

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 21-0861-RULE

Proposed revisions to Vermont Public Utility Commission Rule 5.400	
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Order entered: 05/05/2023

**ORDER RE AMENDMENTS TO BE FILED WITH
INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES**

I. INTRODUCTION

In today’s Order, the Vermont Public Utility Commission (“Commission”) notifies the participants that it will begin the formal rulemaking process by filing a draft proposed rule with the Vermont Interagency Committee on Administrative Rules. The Commission is also providing the participants with clean and redline copies of the rule amendments showing edits to the version that was circulated by Commission Order dated November 22, 2022.¹

II. DISCUSSION

On November 22, 2022, the Commission issued an order along with clean and redline versions of amended Rule 5.400 reflecting the latest changes made in response to participant comments. The Commission also announced its intent to begin the formal stage of this rulemaking by filing that version of the rule amendments with the Interagency Committee on Administrative Rules (“ICAR”).

However, on December 16, 2022, the Commission received additional comments on the proposed amendments from two participants, Sheehey, Furlong & Behm (“Sheehey”) and Green Mountain Power Corporation (“GMP”). After consideration of those comments, the Commission decided to make some additional changes to the proposed amendments. Those changes are discussed below.

A. 5.403(A)(7) site plan contents

Rule 5.403(A)(7) provides a list of specific items that must be included in the site plans filed for a proposed project. Both GMP and Sheehey commented on the requirements of this

¹ For a detailed discussion of the background and history of this proceeding, please see the Commission’s Order dated November 22, 2022.

section, either generally or on the requirements of specific subsections. They both described the advantages of being able to provide the required information in documentation other than site plans.

As a result, the Commission has decided to further amend the section to allow the information required to be presented in site plans or other documentation. If a petitioner elects to provide the information somewhere in its filing other than a site plan, then that petitioner must specifically identify by witness and page number, or exhibit and page number, the location of the information in its petition and supporting materials in the index of evidence required by Section 5.403(A)(16).²

B. 5.403(A)(7)(b) setbacks to project boundaries and residences

Both Sheehey and GMP described the difficulties that would be experienced by linear projects in meeting the requirements of this subsection. After careful consideration of these comments, the Commission has decided to amend Section 5.404(B) to exempt linear projects from the requirements of Section 5.403(A)(7)(b).

C. 5.403(A)(10) cross-section requirements

After reviewing comments from GMP that the information required to be included in cross-sections may be better presented elsewhere in a petition and its supporting materials, the Commission has amended this section of the rule to allow the information to be presented elsewhere in a filing. Like the changes described above to Section 5.407(A)(7), if a petitioner elects to provide the information somewhere in its filing other than a cross-section, then that petitioner must specifically identify by witness and page number, or exhibit and page number, the location of the information in its petition and supporting materials in the index of evidence required by Section 5.403(A)(16).

D. 5.403(A)(13)(d) elevation drawing requirements

Similar to the revisions made to Sections 5.403(A)(7) and 5.403(A)(10), Section 5.403(A)(13)(d) has been revised to allow the required information to be presented outside of the

² Because this amendment applies to each subsection under Section 5.407(A)(7), it addresses concerns expressed by GMP with respect to several of the individual subsections.

elevation drawing. Again, if a petitioner elects to provide the information somewhere in its filing other than the elevation drawing, then that petitioner must specifically identify by witness and page number, or exhibit and page number, the location of the information in its petition and supporting materials in the index of evidence required by Section 5.403(A)(16).

E. 5.404(B)(3) linear project requirements

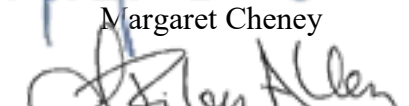
This section has been renumbered to 5.403(B)(4) because of the addition of a new Section 5.404(B)(1), and now allows petitions for linear projects to meet the requirements of Section 5.403(A)(10) through the submission of plan and profile sheets that include (1) a perpendicular view of the line, and (2) an aerial image of the corridor with the line drawn in.

III. CONCLUSION

The Commission again thanks all the participants in this proceeding for their time and thoughtful comments. The Commission intends to file the attached version of the proposed amendments with the Interagency Committee on Administrative Rules and then the Secretary of State as soon as practicable. Further comments and participation in the amendment of Rule 5.400 will then follow the formal rulemaking procedures described in the Vermont Administrative Procedure Act. As noted above, the Commission will process the rulemaking in ePUC and will retain the same case number (21-0861-RULE).

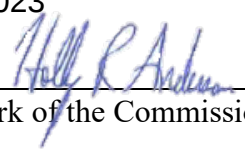
SO ORDERED.

Dated at Montpelier, Vermont, this 5th day of May, 2023.

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

OFFICE OF THE CLERK

Filed: May 5, 2023

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)

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