Community is at the Heart of VPPSA.

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VPPSA Response to Proposed Rulemaking Proceedings
Case No. 24-1079-RULE and Case No. 24-1080-RULE
Proposed Revisions to PUC Rules 3.300 & 3.400

On May 7, 2024, the Vermont Public Utility Commission (PUC) issued its memorandum announcing the rulemaking proceedings under Case No. 24-1079-RULE and 24-1080-RULE governing PUC Rules 3.300 and 3.400 which govern utility disconnections[1]. The Memorandum issued notice of a Public Workshop, held on Wednesday, May 22, 2024 and established a deadline for written comments on Friday, May 31, 2024.

The proposed Rule Revisions were discussed at-length and for several years under Case No. 17-4999-INV, an investigative proceeding to consider revisions to Rules 3.300, 3.200, and 3.400. The Case Log and docket history demonstrates a lengthy and disputed investigative proceeding, including recent collaborative efforts by both the Department of Public Service (PSD) and the state's Distribution Utilities

[1] See PUC Memorandum with initial proposed rules, including Notice of Public Workshop and written comments filing deadline in Case No. 24-1079-RULE and Case No. 24-1080-RULE.

(DUs) to seek consensus on appropriate and practical revisions to a fully regulated business operations process that ensures adequate payment for delivery of services to customers. On November 17, 2023, the PUC Ordered a Public Workshop which highlighted a need to "…prioritize meeting the requirements of, Vermont Act No. 47 (S.100) of 2023 *An act relating to housing opportunities for everyone* (see: Sec. 25a. UTILITY DISCONNECTION; LANDLORD NOTIFICATION; PUBLIC UTILITY COMMISSION; RULEMAKING), by the Act's deadline of January 1, 2024.[2]"

The Vermont Public Power Supply Authority ("VPPSA") has participated in the Commission's informal and now formal rulemaking process and incorporates its comments within related to both Case No. 24-1079-RULE (Vermont PUC Rule 3.300) and 24-1080-RULE (Vermont PUC Rule 3.400). In particular, VPPSA has specific proposed edits to changes to the definition(s) of Delinquency, proposed language to clarify and honor the legislative intent of Act 47's requirements related to Landlord Notice of Disconnections, requests explicit definitions of allowable information disclosures to landlord or property owners, and seeks explicit determination on the PUC's expectations around implementing these proposed revisions, revisions which substantially alter major business operations, including core operational technologies such as billing and customer information systems.

VPPSA, as an instrumentality of the State of Vermont, is dedicated to supporting and advancing the interests of its eleven (11) municipally owned electric

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[2] See PSD Recommendations re Act 47 Implementation, filed December 15, 2023 under Case No. 17-4999-INV.

utilities, including the customers and communities they serve.[3] In aggregate, VPPSA's member utilities serve over 30,000 customers in 50 communities across Vermont in some of the most economically underprivileged and rural areas in the state, including several federally recognized Disadvantaged Communities through the U.S. Council on Environmental Equity's Climate and Economic Justice Screening Tool (CEJST).[4]

Proposed Revisions to 3.301 Definitions

VPPSA objects to the change in definition of "Delinquency". Requiring a "due date" at least 30 days after mailing is not practical. Such a change would either require a rolling due date which would move the due date 7 days forward in 6-months' time OR it would require utilities to bill their customers before the previous invoice was due. Both scenarios are likely to create confusion for our customers and create barriers to effectively budgeting household income and expenses.

VPPSA proposes, instead of changing the definition completely that the Rule removes the distinction between postmark or electronic transmittal date as follows:

> **3.301(C) Delinquency:** *Failure of the customer to tender payment for a valid bill or charge* within thirty days of the postmark date or electronic transmittal of that bill or charge, *which "due date" must included either on the bill,* or *in the electronic transmission.*

> **3.401(C) Delinquency:** *Failure of the customer to tender payment for a valid bill or charge* within thirty days of the postmark date or electronic transmittal of

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[3] VPPSA Member Utilities include Barton Village; Village of Enosburg Falls; Hardwick Electric Department; Village of Jacksonville; Village of Johnson; Ludlow Electric Light Department; Lyndon Electric Department; Morrisville Water & Light; Northfield Electric Department; Village of Orleans; and Swanton Village.
[4] See Climate and Economic Justice Screening Tool published Nov. 22, 2022.

that bill or charge, *which "due date" must included either on the bill, or in the electronic transmission.*

<u>Proposed Language of Section 3.301 & Section 3.401 Definitions (Filed with ICAR)</u>

<u>3.301(C) Delinquency</u>: *Failure of the customer to tender payment for a valid bill or charge (1) for bills sent by mail, by a "due date" at least 30 days after mailing, which "due date" must be printed on the bill, or (2) for bills sent electronically, within 30 days after electronic transmittal of the bill, the date of which and the "due date" must be included in the electronic transmission.*

<u>3.401 (C) Delinquency</u>: *failure of the customer to tender payment for a valid bill or charge (1) for bills sent by mail, by a "due date" at least 30 days after mailing, which "due date" must be printed on the bill, or (2) for bills sent electronically, within 30 days after electronic transmittal of the bill, the date of which and the "due date" must be included in the electronic transmission.*

<u>Current Language of Section 3.301 & Section 3.401 Definitions (Amended effective: 7/21/06)</u>

3.301 (B) Delinquency: *failure of the ratepayer to tender payment for a valid bill or charge (1) within thirty days of the postmark date of that bill or charge, or (2) by a "due date" at least thirty days after mailing, which date shall be printed on the bill.*

3.401 (B) Delinquency: *failure of the ratepayer to tender payment for a valid bill or charge (1) within thirty days of the postmark date of that bill or charge, or (2) by a "due date" at least thirty days after mailing, which shall be printed on the bill and which shall control in the absence of a postmark.*

