STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 25-0867-INV

Vermont Public Utility Commission's order providing guidance for filing documents related to decommissioning securities	

Order entered: 06/24/2025

ORDER ESTABLISHING GUIDANCE FOR FILING DOCUMENTS RELATED TO DECOMMISSIONING SECURITIES

I. INTRODUCTION

The Vermont Public Utility Commission ("Commission") opened this case to provide guidance to certificate of public good ("CPG") holders who have obligations to file and receive Commission approval of a letter of credit or an alternative form of financial security in an amount sufficient to fund the estimated decommissioning and site restoration costs of a project or facility for which a CPG has been issued.

These obligations may be contained in a project's or a facility's CPG or the Commission order approving that CPG.[1] These documents require CPG holders to (1) file with the Commission and obtain Commission approval of an executed letter of credit or other form of financial security,[2] (2) periodically file reports with the Commission, the Department, and the other parties to the CPG case describing any adjustments and changes to the decommissioning fund in the previous period, and (3) adjust letters of credit or other forms of financial security to reflect the changes to the decommissioning fund provided in the CPG holders' report filings.[3] Neither the CPGs nor the Commission orders approving CPGs explain how decommissioning-security-related documents should be filed with the Commission. However, Commission Rule

[1] For projects or facilities whose CPGs were issued after August 15, 2017, these obligations are based on the requirements of Commission Rule 5.904.

[2] Some CPGs issued before August 15, 2017, stated that no additional Commission approval of an initial letter of credit was needed, provided the executed letter of credit was the same as the draft letter of credit previously filed in that case.

[3] For CPGs issued after August 15, 2017, the report filings and adjustments to financial securities must be made every three years. Many CPGs that were issued before that date require these filings and adjustments to be made annually.

2.110 requires that all filings in Commission proceedings must use ePUC, the Commission's online filing and case management system, unless the filing is "made by a bank or other financial institution and consists of a letter of credit or other legal documents requiring an original signature."[4]

On May 2, 2025, the Commission issued draft guidance for filing documents related to decommissioning securities. Comments on the guidance were due by May 23, 2025.

On May 23, 2025, the Vermont Department of Public Service ("Department") and SRH Law PLLC ("SRH Law") separately filed comments on the draft guidance. The Commission's responses to the comments are described below.

To standardize the way documents related to decommissioning securities are filed with the Commission, the Commission is providing the guidance below. This guidance is final unless amended by the Commission and will be posted to the Commission's webpage regarding decommissioning securities, which can be found here: https://puc.vermont.gov/electric/letter-of-credit .

II. Response to Comments

In response to the Department's and SRH Law's comments, the Commission has made the following changes to the draft guidance:

- Added a requirement that CPG holders file a cover letter or summary with their decommissioning security-related filings. The cover letter or summary must briefly explain: what the filing consists of; what is changing or being requested (*e.g.*, expiration date, issuing bank, dollar amount of fund, new proposed language in security, etc.); and how the filing complies with the conditions of the CPG, Commission guidance for decommissioning securities, and/or Commission Rule 5.904. The cover letter may also include any specific timeline requests or other requests for approval.[5]

[4] Commission Rule 2.110(E) also lists a few other exceptions.

[5] While the Commission generally prefers all requests for Commission action to be in the form of a motion, compliance filings are typically filed without an accompanying motion for approval, even if the Commission orders requiring the compliance filings stated that the filings would require Commission approval. The Commission considers decommissioning securities to be compliance filings and therefore no motion requesting their approval is needed.

- Clarified that both draft forms of decommissioning securities and executed originals should be filed using the "decommissioning security" document type.
- Clarified that, when the Commission receives a paper executed original decommissioning security after approving a draft version of that security, Commission staff will replace the draft version of the security in ePUC and will change the document title so it includes the word "executed." This will enable CPG holders to use ePUC to confirm that the Commission has received the executed original.[6]
- Added to the guidance a process for requesting the return of an executed decommissioning security that either was rejected or has been replaced by a new approved security.

III. FINAL GUIDANCE

CPG holders are responsible for filing in ePUC all decommissioning-security-related documents provided by a bank or other financial institution. The Commission will not start reviewing any draft or executed letters of credit, escrow agreements, surety bonds, or any amendments to any of those documents until they are filed in ePUC by the CPG holder. Even if the CPG holder believes that a bank or other financial institution has mailed the Commission a paper copy of a document, the CPG holder must follow the instructions below to file the document in the appropriate case in ePUC to start the Commission's review.[7]

After the Commission issues an order approving a letter of credit or other document requiring an original signature, an executed version of the document must be filed in paper.[8] When the paper copy of an executed original security is received by the Commission, if only a draft version of that security is in ePUC, Commission staff will replace the draft security in

---

[6] If the CPG holder previously filed an executed version of the security in ePUC, the CPG holder may email the clerk to confirm that the Commission received the paper copy of the executed version.

[7] Paper decommissioning-security-related documents received by the Commission that are not filed in ePUC by the CPG holder are defective filings. They may be destroyed after the clerk notifies the CPG holder and provides the CPG holder with an opportunity to cure the defect by filing the document in ePUC.

[8] Commission employees will upload copies of escrow agreements that have been signed by the Commission Chair into the appropriate case in ePUC.

Please note that the Commission does not sign amendments to letters of credit; the Commission's orders approving those amendments constitute the Commission's acceptance of the amendments.

ePUC with the executed version and will change the document title so that it includes the word "executed."

