

Proposed 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 filing will be considered complete upon filing and acceptance of these forms and enclosures with the Office of the Secretary of State, and the Legislative 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 Proposed Filing Coversheet will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record. 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 2.000 Rules of Practice

Anthony Roisman , on March 31, 2022
(signature) (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 Filing Confirmed

1. TITLE OF RULE FILING:

Rule 2.000 Rules of Practice

2. ADOPTING AGENCY:

Vermont Public Utility Commission

3. PRIMARY CONTACT PERSON:

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

Name: Kyle Landis-Marinello, Esq.

Agency: Vermont Public Utility Commission

Mailing Address: 112 State Street, 4th Fl., Montpelier, VT
05602

Telephone: (802) 828-1158 Fax: (802) 828-3352

E-Mail: kyle.landis-marinello@vermont.gov

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

<https://epuc.vermont.gov/?q=node/64/151626>

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: John Cotter, Esq.

Agency: Vermont Public Utility Commission

Mailing Address: 112 State Street, 4th Fl., Montpelier, VT
05602

Telephone: (802) 828-1161 Fax: (802) 828-3352

E-Mail: john.cotter@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. §§ 9, 11(a), 11a(b), & 208.

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

Title 30 V.S.A. § 11(a) provides that "The forms, pleadings, and rules of practice and procedure before the Commission shall be prescribed by it. The Commission shall adopt rules . . ." Title 30 V.S.A. § 11a(b) authorizes the Commission to implement electronic filing and issuance of documents "by order, rule, procedure, or practice." Title 30 V.S.A. § 9 states that the Commission "shall have the powers of a court of record in the determination and adjudication of all matters over which it is given jurisdiction. It may render judgments, make orders and decrees, and enforce the same by any suitable process issuable by courts in this State." Title 30 V.S.A. § 208 provides that "A complaint to the Public Utility Commission may be made against a company subject to supervision under the provisions of this chapter concerning any claimed unlawful act or neglect adversely affecting the complainant . . ." The proposed amendments address each of the above-listed areas.

8. CONCISE SUMMARY (150 WORDS OR LESS):

The Commission has not comprehensively revised its rules of practice in many years. The proposed rule will update the Commission's rules of practice to, among other things, (1) reflect the implementation of the Commission's electronic filing system, (2) more clearly identify the portions of the Vermont Rules of Civil Procedure that apply in Commission proceedings, (3) better facilitate public participation in Commission proceedings, and (4) incorporate certain procedural changes that were made on an emergency basis during the COVID-19 pandemic.

9. EXPLANATION OF WHY THE RULE IS NECESSARY:

Clear and consistent rules of practice make it easier for stakeholders to participate in Commission proceedings and ensure that all stakeholders' procedural rights are protected.

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

There are currently three different sources that must be consulted to effectively participate in Commission

proceedings: (1) the current version of Rule 2.000, (2) the Vermont Rules of Civil Procedure, which are currently incorporated by reference into Rule 2.000, and (3) the Commission's Procedures for Electronic Filing Using ePUC. This causes a degree of difficulty for participation in Commission proceedings because of the need to consult three different procedural rule sources, especially for non-attorney, citizen participants. The changes are intended to alleviate this difficulty by incorporating all rules of procedure into a single source and clarifying their meaning and application. The changes reflect the input and requests from a great many individuals and entities that have practiced before the Commission.

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

Any individual, entity, or government agency appearing in a contested case before the Public Utility Commission. Examples include Vermont utilities, ratepayers, developers of and neighbors to proposed generation or transmission projects, public interest entities, state agencies such as the Vermont Department of Public Service, Agency of Natural Resources, and Agency of Agriculture, Food and Markets, and attorneys and non-attorneys representing the same.

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

It is possible that the changes to Rule 2.000 will result in some economic impacts to parties in constested cases before the Public Utility Commission, including regulated utilities and their customers (Vermont ratepayers). Specifically, the rule amendments may help to facilitate additional public participation in contested cases at the Commission. This could result in an increase in the number of formal parties in more controversial cases, potentially raising litigation costs, although it could also lead to a decrease in costs by making the process of participation easier for all parties.

13. A HEARING WILL BE SCHEDULED.

IF A HEARING WILL NOT BE SCHEDULED, PLEASE EXPLAIN WHY.

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:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

Date:

Time: AM

Street Address:

Zip Code:

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

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

Commission

rules of practice

Rule 2.000

ePUC

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 2.000 Rules of Practice

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 **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*):

#18-038, 30 000 2000 Rules of Practice, 09/15/2018

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:

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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:

(1) Regulated utilities and project developers: Costs. Regulated utilities and developers of generation and transmission projects may experience an increase in litigation costs to the extent the rule amendments result in an increase in the number of parties to contested case proceedings, such as rate cases and siting cases for generation and transmission

facilities. It is not possible to anticipate or quantify any cost increases that may result in any given case. However, cost increases, if any, are expected only in a limited number of more controversial cases. Benefits. All rules of procedure are in one location, providing efficiency and a reduction in costs to petitioning utilities and project developers. Further, opportunities for increased public participation can decrease litigation costs if it leads to an earlier resolution of issues.

(2) Government agencies. Costs. It is possible that government agencies may see a small increase in costs from the amendments if the amendments result in an increase in the number of parties in more controversial cases. Any such increases are expected to be limited in most cases given that state agencies, with the exception of the Department of Public Service, tend to participate on a limited number of issues in most cases. Benefits. All rules of procedure are in one location, providing efficiency to participating state agencies. Further, opportunities for increased public participation can decrease litigation costs if it leads to an earlier resolution of issues.