Proposed Revisions to Section 3.302

During the 2023 Legislative Session, Act 47 was meant to ensure equitable housing opportunities to all, but as enacted, it encompasses mandates that create unintended consequences and complicated requirements for those individuals it was designed to support. According to the Vermont Department of Housing and

Community Development (DHCD)'s summary[5], Section 25a of Act 47 aka the "HOME Act of 2023" calls for:

> *§25a – Utility Disconnection & Landlord Notification Rulemaking: Directs the Public Utilities Commission (PUC) to revise rules regarding utility service disconnections to require utilities to notify property owners if utility service to the property has been disconnected, even if the tenant is the ratepayer. This would include water and sewer services provided by municipality, fire district, or private company. Also allows remote disconnect by utility. Draft legislation that incorporates the rules is due January 1, 2024.*

The proposed revisions of Section 3.302(C)(1) Disconnection of Rental Units clearly states the purpose of property owner notice is "…promoting safety, the protection of property, and aid to tenants." It can be reasonably inferred the property owner notice is most applicable during the heating months when severe temperatures can create substantial plumbing or structural damage from loss of heat, particularly where only electric heating systems exist.

VPPSA proposes the following revisions to Section 3.302(C)(1) Disconnection of Rental Units to better align with actual risk to property, safety, or tenants:

> **3.302(C)(1)** During the applicable Winter Disconnection period identified under Section 3.304, a utility must provide notice to the property owner of residential rental property if utility service to the property has been disconnected, even if the tenant is the customer, for the purpose of promoting safety, the protection of property, and aid to tenants.

[5] See Vermont Agency of Commerce and Community Development (ACCD), *Vermont HOME Act of 2023, Act 47 (S.100) Memorandum* (dated June 28, 2023).

Explicit Definition of Allowable Disclosures Under Section 3.302(C)(2)(a)

The complex web of data privacy and consumer protection rules for all businesses, including utilities to protect and defend customers' personally identifiable information from unauthorized users is a mandate VPPSA members strongly uphold.

While the PUC's legislative mandate appears limited under *§25a* to simply notify property owners if utility service to the property has been disconnected, even if the tenant is the ratepayer, there are a host of personal privacy and customer/consumer protection implications for a utility disclosing an individual's financial circumstances or ability to pay, ultimately identifiable through the service address. Already Vermont has a number of landlord responsibility and tenant protection rules and regulations, notwithstanding the added considerations around data privacy and consumer protections under fair credit reporting and monitoring rules.

To that end, VPPSA strongly implores the PUC to leave no room for ambiguity on what does and does not constitute PII under these rule revisions and explicitly define the boundaries of allowable information to be disclosed by the utility to a landlord or property owner. For a property owner to "…reconnect utility service to the property" as required under Section 3.302(C)(2)(a), the Rule should explicitly identify what information CAN be disclosed to enable reconnection.

Extended Timeline for Implementation and Rules' "Effective Date"

VPPSA's member utilities remain committed to providing safe, reliable and affordable service to the customers and communities they serve. It is however, important to stress, that implementing new data collection, retention, and notification requirements proposed under Section 3.302(C)(1); 3.302(C)(2) and 3.302(C)(3) and the corresponding sections in 3.400 will require a more generous "Effective Date" deadline to reach compliance. The revisions proposed under Section 3.302 will require a robust outreach and engagement campaign for property owners, landowners, and tenants to ensure adequate and accurate data collection. The proposed rule requirements may also have a significant impact on the utility's existing customer data collection processes, procedures for handling Personally Identifiable Information (PII), and, depending on implementation methods, may also require time-consuming and/or costly upgrades to customer information (CIS) and/or billing systems, including processes regarding landlord notices for the disconnection of a tenant-named electrical service.

We would like to bring to your attention and emphasize that the implementation of these new requirements necessitates significant changes to our business processes affecting customer applications for service, and internal billing systems. Affecting these changes in a careful and thoughtful manner is crucial to fulfilling customer expectations.

Given the complexity of these changes to ensure compliance, the potential impact on our customers, and to maintain the high quality of service our members' communities and customers receive, it is in the best interest of all stakeholders to ensure a through and precise implementation timeline. Therefore, we respectfully suggest and request that the PUC consider an extended timeline to meet compliance of these proposed rule revisions.

This extended timeline request is not intended to delay the process, but rather is a necessary measure to ensure that utilities can meet the new requirements effectively and efficiently, without disrupting delivery of service, inconveniencing customers, or creating undue burden on landlords or property owners. While the PUC's investigative proceeding has been underway for several years, the expedited timeframe under which the current rule revisions have been drafted and proposed in the formal rulemaking process – to meet the Act's legislative mandate – creates an environment prone to error or ill-conceived implementation.

Again, the extended timeline for rule revisions to take effect is necessary to deliver on customer value and meet statutory intent that, (1) prevents unnecessary confusion or customer conflict through robust outreach and engagement for customer/landlord data collection and retention; (2) carefully and thoughtfully analyzes processes, procedures, tools and resources to meet current and future capabilities or compliance requirements; (3) to support thoughtful, sustainable, and cost-effective investments of ratepayer funds, including valuable staff time and resources.

In conclusion, VPPSA's proposed revisions will ensure clarity that meets the intent and purpose of establishing a new Property Owner disconnection notice requirement in both Rules 3.300 and 3.400. While VPPSA's proposed revisions within these comments more directly address Rule 3.300, the same concerns and edits should be transferrable to Rule 3.400, where appropriate.

VPPSA appreciates the PUC considering our proposed revisions and if there are any questions will be available for discussion.

Respectfully submitted,

/s/
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