

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 4.600 Definition of Electric Transmission Facility
in 30 V.S.A. § 248**

_____/s/ Anthony Z. Roisman

(signature)

, on 05/19/22

(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 4.600 Definition of Electric Transmission Facility in 30 V.S.A. § 248

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: Micah Howe, Staff Attorney

Agency: Vermont Public Utility Commission

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

Telephone: (802) 828-2358 Fax: (802) 828-3351

E-Mail: micah.howe@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: Mary Jo Krolewski

Agency: Vermont Public Utility Commission

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

Telephone: (802) 828-2358 Fax: (802) 828-3351

E-Mail: mary-jo.krolewski@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. § 2(c); 30 V.S.A. § 209; 30 V.S.A. § 248

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

30 V.S.A. § 2(c) allows the Public Utility Commission ("Commission") to initiate rulemaking proceedings on issues within its jurisdiction. 30 V.S.A. § 248(a)(2) gives the Commission jurisdiction over the construction of any "electric transmission facility" in Vermont.

8. CONCISE SUMMARY (150 WORDS OR LESS):

The proposed rule defines the term "electric transmission facility," which appears in 30 V.S.A. § 248.

9. EXPLANATION OF WHY THE RULE IS NECESSARY:

The Commission issued General Order 51 in 1972 to provide a definition of the term "electric transmission facility." In 1994, two utilities petitioned the Commission for waivers of the definition contained in General Order 51 to reflect changes in the design of transmission and distribution networks. The Commission granted the waivers and commenced a rulemaking to develop a revised definition, but never completed the rule. The proposed rule will provide an updated, firm definition of electric transmission facility and eliminate the need for the Commission to annually renew waivers of the definition established in General Order 51.

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

Before filing this rulemaking, Commission staff conducted a workshop and received several rounds of comments from stakeholders, which informed this filing. Stakeholders included the Vermont Department of Public Service and Vermont distribution and transmission utilities. The most recent workshop continues discussions that began with the initial rulemaking proceeding in 1995, which resulted in draft language proposals in 1998, 2003, and 2006. The proposed rule language reflects a consensus revision of the draft rule language from 2006 by the stakeholders that participated in the workshop.

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

The Department of Public Service
Vermont distribution utilities
Vermont transmission utilities

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

The definition of "electric transmission facility" will provide guidance to distribution utilities on whether a project should be classified as a transmission or distribution facility, reducing uncertainty about whether a project requires Commission approval under 30 V.S.A. § 248 and avoiding filings by distribution utilities with the Commission for projects that do not require Commission approval. Eliminating unnecessary filings will reduce the regulatory burden on distribution utilities and save Commission resources.

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).

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 4.600 Definition of Electric Transmission Facility
in 30 V.S.A. § 248**

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 **A NEW RULE** .

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

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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2. ADOPTING AGENCY:

Vermont Public Utility Commission

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:

The Department of Public Service.

Vermont electric distribution utilities.

Vermont electric transmission utilities.

Establishing a definition of "electric transmission facility" will provide guidance to distribution utilities on whether a project should be classified as

a transmission or distribution facility, reducing uncertainty about whether a project requires Commission approval and avoiding filings by distribution utilities with the Commission for projects that do not require Commission approval. Eliminating unnecessary filings will reduce the regulatory burden on distribution utilities and save Commission resources. Incorporating the definition into a rule will also eliminate the need for the Commission to annually provide waivers under General Order 51 for high-voltage distribution projects.

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:

The new rule will not have any impact on public education, public schools, local school districts, or taxpayers.

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.*

None. The new rule will not impose costs on schools.

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 new rule will not have any impact on small businesses.

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 amended rule will not impose costs or burdens on small businesses.

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:

There is currently no modern definition of the term

"electrical transmission facility" in 30 V.S.A. § 248 that a distribution utility can refer to for guidance when determining whether the utility is required to file a petition for a Certificate of Public Good under 30 V.S.A. § 248 with the Commission. The definition provided by the Commission in General Order 51 (1972) is outdated. As a result, distribution utilities petition the Commission each year for waivers to the guidance provided by the Commission in General Order 51. Providing a definition by rule will eliminate the need for the annual petition process and provide clarity on permitting requirements for distribution utility projects.

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

The Public Utility Commission conducted a workshop and solicited comments from stakeholders to identify the problems with General Order 51 and the appropriate solution.

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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in 30 V.S.A. § 248**

2. ADOPTING AGENCY:

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.):*

None.

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.):*

None.

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

None.

6. RECREATION: *EXPLAIN HOW THE RULE IMPACT RECREATION IN THE STATE:*

None.

7. **CLIMATE:** *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

None.

8. **OTHER:** *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

None.

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

The Public Utility Commission conducted a workshop and solicited comments from stakeholders to identify the problems with General Order 51 and the appropriate solution. Utilities will still be required to obtain Commission approval through a Certificate of Public Good for transmission projects in the state. The Commission reviews environmental impacts as a part of the Certificate of Public Good process. Distribution facilities may be subject to review under Act 250.

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 4.600 Definition of Electric Transmission Facility
in 30 V.S.A. § 248**

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:

Before filing this formal rulemaking, Commission staff conducted a workshop on December 4, 2020, and received several rounds of comments from stakeholders, which informed this filing. The December 4 workshop continued discussions that began in the initial rulemaking proceeding in 1995 and produced several draft language proposals in 1998, 2003, and 2006. The proposed rule language reflects a consensus revision of the draft rule language from 2006 by the stakeholders that participated in this proceeding.

During the formal rulemaking process, the Commission will hold at least one public hearing on the rule and will have a public comment period as required by 3 V.S.A. § 840.

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

The Vermont Department of Public Service; Barton Village Inc. Electric Department; Green Mountain Power

Corporation; Swanton Village, Inc. Electric Department; Town of Hardwick Electric Department; Town of Northfield Electric Department; Town of Stowe Electric Department; Vermont Electric Cooperative Inc.; Vermont Electric Power Company, Inc.; Vermont Public Power Supply Authority; Village of Enosburg Falls Water & Light Department Inc.; Village of Hyde Park 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.

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.