

2.400 Proceedings Other Than Consumer Complaints**2.401 Tariff Filings**

- (A) General. Tariff filings, including amendments to existing tariffs, must be accompanied by a concise narrative description of their nature and effect, stated in terminology that is comprehensible to the general public.
- (B) Amendments. Except where substantially the whole of a separately identified section of a tariff is affected, an amendment to an existing tariff must be accompanied by a redline version showing all changes.
- (C) New services. Where a tariff filing covers a new service, or a modification of an existing service, estimates of revenues and costs attributable to such service for each of the three years succeeding the introduction of the new or modified service must be included with the filing. Schedules containing the information called for by this provision must be accompanied by a statement of the name of the person or persons responsible for their preparation, together with a description of any underlying documentation. The underlying documentation must be available through discovery immediately after the filing.

2.402 Rate Proceedings

- (A) Justification for change in rates. To enable the Commission to determine whether new rates proposed by any utility should be further investigated or suspended, all rate filings must contain complete and substantial justification for the proposed change, including the following:
- (1) detailed calculation of cost of service;
 - (2) detailed calculation of cost of capital;
 - (3) rate base calculation;
 - (4) the effect of the filing on annual operating revenues;
 - (5) projected construction expenditures by category for each of the following two years;
 - (6) for electric utilities, a detailed statement of purchased power and production costs (with fuel costs separately stated) by source for the 12 months leading up to the filing and a similar statement of projected purchased power and production costs by source for the 12 months succeeding the filing. Such costs for both periods must be shown net of sales to other utilities or, in the alternative, revenues from such sales must be separately stated.

- (B) Changes from previous order. Where a request for a change in rates proposes or utilizes any change in the ratemaking methodology or principles approved or utilized by the Commission in the most recent rate order affecting the same utility, such change must be clearly identified, and a statement of the reasons for such change must be given.
- (C) Exhibits and other information. In the case of a municipality or cooperative that has filed a notice of change in rates, if the Commission gives notice that it intends to investigate such change, then the municipality or cooperative must file exhibits, names of witnesses, and a statement of the purpose of their testimony within 30 days of the giving of such notice. Except in the discretion of the Commission, a utility may not introduce into evidence in its direct case exhibits that do not comply with this rule. This provision shall not be deemed to constitute a limitation on the Commission's authority to require the prefiling of direct testimony in any case at such time as the Commission may prescribe.

2.403 Petitions for Declaratory Rulings

Pursuant to 3 V.S.A. § 808, an interested person may petition the Commission for a declaratory ruling as to the applicability of any statutory provision or of any rule or order of the Commission. The petition must identify the statute, rule, or order involved, must include a proposed order of notice, and must be accompanied by a brief that conforms to the requirements of Rule 2.223. The existence of another adequate remedy does not preclude a judgment for declaratory relief in cases where it is appropriate.

2.404 Petitions for Adoption of Rules

Pursuant to 3 V.S.A. § 806, an interested person may petition the Commission requesting the promulgation, amendment, or repeal of a rule. The petition must describe the action requested, must state the reasons for the request, and must include a proposed order of notice.

2.405 Request for Tariff Investigation

Any interested person or entity may request that the Commission initiate an investigation pursuant to 30 V.S.A. § 227 into the justness and reasonableness of a utility's tariffs. Whether to undertake such an investigation is within the Commission's discretion.

2.406 Injunctions

(A) Definitions.

- (1) Temporary restraining order: an injunctive remedy that is issued either *ex parte* or under circumstances where the respondent has not been afforded an adequate opportunity to present its defense at a hearing held upon such notice as is otherwise required by law.
- (2) Preliminary injunction: an injunctive remedy issued after a hearing held upon legal notice but where the proceedings have not allowed the parties adequate

opportunity to avail themselves of all procedures provided for by these rules and by all other provisions of law. A preliminary injunction cannot remain in effect beyond the conclusion of the proceeding in which it is issued.

