to receive digital copies, the petitioner may provide them via compact disc or thumb drive.

Clean
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2.500 COVID-19 EMERGENCY PROCEDURES

2.501 Purpose, Scope, and Period of Applicability

(A) Due to the outbreak of the novel coronavirus, COVID-19, the Governor of Vermont declared a state of emergency. The Vermont Supreme Court declared a judicial emergency in Administrative Order 49 and amendments to that order. Although the Governor has lifted the state of emergency, the risk of virus spread and the consequences of the pandemic persist. This revised emergency rule amends various filing and procedural requirements and provides alternative procedures to reduce or eliminate in-person contact between members of the public and Commission staff or other members of the public to reduce the risk of exposure to the COVID-19 virus. A number of measures included in this revised emergency rule have proven beneficial to those who appear before and interact with the Commission. The Commission is undertaking a process of adopting policies and promulgating permanent rules, where appropriate, so that the remaining measures in this revised emergency rule could either be phased out or incorporated into permanent rules. The provisions in this revised emergency rule will be superseded when permanent rules regarding those measures take effect.

(B) This rule shall take effect on the date of its filing, and shall remain in effect for six months, or until the Commission withdraws it. This revised rule supplants in its entirety the prior Emergency Rule 2.500, which became effective March 29, 2023, and will continue to be referred to as Emergency Rule 2.500.

(C) [Repealed.]

2.502 Amendments to Commission Rule 2.202 Relating to Initiation of Proceedings
[Repealed.]

2.503 Amendments to Commission Rule 2.204 Relating to Pleadings and Other Filings; Service and Filing
[Repealed.]

2.504 Amendments to Commission Rule 2.216 Relating to Evidence
[Repealed.]

2.505 Amendments to Commission Rules 5.106 and 5.107 Relating to Method of Service for Net-Metering System Applications and Petitions

(A) **Advance Submission.**

(1) The Commission amends Commission Rule 5.106(C)(2) as follows. The applicant must cause the advance submission to be served to the entities listed in Commission Rule 5.106(C)(1)(a) through (c) by first-class mail. The applicant must cause the advance submission to be transmitted to the entities listed in Commission Rule 5.106(C)(1)(d) through (i) using the Commission's electronic

- filing system, unless the applicant is making a paper filing in accordance with the Commission's rules, in which case service must be by first-class mail.
- (2) The Commission amends Commission Rule 5.107(B)(2) as follows. The applicant must cause the advance submission to be served to the entities listed in Commission Rule 5.107(B)(1)(a) through (c) by first-class mail. The applicant must cause the advance submission to be transmitted to the entities listed in Commission Rule 5.107(B)(1)(d) through (i) using the Commission's electronic filing system, unless the applicant is making a paper filing in accordance with the Commission's rules, in which case service must be by first-class mail.
- (B) Service of Copies of Applications.
- (1) The Commission amends Commission Rule 5.106(F)(2) as follows. The applicant must provide a copy of the application to the entities named in Commission Rule 5.106(F)(1)(a) through (c) by first-class mail. The applicant must cause copies of the application to be transmitted to the entities listed under Commission Rule 5.106(F)(1)(d) through (i), using the Commission's electronic filing system, or if the applicant is making a paper filing, then using first-class mail.
- (2) The Commission amends Commission Rule 5.107(E)(2) as follows. The applicant must provide a copy of the application to the entities named in Commission Rule 5.107(E)(1)(a), (h), and (i) by first-class mail. The applicant must cause copies of the application to be transmitted to the entities listed under Commission Rule 5.107(E)(1)(b) through (g), using the Commission's electronic filing system, or if the applicant is making a paper filing, then using first-class mail.

2.506 Use of Grand Lists

- (A) Notwithstanding the provisions of Commission Rules 5.106(D)(3) and 5.107(C)(3), or any other rule or order inconsistent with this emergency rule, in circumstances in which the Commission requires that the names and addresses of all adjoining landowners as obtained from the most recent version of the town's grand list be compiled to provide a notice, an applicant may obtain adjoining property owner information online through the Vermont Center for Geographic Information database, municipality-specific databases, the Vermont Department of Taxes grand lists, and/or electronic versions of grand lists maintained by municipalities.
- (B) Notwithstanding the provisions of Commission Rules 5.402(B) and 5.402(F)(3), Commission orders issued in Case No. 17-5090-INV and Case No. 18-2940-INV, or any other rule or order inconsistent with this emergency rule, in circumstances in which the Commission requires that the names and addresses of all adjoining landowners as obtained from the most recent version of the town's grand list be compiled to provide a notice, an applicant may obtain adjoining property owner information online through the Vermont Center for

Geographic Information database, municipality-specific databases, the Vermont Department of Taxes grand lists, and/or electronic versions of grand lists maintained by municipalities.

- (C) An applicant must verify the online information with the relevant municipal office within 60 days before providing the notice. An applicant must document the municipal office verification, including the name of the municipal staff member and date on which the verification occurred, or, alternatively, must document at least three attempts at verifying the online information. Documentation of verification shall be signed and attested to by an applicant in the manner provided in Commission Rule 2.213(C)(6).

2.507 Notarization and Oaths
[Repealed.]

2.508 Commencement of Construction
[Repealed.]

2.509 Amendments to Commission Rule 5.110(C) Relating to Abandonment of Certificates of Public Good

The Commission amends Commission Rule 5.110(C) as follows. Non-use of a CPG for a period of one year following the date the CPG is issued will result in the revocation of the CPG. For the purpose of this section, for a CPG to be considered used, the net-metering system must be commissioned. The Commission may grant by order generic extensions of time as a result of the COVID-19 pandemic. Any other extensions of time will only be granted upon written request and for good cause shown. Before site preparation, a certificate holder may abandon a CPG at any time by filing written notice to the Commission, the Department, the Agency of Natural Resources, and the electric company.