Filing a Security

To file a new financial security, amendment or addendum to a previously approved financial security, a replacement financial security, or any other decommissioning-security-related document from a bank or other financial institution:

- Go into the case in which compliance filings related to the CPG should be filed.[9]
- If the filing does <u>not</u> include a motion to amend the conditions in the CPG related to decommissioning securities:
  - Select "Add All Other Documents" from the "Action" drop-down menu.
  - Select "New Filing" (unless you are filing a corrected version of a previously filed document).
  - Select "Decommissioning Security" as the document type, regardless of whether the security is a draft or executed version.
  - In the Document Title field, include the name of the issuing financial institution, a description of the document, whether it is a draft or executed version, and the security number, if any (*e.g.*, ABC Bank – draft letter of credit #XXX, XYZ Financial Institution – executed amendment #X to letter of credit #XXX, ABC Bank – draft escrow agreement, XYZ Financial Institution – draft bond #XXX, ABC Bank - notice of cancellation of letter of credit #XXX, XYZ Financial Institution - notice of rescission of cancellation of letter of credit #XXX, etc.).
  - Click the blue plus sign to upload the required accompanying cover letter. The cover letter must briefly explain: what the filing consists of; what is changing or being requested (*e.g.*, expiration date, issuing bank, dollar amount of fund, new proposed language in security, etc.); and how the filings comply with the conditions of the CPG, Commission guidance for decommissioning securities,

[9] This may be the case in which the CPG was issued, the most recent case in which the CPG was amended, or a legacy compliance case.

and/or Commission Rule 5.904. The cover letter may also include any specific timeline requests or other requests for approval.

- If the filing includes a report showing how an adjustment to the dollar value of a financial security was calculated, or any other documents, click the blue plus sign to upload those documents. These documents may be any document type.
- Select the CPG holder as the "Filed By" party.

- If the filing includes a motion to amend the conditions in the CPG related to decommissioning securities along with the proposed new financial security:
  - Select "Add Amendment" from the "Action" drop-down menu.
  - Select "Yes" to the question "Are you filing an amendment to a CPG for a Section 248 or Section 248(j) project that is related to a non-substantial change?"
  - Upload the petition and certificate of service in the appropriate panels.
  - In the Public Document/Files panel, select "Decommissioning Security" as the document type for the decommissioning security document, regardless of whether the security is a draft or executed version. There must be at least one document with a document type of "Decommissioning Security."
  - Click the blue plus sign to upload the accompanying cover letter. The cover letter must briefly explain: what the filing consists of; what is changing or being requested (*e.g.*, expiration date, issuing bank, dollar amount of fund, new proposed language in security, etc.); and how the filings comply with the conditions of the CPG, Commission guidance for decommissioning securities, and/or Commission Rule 5.904. The cover letter may also include any specific timeline requests or other requests for approval.
  - Click the blue plus sign to upload other documents. These documents may be any document type.

CPG holders should not file motions asking the Commission to approve initial financial securities, amendments and addenda to previously approved financial securities, or replacement financial securities. However, CPG holders must file appropriate supporting documentation for any adjustments to the dollar value of previously approved financial securities.

Requesting Return of an Executed Security

There are two circumstances in which a CPG holder may wish to request return of a paper copy of an executed decommissioning security — if an executed security was rejected by the Commission or if the Commission has approved a replacement security. To request return of an executed decommissioning security:

- After the Commission has issued an order rejecting an executed security or approving a replacement security, the CPG holder must send an email to the clerk at puc.clerk@vermont.gov. The email must contain:
  - the account number for a trackable method of return that is at the CPG holder's expense;
  - the name and address where the security should be returned; and
  - a description of the security to be returned, including the name of the issuing bank or financial institution, the security number (if any), and the Commission case number in which the security was filed. If the executed security is uploaded in ePUC, the email may include a link to the security.
- The email does not need to be filed in ePUC.

The Commission's goal is to return:

- any rejected executed decommissioning securities within two weeks after the clerk receives the email request, and
- any executed securities for which the Commission has approved a replacement within two weeks after the clerk receives the email request *and* the Commission receives the paper copy of the executed version of the replacement security. (The two-week period starts after both conditions are satisfied.)

The Commission expects that any requests for return of any rejected or replaced executed securities will be emailed to the clerk within 45 days after the issuance of the Commission's order rejecting the executed security or the Commission's order approving the replacement security. After that time, the rejected or replaced executed security may be destroyed.

Dated at Montpelier, Vermont, this 24th day of June, 2025.

Edward McNamara	)	PUBLIC UTILITY
Margaret Cheney	)	COMMISSION
J. Riley Allen	)	OF VERMONT

OFFICE OF THE CLERK

Filed: June 24, 2025

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)

PUC Case No. 25-0867-INV - SERVICE LIST

Alex DePillis Agency of Agriculture Food & Markets 116 State Street Drawer 20 Montpelier, VT 05620-2901 Alex.DePillis@vermont.gov	(for Vermont Agency of Agriculture, Food and Markets)
James Porter, Director of Public Advocacy Vermont Department of Public Service DPS-PA@vermont.gov	(for Vermont Department of Public Service)
Alexander Wing Vermont Department of Public Service 112 State Street Montpelier, VT 05620 alexander.wing@vermont.gov	(for Vermont Department of Public Service)

Other Entities Receiving Notice:

Large PUC email list