

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 22-2134-RULE

Proposed Vermont Public Utility Commission Rule 4.600 Defining “Electric Transmission Facility”	
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Order entered: 06/07/2022

NOTICE OF PROPOSED RULE

On September 27, 2017, the Commission requested comments on a proposed rule defining the term “electric transmission facility,” which appears in 30 V.S.A. § 248(a)(2)(A).¹ In today’s Order, the Vermont Public Utility Commission (“Commission”) initiates a formal rulemaking to propose Rule 4.600, which defines the term “electric transmission facility” and clarifies the class of facilities that fall within the scope of 30 V.S.A. § 248.

I. BACKGROUND

In 1972, the Commission issued General Order 51 (“GO 51”)² to provide a definition of the term “electric transmission facility.” GO 51 adopted a functional test focused on the primary purpose of the line or facility, but also established a bright-line test that specified that any tie-line (a line whose primary purpose is to interconnect portions of an electric system for area reliability purposes) and any line or facility designed to operate or be capable of operating over 30 kV is a transmission line in the absence of a Commission determination to the contrary.

In 1973, the Commission issued a letter providing two exemptions from the interpretation contained in GO 51 for projects involving the reconstruction of existing distribution lines or the construction of certain new distribution lines with lines insulated for 34.5 kV operation.³

In 1994, Central Vermont Public Service Corporation (“CVPS”)⁴ requested a declaratory ruling related to the definition of transmission in GO 51.⁵ GMP filed a similar request in 1995.⁶

¹ Case No. 17-4396-INV, Memorandum dated 9/27/17.

² GO 51 is included with this order as Attachment 1.

³ See *Petition of Central Vermont Public Service Corporation*, Docket 5738, Order of 6/17/94, at 3.

⁴ In 2011, CVPS was acquired by and merged into Green Mountain Power Corporation (“GMP”), with GMP as the surviving company.

⁵ Docket 5738, Order of 6/17/94, at 1.

⁶ *Petition of Green Mountain Power Corporation*, Docket 5834, Order of 8/31/95, at 1.

The companies explained that the preferred voltage for distribution systems had increased to 34.5 kV in the years since GO 51 had issued, which was above the 30 kV bright-line test set out in GO 51. As a result, 34.5 kV systems would be classified as transmission under GO 51 even though they functioned as distribution. CVPS and GMP asked the Commission to institute a formal rulemaking to address this issue as well as waivers of GO 51's bright-line test while the rulemaking was pending.⁷ These waivers have been routinely extended on an annual basis since they were first issued in 1994 and 1995.

The Commission opened a rulemaking proceeding in 1995 and circulated a draft proposed Rule 4.600 in 1998 (see Attachment 2). The rule draft mirrored the language of the waiver granted to GMP and CVPS, establishing a presumption that lines capable of operating above 34.5 kV were transmission and maintaining a definition of distribution lines that focused on the primary purpose of the line. The functional purpose test, however, concerned utilities, which preferred a bright-line test. In the absence of agreement consensus, the Commission did not continue with the rulemaking.

In 2003, the Commission circulated a revised draft Rule 4.600 that adopted a bright-line, voltage based test (*see* Attachment 3). Specifically, transmission facilities were defined as facilities capable of operating at 40 kV or above, substations at any voltage, and facilities capable of operating at 30 kV or above that delivered power to a substation or a transmission line. Utilities responded that many facilities within the state functioned as transmission lines but operated at voltages below the voltage levels specified in the revised draft rule, which rendered the bright-line rule ambiguous in application. In light of the participants' explanation that a voltage-based test alone was not adequate, the Commission did not proceed with the 2003 draft rule.

In 2006, the Commission circulated a third draft Rule 4.600 (Attachment 4) that returned to the functional test from the 1998 proposal (and GO 51) with some added presumptions (i.e., that facilities capable of operating at voltages greater than 34.5 kV were transmission). It also attempted to define what constituted a substation within the meaning of the rule. After several revisions, no consensus could be reached on the classification of certain facilities and the

⁷ Docket 5738, Order of 6/17/94, at 7; Docket 5834, Order of 8/31/95, at 6.