2.510 Amendments to Commission Rule 5.402(B) Relating to Filing Requirements for Petitions to Construct Electric and Gas Facilities Pursuant to 30 V.S.A. § 248

The Commission amends Commission Rule 5.402(B) as follows. A petitioner must provide notice of the proposed project to each adjoining property owner at the time that the petition is filed with the Commission. This notice shall include, at a minimum, a general description of the type and approximate location of the facilities and upgrades proposed, a statement that a petition for approval is being filed with the Commission, instructions on how to download electronically a copy of the complete project plans and petition, and instructions on how an adjoining landowner can contact the petitioner to obtain a copy of the complete project plans and petition if the adjoining landowner is not able to access them electronically. This notice shall also include a reference and a link to the Commission document "Public Participation and Intervention in Proceedings Before the Public Utility Commission," found on the Commission's website at <https://puc.vermont.gov/document/public-participation-and-intervention-proceedings-public-utility-commission>. In addition, the notice shall include either (a) if the petition is filed under Section 248, a reference and a link to the Commission's Section

248 procedures document, found on the Commission's website at: <https://puc.vermont.gov/document/section-248-procedures>; or (b) if the petition is filed under Section 248(j), a reference and a link to the Commission's Section 248(j) procedures document, found on the Commission's website at <https://puc.vermont.gov/document/section-248j-procedures>.

If an adjoining landowner asks the petitioner for a copy of the complete project plans and petition, the petitioner must provide paper copies by first-class mail, or, if the requester has the required technology to read digital copies and has agreed to receive digital copies, the petitioner may provide them via compact disc or thumb drive.

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

NOTE: The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

NOTE: The online version of the Vermont Statutes does NOT yet include the actions of the 2023 legislative session. The 2023 updates should be available by the end of October.

Title 30 : Public Service

Chapter 001 : Appointment, General Powers, And Duties

(Cite as: 30 V.S.A. § 11)

§ 11. Pleadings; rules of practice; hearings; findings of fact

(a) The forms, pleadings, and rules of practice and procedure before the Commission shall be prescribed by it. The Commission shall adopt rules that include, among other things, provisions that:

(1) A utility whose rates are suspended under the provisions of section 226 of this title shall, within 30 days from the date of the suspension order, file with the Commission all exhibits it intends to use in the hearing thereon together with the names of witnesses it intends to produce in its direct case and a short statement of the purposes of the testimony of each witness. Except in the discretion of the Commission, a utility shall not be permitted to introduce into evidence in its direct case exhibits which are not filed in accordance with this rule.

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

(b) The Commission shall allow all members of the public to attend each of its hearings unless the hearing is for the sole purpose of considering information to be treated as confidential pursuant to a protective order duly adopted by the Commission.

(1) The Commission shall make all reasonable efforts to ensure that the location of each hearing is sufficient to accommodate all members of the public seeking to attend.

(2) The Commission shall ensure that the public may safely attend the hearing, including obtaining such resources as may be necessary to fulfill this obligation.

(c) The Commission shall hear all matters within its jurisdiction and make its findings of

fact. It shall state its rulings of law when they are excepted to. Upon appeal to the Supreme Court, its findings of fact shall be accepted unless clearly erroneous. (Amended 1959, No. 329 (Adj. Sess.), § 39(b), eff. March 1, 1961; 1971, No. 185 (Adj. Sess.), § 211, eff. March 29, 1972; 2013, No. 91 (Adj. Sess.), § 3; 2015, No. 23, § 134; 2017, No. 53, § 13a; 2019, No. 31, § 21.)



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Deadline For Public Comment

Deadline: Unavailable.

The deadline for public comment is unavailable for this rule. Contact the agency or primary contact person listed below for assistance.

Rule Details

Rule Number:	23-E10
Title:	PUC Emergency Rule 2.500 COVID-19 Emergency Procedures.
Type:	Emergency
Status:	Adopted
Agency:	Vermont Public Utility Commission
Legal Authority:	30 V.S.A. § 11
Summary:	This emergency rule amends various filing and procedural requirements and provides alternative procedures to reduce or eliminate in-person contact between members of the public and Commission staff or other members of the public to reduce the

risk of exposure to the COVID-19 virus. This is the seventh extension of the emergency rule filed in April 2020. A number of measures included in this revised emergency rule have proven beneficial to those who appear before and interact with the Commission. The Commission is undertaking a process of adopting policies and promulgating permanent rules, where appropriate, so that the remaining measures in this revised emergency rule could either be phased out or incorporated into permanent rules. The revisions in this version reflect adoption of permanent Commission Rule 2. Two other Commission rules modified by this rule have entered formal rulemaking. The provisions in this revised emergency rule will be superseded when the permanent rules take effect.

Persons Affected: Agencies and parties appearing before the Commission; adjoining landowners

Economic Impact: Economic impacts are difficult to quantify in monetary terms, however the Commission anticipates a minimal positive impact from the reduction of gasoline usage, postage, printing costs, etc.

Posting date: Sep 25,2023

Hearing Information

There are not Hearings scheduled for this Rule

Contact Information

Information for Primary Contact

PRIMARY CONTACT PERSON - A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE.

Level: Primary

Name: Steph Hoffman

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Zip: 05620-2701

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Email: steph.hoffman@vermont.gov
[SEND A COMMENT](#)

Website Address: <https://puc.vermont.gov/about-us/statutes-and-rules>
[VIEW WEBSITE](#)

Information for Secondary Contact

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.

Level: Secondary
Name: Ann Bishop
Agency: Vermont Public Utility Commission
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City: Montpelier
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Keyword Information

Keywords:

Vermont Public Utility Commission
Procedural Rules
Filing
Application
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