

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 5.400 5.400 PETITIONS TO CONSTRUCT ELECTRIC AND GAS
FACILITIES PURSUANT TO 30 V.S.A. § 248**

/s/ Anthony Z. Roisman , on 05/04/23
(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 5.400 5.400 PETITIONS TO CONSTRUCT ELECTRIC AND
GAS FACILITIES PURSUANT TO 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: John J. Cotter, Esq.

Agency: Vermont Public Utility Commission

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

Telephone: 802-461-6364 Fax: 802-828-3352

E-Mail: john.cotter@vermont.gov

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

<https://epuc.vermont.gov/?q=node/64/156798>

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: Elizabeth Schilling, Esq.

Agency: Vermont Public Utility Commission

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

Telephone: 802-828-1164 Fax: 802-828-3352

E-Mail: elizabeth.schilling@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), 9, 11(a), and 248.

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

Title 30 V.S.A. § 2(c) states that "[t]he Public Utility Commission, with respect to any matter within its jurisdiction, may issue orders on its own motion and may initiate rulemaking proceedings." 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. §§ 248(a)(2)(A) and (a)(3) prohibit the site preparation for or construction of an electric generation facility, energy storage facility, electric transmission facility, or natural gas facility in Vermont without the developer first obtaining a certificate of public good from the Commission. Section 248 places the review of applications for these projects within the Commission's jurisdiction, and Sections 2(c) and 11(a) grant the Commission the authority to promulgate rules by which to conduct those reviews.

8. CONCISE SUMMARY (150 WORDS OR LESS):

The amendments proposed for Commission Rule 5.400 serve four primary purposes. First, the proposed amendments provide increased clarity on the information that must be filed for a Section 248 petition to be considered complete. Second, they update the means by which parties can exchange and collect information in response to technological advances and our experience with the COVID-19 pandemic. Third, they provide clarity on the processes that must be followed when petitioners seek to amend projects that are under review, and projects that have been reviewed and approved. Fourth, the amendments simplify the process for certain persons and entities to intervene as parties in Section 248 cases.

9. EXPLANATION OF WHY THE RULE IS NECESSARY:

Rule 5.400 establishes the requirements and procedures for filing petitions for proposed projects that require review and approval under 30 V.S.A. § 248. Although the Commission has a few times made minor changes to Rule 5.400 in recent years, it has been several years since the Commission reviewed the rule in its entirety.

Commission practices have changed significantly in those years. The biggest change has been our move to electronic filing and case management through ePUC. Also, consistent with Act 174 of 2016, the Commission constantly seeks to facilitate public participation in all of our proceedings. Lastly, the number of cases filed under Rule 5.400 has increased dramatically in recent years. The Commission proposes a number of amendments to respond to these changes, as well as changes to clarify the requirements of Rule 5.400 so that petitions are both complete and more consistent at the time they are filed.

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

The proposed changes are based on changes in the manner in which the Commission conducts its statutory obligations under Section 248. They reflect the implementation of electronic filing, the increased use of technology by case participants, and the large percentage increase in Section 248 siting cases that have come before the Commission in recent years. To address that large increase in Section 248 cases the rule amendments provide increased clarity in filing requirements to ensure greater efficiency in the initial processing of petitions, take advantage of changes in how people communicate and exchange information, and recognize that with an increase in Section 248 siting cases comes a concurrent increase in public interest in participating in those cases.

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

Any person or entity filing a petition for a certificate of public good for a project under 30 V.S.A. § 248 and anyone participating or wanting to participate in the review of a proposed project. Examples include utility and non-utility petitioners, ratepayers, the Vermont Department of Public Service, the Vermont Agency of Natural Resources, the Vermont Division for Historic Preservation, the Vermont Agency of Agriculture, Food & Markets, owners of land that abuts a proposed project, and businesses that may be affected by a proposed project.

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

It is possible that the amendments will require some

petitioners to expend additional resources in advance of filing a petition under Section 248 as a result of the expanded specificity regarding the content of Section 248 petitions. However, any increase in costs in preparing the petition are expected to be offset, at least in part, by greater efficiency in the review process resulting from the reduction or elimination of the need for the Commission to direct petitioners to provide additional information after a petition is filed.

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:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

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).

Rule 5.400

30 V.S.A. § 248

contents of petition

substantial change

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 5.400 5.400 PETITIONS TO CONSTRUCT ELECTRIC AND
GAS FACILITIES PURSUANT TO 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 **AN AMENDMENT OF AN EXISTING RULE.**

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

#17-049, 30-000-5400, REQUIREMENTS FOR PETITIONS TO
CONSTRUCT ELECTRIC AND GAS FACILITIES, 9/1/17; December
2017 [agency name change from Public Service Board;
rule renumbered from 30 000 056]

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:

**Rule 5.400 5.400 PETITIONS TO CONSTRUCT ELECTRIC AND
GAS FACILITIES PURSUANT TO 30 V.S.A. § 248**

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:*

(1) Section 248 petitioners: Costs. Section 248 petitioners may experience some increase in the costs of preparing petitions for filing with the Commission due to the increased specificity of petition content requirements imposed by the amendments. Additionally, the amendments simplify the process for intervention in

Section 248 proceedings for some persons and entities, which could increase the number of parties to a case. However, the simplified process is available only to persons or entities that the Commission has historically found to meet the requirements for intervention even when their intervention requests are contested by petitioners. Benefits. Increase in the likelihood that petitions will be deemed complete upon the first petition filing and decrease in the need for the Commission and other parties to seek additional information not provided in a petition, yielding greater efficiency overall.