(3) Vermont Ratepayers. Costs. To the extent that the amendments result in increased litigation costs to rate-regulated utilities, those utilities will likely seek to recover the costs in rates from Vermont ratepayers. However, impacts to individual ratepayers are expected to be small because those costs would be distributed among all of a utility's ratepayers. Benefits. Obtaining information on how to participate in contested case proceedings before the Commission will be simplified for ratepayers that wish to participate in those proceedings. Further, opportunities for increased public participation can decrease litigation costs if it leads to an earlier resolution of issues.

(4) Intervenors. Costs. The rule amendments are not expected to increase costs for citizens and entities (such as public interest groups) seeking to participate in contested case proceedings before the Commission.

Benefits. Obtaining information on how to participate in contested case proceedings before the Commission will be simplified for intervenors that wish to participate in those proceedings. Further, opportunities for increased public participation can decrease litigation costs if it leads to an earlier resolution of issues.

(5) Benefits generally. The rule amendments are expected to facilitate the process of participation in contested case proceedings before the Commission, resulting in greater public participation in regulated utility matters. This is consistent with the legislative intent behind Act 174 of 2016, which encouraged the Commission to facilitate public participation in all of its proceedings.

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:

No impacts to schools are anticipated.

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.*

See response to number 4, above.

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 rule amendments are not expected to have any economic impact on small businesses outside of the potential litigation costs described above for regulated utilities and project developers, assuming that the smaller regulated utilities and project developers in Vermont fall into this category.

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 rule amendments do not create any new compliance obligations for any entity appearing in a contested case before the Commission. Rather, they clarify the rules of procedure for participating in such cases.

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:

The alternative to the rule amendments is leaving the current scenario in place. As explained earlier, the current scenario, with different categories of procedural rules found in three different sources, is less efficient than the outcome expected from the rule amendments. There is no way to create separate requirements for small businesses. The Commission has written its procedural rules to be as efficient as possible for all contested case participants, regardless of their size.

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

The Commission relied on its years of experience conducting contested case proceedings and the feedback it has received from participants in those proceedings. The Commission also conducted a process consisting of four rounds of comments and two workshops to receive feedback from interested persons and entities on the proposed rule amendments. The information received during this process, plus that gathered over years of experience conducting contested case proceedings, formed the basis for the Commission's assessment of potential economic impacts from the rule amendments.

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:

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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.):*

The rule amendments are not expected to impact greenhouse gas emissions, unless they encourage an increase in the use of electronic filing. If electronic filing increases, then there will be downward pressure on the production and transport of hard copies for filing purposes, resulting in a minor net decrease in greenhouse gas emissions.

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.):*

There will be no impact to water.

5. **LAND:** *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*
There will be no impact to land.
6. **RECREATION:** *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*
There will be no impact to recreation.
7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
There will be no impact to climate other than a possible minor decrease in greenhouse gas emissions as noted in response to number 3, above.
8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*
There will be no impact on other aspects of Vermont's environment.
9. **SUFFICIENCY:** *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
The analysis was conducted based on the Commission's experience with contested case proceedings. The rule amendments are procedural in nature and do not cause any impacts to the environment.

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 2.000 Rules of Practice

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:

The Commission has maximized and will continue to maximize public input on the proposed rule amendments by contacting and engaging as many potentially interested persons, entities, and organizations as possible, both in a pre-rulemaking format to best inform the proposed amendments, and in a formal rulemaking format, through public hearings and written comments before and after the filing of the proposed rule with the Secretary of State.

To date, the Commission has held two workshops and solicited four rounds of comments on the proposed rule amendments from interested persons and entities. The initial notice announcing the Commission's intent to adopt amendments to Rule 2.000 was sent to the Commission's stakeholder email distribution list, which contains approximately 380 recipients consisting of utilities, law firms, public interest groups, state agencies, trade groups, and others that have either participated in or expressed interest in Commission

Public Input

proceedings. A press release announcing the proposed rule amendments was also widely distributed.

In response to the initial announcement, the Commission has received comments from approximately 20 participants, ranging from interested citizens, law firms, utilities, developers, public interest groups, and state agencies. Many of these also participated in the two workshops.

Once the proposed rule is filed with the Secretary of State, the Commission intends to circulate the proposed amendments to the persons and entities that have actively participated in the development of the rule amendments so far. The Commission will schedule one or more public hearings as needed and will solicit at least two rounds of comments, one before and one after an initial public hearing.

The Commission will also post notice of the formal rulemaking on its website and will distribute a memorandum from the Clerk of the Commission to the Commission's stakeholder email distribution list to again notify the original group of approximately 380 recipients of the commencement of the formal rulemaking process.

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

To date, the following persons and organizations have participated in workshops or provided comments that assisted in developing the proposed rule amendments: the Vermont Department of Public Service, the Vermont Agency of Natural Resources, the Vermont Natural Resources Board, Green Mountain Power Corporation, Vermont Electric Cooperative, Inc., Vermont Gas Systems, Inc., Consolidated Communications of Vermont, LLC, and Consolidated Communications of Northland Company, Comcast of Connecticut/Georgia/Massachusetts/New Hampshire/New York/North Carolina/Virginia/Vermont, LLC, Efficiency Vermont, Paul Brouha, Vermonters for a Clean Environment, Renewable Energy Vermont, Allco Renewable Energy Limited, Green Lantern Development, LLC,

Public Input

AllEarth Renewables, Inc., Downs Rachlin Martin PLLC, Cindy Hill, Esq., Sheehey Furlong & Behm, Valsangiacomo, Detora & McQuesten, P.C., and Dunkiel Saunders Elliott Raubvogel & Hand, PLLC.

The Commission expects these persons and entities to continue to participate during the formal rulemaking process and welcomes participation by any additional interested persons and entities.