

H.527, Draft No. 1.2 – Proposed Changes to Topics Listed in Section 2
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Originally Proposed Topic	Proposed Topic Revision	Reasoning for Proposed Change
1. Public hearings:	<p>1. the advance notice process, including but not limited to</p> <ul style="list-style-type: none"> (i) content of the notice; (ii) distribution requirements; (iii) pre-petition hearings and site visits at the municipal and/or regional planning level (including participation by the Department); (iv) pre-petition supplements and amendments; and (v) recommendations from municipal entities and/or regional planning commissions; and (vi) effect of failure to file a petition within 180 days of the advance notice date 	<p>The term “public hearing” means an open forum before the PUC where the public is heard, but occurs only once a petition is filed, and usually prior to an evidentiary hearing. They rarely are even held for Section 248a projects.</p> <p>The best opportunity for the public to be heard on a project is at a municipal meeting (or an RPC meeting) that takes place during the 60 day advance notice period, once an applicant has distributed information regarding the project to all of the statutory parties (including joiners). The revision proposes that the PUC spend time making the rules of this advance notice period much clearer, and giving the pre-petition process much more weight (with the likelihood that issues are either reduced in scope if not eliminated by the time the petition is filed with the PUC).</p>
2. Site visits:	<p>2. petition submission requirements based on project categories, including but not limited to: (i) towers; (ii) tower replacements and extensions; (iii) small cell facilities on utility poles; (iv) new antenna collocations / eligible facilities requests; and (v) de minimis modifications;</p>	<p>NOTE: “site visits” has been moved into (4) and (1).</p> <p>This change is designed to address some of the concerns raised during the committee’s discussions about what type of submission requirements there should be depending on the project type. For instance, this can be used to specify what type of proof of carrier information, propagation maps, collocation analysis is needed for a new tower.</p>

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3. Balloon tests:	3. procedures for the post-petition comment period , including consideration of comments, motions to intervene, and requests for hearings, as well as for issuing a significant issue determination during the review period in 30 V.S.A. Section 248a(f);	NOTE: “balloon tests” is addressed in (4) Purpose here is to get at what happens during the 30 day comment period after a petition is filed, and how the PUC decides whether a CPG just gets issued (i.e., no controversy) or is transformed into a contested case (i.e., what amounts to a “significant issue” as used in the statute.
4. Discovery:	4. procedures for contested case proceedings following the Commission’s “significant issue” determination that include scheduling, site visits (including visibility demonstrations), discovery, and motions	This revision encompasses key elements of the contested case process after the PUC finds a “significant issue”, but includes site visits and what in the industry are referred to “visibility demonstrations” (usually a balloon test but increasingly might be drones, cranes, or other technology). Site visits are normally only done for contested cases (which makes sense), but note that in the revised version of (1), site visits and visibility demonstrations would ideally take place during the advance notice process.
5. Motion practice:	5. conduct of evidentiary hearings , including allowing for public participation, and streamlining the post-hearing briefing process to comply with the applicable review periods under 30 V.S.A. § 248a(f)	NOTE: “motion practice” is covered in (4) Purpose here is to incorporate the original (8), but also to position the process to comply with the 90 day / 180 day post-petition review process in 248a(f) (which the Commission acknowledged is not being done today).

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6. Setbacks:	6. evidentiary burdens for Section 248a criteria , including rebuttable presumptions of compliance from agency determinations	<p>NOTE: “Setbacks” has been removed because the vast majority of municipalities already have resource-specific setbacks in their ordinances / bylaws, and the PUC will most likely want to continue to defer to those (rather than creating a statewide standard). The PUC took the same approach with net-metered solar projects.</p> <p>This revision includes evidentiary burdens to make clear which parties are responsible for providing evidence on certain criteria, taking into account the effect of a concurrence letter from Division for Historic Preservation for historic sites, a wetlands permit from ANR, etc. This would help the transparency of the overall process, similar to when the PUC passed net metering rules in 2018.</p>
7. The scope of standing and the process for municipal entities and regional planning commissions to provide recommendations:	7. requirements for supplements and amendments to pending petitions , with standards for substantial and non-substantial changes	<p>NOTE: The standing / process questions for municipalities and RPCs is intended to be covered in (3), though the PUC has been consistent in giving automatic status to municipalities / RPCs.</p> <p>The inclusion of supplements and amendments is designed to result in clarity on when a change to a project requires the applicant to restart from the beginning with a new advance notice, versus when a change can be captured and incorporated prior to a decision (or following a decision and prior to construction), as well as providing clarity on when a change is substantial / non-substantial, similar to what the PUC did with its Section 248 rules.</p>

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8. The process for public participation in evidentiary hearings	8. streamlined administrative process for transfers of certificates of public good issued under Section 248a in whole or in part	NOTE: public participation is incorporated into (5). This is intended to address a standard condition in CPGs requiring that no transfer of the permit to occur without PUC approval. The PUC has never rejected these transfers, but they take a lot to prepare and are needlessly costly. The suggestion is to create something similar to net metered facilities, which allow a facility owner to fill out a form with specific information and file, resulting in an automatic transfer that the public can see. Again, this will improve overall transparency so that a stakeholder will know who owns / manages a tower and/or antenna facility at a given location.
9. Any other issues the Commission wants to consider.	9. any other issues topics the Commission wants to consider determines should be addressed through rules following consultation with stakeholders.	Phrasing has been changed to use “topics” instead of “issues,” but main point is to require the Commission to consult with stakeholders rather than deciding on its own what other topics it believes should be incorporated.
...	To the extent that the Commission determines that one or more of the foregoing topics are more expeditiously addressed through an order pursuant to 30 V.S.A. 248a(1), it may do so, provided that it explain its reasoning as part of the final proposed rules under this Section.	Currently under 248a(1), the Commission is given the authority to issue orders that establish standards / procedures instead of rulemaking, as appropriate. Idea here is to preserve that flexibility if some of the topics are better handled through orders, provided that the Commission submit its reasoning to LCAR.