Commission again decided not to proceed. Since the last rule draft in 2006, Vermont utilities have continued to seek annual extensions of the Commission's 1994 waiver order in Docket 5738.

On September 27, 2017, the Commission opened Case No. 17-4396-INV to resume the rulemaking effort that stopped in 2006. The Commission requested comments on the 1998 draft rule proposal, which the Commission believed reflected the best approach based on the history of the Commission's efforts. Participants provided comments and a draft revised rule in response to the Commission's request. The Commission held a workshop on December 4, 2020, to discuss the participants' comments and draft Rule 4.600, and participants were invited to provide a second round of written comments after the workshop.

On November 18, 2021, the Commission requested a third round of written comments on a further-revised draft of Rule 4.600 based on the workshop discussion and participant comments, which the participants provided on December 17, 2021.

II. SUMMARY OF THE PROPOSED RULE

Proposed Rule 4.600 defines the term "electric transmission facility" and clarifies the class of facilities that fall within the scope of 30 V.S.A. § 248 through an updated definition that reflects modern distribution system characteristics in Vermont.⁸ The proposed rule provides a voltage-based definition of "electric transmission facility" that includes some functional clarifications and exceptions. The definition will provide clarity and guidance to distribution utilities on whether new projects require Commission approval under 30 V.S.A. § 248, and will reduce the burden of unnecessary filings with the Commission and eliminate the need for annual waivers of GO 51.

Out of the 19 participants in the proceeding, the Commission received comments from VEC and GMP on the November 18 draft of the rule.⁹ Both comments support the rule draft

⁸ Electric transmission facility projects require Commission approval under Section 248. Distribution facilities are not subject to Commission review under Section 248. *See Petition of Vermont Electric Cooperative, Inc. for a declaratory ruling*, Docket 8327, Order of 8/27/14 at 3-4 (quoting Docket 7659, Order of 11/17/10 at 5).

⁹ The following entities were participants in the proceeding: the Vermont Department of Public Service; Barton Village Inc. Electric Department; Green Mountain Power Corporation ("GMP"); Swanton Village, Inc. Electric Department; Town of Hardwick Electric Department; Town of Northfield Electric Department; Town of Stowe Electric Department; Vermont Electric Cooperative Inc. ("VEC"); Vermont Electric Power Company, Inc.; Vermont Public Power Supply Authority; Village of Enosburg Falls Water & Light Department Inc.; Village of Hyde Park

with one proposed language revision to clarify that distribution lines serving individual customers may originate from a transmission line or a substation, which has been included in the proposed rule. No other participants submitted comments.

Accordingly, proposed Rule 4.600 is consistent with the proposals reviewed in Case 17-4396-INV. A copy of the proposed rule is attached to this Order.

III. DEADLINE FOR COMMENTS

The Commission has pre-filed materials with the Interagency Committee on Administrative Rules (“ICAR”) for discussion at ICAR’s June 13, 2022, meeting. After filing with the Secretary of State, the Commission will provide an opportunity for participants to file comments on the proposed Rule. During the public comment period, Commission staff will hold one or more public hearings, as prescribed by ICAR. After the initial public comment period ends, the Commission may provide additional time for stakeholders to respond to comments, as necessary, and will determine if any additional process is needed.

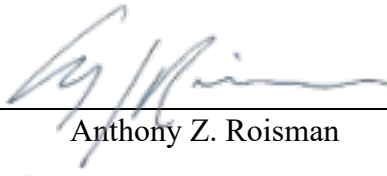
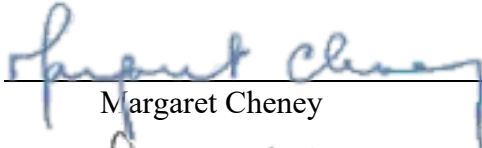
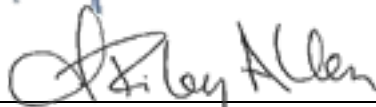
This rulemaking is being processed in the Commission’s online document management system, known as ePUC, which can be accessed at <https://epuc.vermont.gov>. Comments should be filed in ePUC using the “Add Briefs, Comments, or Discovery” action in Case No. 22-2134-RULE. Comments should not be filed using the “Public Comment” option. This proceeding is not a contested case. Anyone interested in participating should contact the Clerk of the Commission at puc.clerk@vermont.gov to be added to the service list for this proceeding.