- (3) Permanent injunction: an injunctive remedy issued as final relief after a hearing held upon legal notice and where the proceedings have allowed the parties adequate opportunity to avail themselves of all procedures provided for by these rules and by all other provisions of law.
- (B) Particular requirements for temporary restraining orders; examination of witnesses by the Commission.
- (1) A petition for a temporary restraining order must be accompanied by affidavits or declarations attesting to all of its factual allegations.
 - (2) The Commission may require any facts alleged in the affidavits, declarations, or verified petition to be presented in oral testimony and may examine any witness testifying to such facts as to any matter that is relevant to the subject matter of the proceeding.
 - (3) The petitioner must deliver a copy of the petition to the respondent before filing or, if such delivery would require delay that might cause irreparable harm, as soon as possible. If actual delivery to the respondent has not been made before filing, the petitioner must notify the respondent or its attorney by telephone or by other means at the earliest possible time.
 - (4) A temporary restraining order may be issued only where it clearly appears from specific facts shown by the affidavits, declarations, or verified petition, and by testimony if required by the Commission, that substantial, immediate, and irreparable injury, loss or damage, or danger to health or safety will result before a hearing can be held upon proper notice.
- (C) Further proceedings after issuance of a temporary restraining order.
- (1) A petition for a temporary restraining order, whether it is so designated, also constitutes a petition for a preliminary injunction and a permanent injunction.
 - (2) A hearing on a preliminary or permanent injunction must be held as soon as practicable, unless the parties agree to a later date.
 - (3) Wherever possible, the Commission must attempt to make a final disposition of the proceeding, but if the proceedings do not allow the parties adequate opportunity to avail themselves of all procedures provided for by these rules and by all other provisions of law, then only a preliminary injunction may be issued.

- (4) If a temporary restraining order has previously been issued, it shall continue in force until a decision is rendered on the preliminary injunction or the permanent injunction, as the case may be, unless it is dissolved by its terms or by further order of the Commission.
- (D) Particular requirements for preliminary injunctions; further proceedings after issuance.
- (1) An application for a preliminary injunction, unless made in consequence of an application for a temporary restraining order as provided above, must be made by motion in connection with a petition for a permanent injunction.
 - (2) No preliminary injunction may issue unless the petitioner establishes that the irreparable injury that will be caused to the petitioner if a preliminary injunction is denied (discounted by the probability that the respondent will prevail in the proceedings on the permanent injunction) will be greater than any injury that the granting of the preliminary injunction will cause to the respondent.
 - (3) If a preliminary injunction is issued, the Commission must schedule such further proceedings as may be required for the permanent injunction; and the preliminary injunction shall continue in force until a decision is rendered on a permanent injunction unless it is dissolved by its own terms or by further order of the Commission.
 - (4) Unless the Commission otherwise orders, the record made in connection with the temporary restraining order and the preliminary injunction shall also constitute part of the record in the proceedings on the permanent injunction.
- (E) Other matters.
- (1) Conditions. The Commission must condition the issuance of a temporary restraining order or a preliminary injunction with such terms as justice and equity may require, including the giving of adequate security in favor of the respondent.
 - (2) Severance. In its discretion, the Commission may order the severance of proceedings on a request for injunctive relief from proceedings for other relief.
 - (3) Motion to dissolve. A motion to dissolve a temporary restraining order or preliminary injunction may be made at any time. The motion must state why the further proceedings scheduled on the matter are insufficient to protect the rights and interests of the moving party.
 - (4) Hearing officers. Unless the Commission determines that it will expedite the resolution of the proceeding or will otherwise further the ends of justice, no application for a temporary restraining order will be heard by a hearing officer.

- (5) Form of injunctions. A temporary restraining order, preliminary injunction, or permanent injunction must state the date and hour of its issuance and must be accompanied by findings of fact on all of the issues specified or referred to in this rule.