(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 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. State agencies will receive more complete information at the time the initial petition is filed, decreasing the need to expend resources to gather additional information during a case through discovery or other legal processes.

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 those costs in rates from Vermont ratepayers. However, any cost increases are expected to be small and at least in part offset by increased efficiencies in processing Section 248 petitions. Additionally, impacts on individual ratepayers are expected to be minimal because those costs would be distributed among all of a utility's ratepayers. Benefits. Increased efficiency in processing Section 248 petitions leads to more efficient planning by utilities in serving customers and decreased uncertainties regarding utility services.

(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. The amendments simplify the process of intervention for persons and entities that the Commission has historically found to have sufficient interests in Section 248 proceedings to meet the standard for intervention even when challenged by petitioners. The amendments will also result in more detailed information being provided at the time of the initial petition filing, allowing potential intervenors to better assess whether seeking intervention in a case is necessary at all, and if so, whether their intervention can be limited to discrete issues.

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 amendments are not expected to have any impact on Vermont schools.

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 limited potential 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 filing a Section 248

petition with the Commission. Rather, they clarify the information that must be included with a Section 248 petition for it to be considered complete at the time it is first filed. Both Section 248 and the current version of Rule 5.400 require a petitioner to submit the information necessary for the Commission to make all findings required under Section 248. Without the additional clarity provided by the amendments, there is an increased likelihood that initial petitions will be deemed incomplete and additional effort will need to be expended by petitioners in providing needed information that was not included in their initial petition filing.

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 rule in place. As discussed above, this would result in the continued greater likelihood of Section 248 petitions being found incomplete at the time of initial filing, and therefore in need of supplementation. It would also increase the likelihood of other parties needing to engage in more discovery or other legal processes to obtain information they need to present their positions to the Commission. Assuming that smaller Section 248 developers and Vermont's smaller electric utilities are considered small businesses under this section, there is no mechanism for providing separate requirements for small businesses that by law must seek a Section 248 certificate of public good like all other petitioners, absent some statutory exception allowing for a more simplified process for these entities. For example, the Legislature has granted statutory authority to the Commission to simplify the certificate of public good processes for net-metering projects, small renewable energy projects, and temporary meteorological tower projects.

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 reviewing petitions under 30 V.S.A. Section 248 and the feedback it has received from participants on those proceedings, including petitioners, state agencies, and intervenors.

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:

**Rule 5.400 5.400 PETITIONS TO CONSTRUCT ELECTRIC AND
GAS FACILITIES PURSUANT TO 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.):*

The amendments are not expected to result in any increase in greenhouse gas emission levels. However, allowing petitioners to complete landowner research online may result in a slight reduction 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.):*

The amendments are not expected to have any impacts on the discharge of pollutants into Vermont's waters or to impact water quality in any way.

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

The amendments are not expected to impact land use in any way.

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

The amendments are not expected to impact recreation in any way.

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

The amendments are not expected to impact climate in any way.

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

The amendments are not expected to impact Vermont's environment in any way.

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

The analysis was conducted by assessing the existing Rule 5.400 against the proposed amendments to Rule 5.400. The amendments provide clarification of the materials required to file a complete Section 248 application and simplify the intervention process for certain persons and entities. They will not result in any increase or decrease in the number of applications or petitions being filed with the Commission under Section 248. Therefore, no increase or decrease in environmental impacts are expected as a result of the amendments.

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 5.400 5.400 PETITIONS TO CONSTRUCT ELECTRIC AND
GAS FACILITIES PURSUANT TO 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:

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 six 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 5.400 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

Public Input

participated in or expressed interest in Commission proceedings.

In response to the initial announcement, the Commission has received comments from approximately 20 participants, ranging from attorneys, 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 start 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; the Vermont Agency of Agriculture, Food and Markets; Green Mountain Power Corporation; All Earth Renewables, Inc.; Downs Rachlin Martin PLLC; Cindy Hill, Esq.; Green Lantern Capital LLC; Sheehey Furlong & Behm; Stackpole & French Law Offices; Vermont Public Power Supply Authority; Vermont Electric Power Company, Inc.; Vermont Transco LLC; Dunkiel Saunders Elliott Raubvogel & Hand, PLLC; Vermont Electric Cooperative, Inc.; Vermont Gas Systems, Inc.;

Public Input

Conservation Law Foundation; Renewable Energy Vermont;
and Encore Renewable Energy.

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.