Case 17-4396-INV will be closed by separate order.

SO ORDERED.

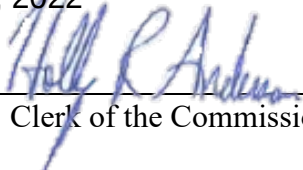
Electric Department; Village of Johnson Water & Light Department; Village of Ludlow Electric Light Department; Village of Lyndonville Electric Department; Village of Morrisville Water & Light Department; Village of Orleans Electric Department; Washington Electric Cooperative Inc.; and the City of Burlington Electric Department.

Dated at Montpelier, Vermont, this 7th day of June, 2022.

	)	
Anthony Z. Roisman	)	PUBLIC UTILITY
	)	
	)	
Margaret Cheney	)	COMMISSION
	)	
	)	
J. Riley Allen	)	OF VERMONT

OFFICE OF THE CLERK

Filed: June 7, 2022

Attest: 
Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

4.600 DEFINITION OF ELECTRIC TRANSMISSION FACILITY IN 30 V.S.A. § 248

4.601 PURPOSE

This rule defines the term “electric transmission facility” and clarifies the class of facilities that fall within the scope of 30 V.S.A. § 248. Facilities that are not electric transmission facilities as defined herein may be subject to review under other Vermont laws, such as 10 V.S.A. § 6001 (Act 250). A determination that a facility is or is not an electric transmission facility under this rule does not represent a finding for any other purpose, including with respect to 18 C.F.R. Parts 35 and 385 (Federal Energy Regulatory Commission Order No. 888 and amendments).

4.602 DEFINITION OF ELECTRIC TRANSMISSION FACILITY

For purposes of 30 V.S.A. § 248, a facility (including, but not limited to, an electric line) is an electric transmission facility if it is any one of the following:

- (A) a facility, other than an electric generation facility or an energy storage facility, constructed to be capable of operating at a nominal voltage greater than 34.5 kV line-to-line (19.9 kV line-to-ground);
- (B) a facility, other than an electric generation facility or an energy storage facility, constructed to be capable of operating at a nominal voltage equal to or less than 34.5 kV line-to-line (19.9 kV line-to-ground) if it delivers electric power:
 - (1) to a substation; or
 - (2) to or from a transmission line, subject to the exceptions provided below in Paragraph 4.603 of this rule;
- (C) a substation, including facilities located within the substation at any voltage, subject to the exceptions provided below in Paragraph 4.603 of this rule.

4.603 EXCEPTIONS

- (A) An electric transmission facility under 30 V.S.A. § 248 does not include a facility that operates at a nominal voltage of 34.5 kV line-to-line (19.9 kV line-to-ground) and delivers electric power from a transmission line or substation only to individual customers.
- (B) “Substation” does not include stepdown or single-customer transformers, as defined below.
 - (1) “Stepdown transformer” means a transformer, along with associated fuses and sectionalizing switches, that reduces voltage and connects two or more facilities, where none of the connected facilities are electric transmission facilities.
 - (2) “Single-customer transformer” means one or more transformers and associated facilities that:
 - (a) serves only one customer;
 - (b) has a top nameplate capacity of no more than 5 MVA; and

(c) delivers nominal secondary voltage of 600 volts or less.

(B) A “transmission line” does not include a line that:

- (1) existed as a distribution line prior to the interconnection of an electric generation facility or transmission line, and
- (2) will continue to be operated as a distribution line after such interconnection.

PUC Case No. 22-2134-RULE - SERVICE LIST

Participants:

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(for Vermont
Department of Public
Service)

Other entities receiving notice outside ePUC:

Large PUC email list

Participants in Case #17-4396-INV