2.407 Forms for Certain Purposes

The following forms, which are available on request and many of which are available on the Commission's website, must be used for submissions to the Commission when applicable:

- notice of intervention
- motion to intervene
- certificate of public good municipal notice
- net-metering hearing request
- net-metering certificate of public good transfer
- net-metering certificate of public good transfer for net-metering systems sold separately from sale of land
- net-metering certificate of public good holder certification
- checklist for applications for net-metering systems greater than 50 kW that are not located on a roof and are not a hydroelectric facility
- net-metering registration
- net-metering application
- Department of Public Service and Public Utility Commission application fee
- Agency of Natural Resources application fee
- telecommunications certificate of public good registration
- mergers and acquisitions notification
- billing aggregators registration
- cellular provider registration
- interruption of electric service reports
- disconnection of service reports
- cable TV applications

2.408 Emergency Commission Action

- (A) When the Governor has proclaimed a state of emergency pursuant to 20 V.S.A. § 9, a person or entity may request that the Commission, or the Commission may on its own, take emergency action to prevent imminent financial injury, loss, damage, or hardship to ratepayers or a regulated entity, provided such injury, loss, damage, or hardship is related to the state of emergency. This rule governs requests that the Commission take emergency action, unless a more specific procedure is prescribed by another rule or statute.
- (B) Particular requirements for emergency requests.
- (1) Emergency action can be requested by filing a petition pursuant to this rule and

Rule 2.202. In an ongoing proceeding, emergency action can be requested by filing a motion pursuant to this rule and Rule 2.206.

- (2) The title of the filing requesting emergency action must include “Request for Emergency Commission Action Pursuant to Commission Rule 2.408.”
 - (3) A petition or motion for emergency action must be accompanied by affidavits or declarations attesting to all of its factual allegations.
 - (4) The Commission may require any facts alleged in the affidavits or declarations to be presented in oral testimony and may examine any witness testifying to such facts as to any matter that is relevant to the subject matter of the request.
 - (5) Unless the Commission otherwise orders, the record made in connection with the request for emergency action shall also constitute part of the record in any further proceedings relevant to the subject matter of the request.
- (C) Procedure.
- (1) Emergency action may be ordered either *ex parte*, without comments from other parties, or under circumstances where other parties have not been afforded an opportunity to present evidence at a hearing held upon such notice as is otherwise required by law.
 - (2) The Commission will only take emergency action where it clearly appears from specific facts shown by the affidavits or declarations, and by testimony if required by the Commission, that substantial immediate and irreparable financial injury, loss, damage, or hardship will result to ratepayers or a regulated entity before a proceeding concludes or a hearing can be held upon proper notice.
- (D) Duration. A Commission decision to take emergency action shall continue in force until the term designated in the order taking emergency action expires, unless it is dissolved by further order of the Commission.
- (E) Requests for extension or termination. The requesting party may file a motion to extend the emergency action. A motion to extend the emergency action must conform to the requirements of an initial filing for emergency action as described above in subsection (B). The requesting party may file a motion to end the emergency action at an earlier date.
- (F) Opportunity for objections and further proceedings. If emergency action is taken, the Commission will schedule such further proceedings as may be required or requested by other parties. The emergency action shall continue in force as described above in

subsection (D).

(G) Other matters.

- (1) Conditions. The Commission may condition emergency action with such terms as justice and equity may require.
- (2) Hearing officers. Unless the Commission determines that it will expedite the resolution of the proceeding or will otherwise further the ends of justice, requests for emergency action will be heard directly by the Commissioners.
- (3) Form of emergency action. An order authorizing emergency action must be accompanied by findings of fact on all of the issues specified or referred to in this rule, including that (a) the imminent injury, loss, damage, or hardship is related to the state of emergency; and (b) the emergency action is necessary to prevent imminent financial injury, loss, damage, or hardship to ratepayers or a regulated entity.