

State of Vermont
Agency of Administration
Office of the Secretary
Pavilion Office Building
109 State Street, 5th Floor
Montpelier, VT 05609-0201
www.aoa.vermont.gov

[phone] 802-828-3322
[fax] 802-828-2428

Kristin L. Clouser, Secretary

MEMORANDUM

TO: Jim Condos, Secretary of State
FROM: Douglas Farnham, ICAR Chair
DATE: September 30, 2022
RE: Emergency Rule Titled ‘PUC Emergency Rule 2.500 COVID-19 Emergency Procedures’ by the Public Utility Commission

The use of rulemaking procedures under the provisions of [3 V.S.A. §844](#) is appropriate for this rule. I have reviewed the proposed rule titled ‘PUC Emergency Rule 2.500 COVID-19 Emergency Procedures’ provided by the Public Utility Commission and agree that emergency rulemaking is necessary.

###

1. TITLE OF RULE FILING:

PUC Emergency Rule 2.500 COVID-19 Emergency Procedures

2. ADOPTING AGENCY:

Vermont Public Utility Commission ("Commission" or "PUC")

3. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Steph Hoffman

Agency: PUC

Mailing Address: 112 State Street, 4th Floor, Montpelier,
VT 05620-2701

Telephone: 802 828 - 1187 Fax: 802 828 - 3351

E-Mail: steph.hoffman@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: Ann Bishop

Agency: PUC

Mailing Address: 112 State Street, 4th Floor, Montpelier,
VT 05620-2701

Telephone: 802 828 - 1170 Fax: 802 828 - 3351

E-Mail: ann.bishop@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. § 11

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

Title 30, Section 11 of the Vermont Statutes Annotated tasks the Commission with adopting rules for the forms, pleadings, and rules of practice and procedure before it. This emergency rule governs procedural requirements for filing and practice before the Commission.

8. CONCISE SUMMARY (150 WORDS OR LESS):

This emergency rule amends various filing and procedural requirements and provides alternative procedures to reduce or eliminate in-person contact between members of the public and Commission staff or other members of the public to reduce the risk of exposure to the COVID-19 virus. This serves as a fifth extension of the emergency rule filed in April 2020. A number of measures included in this revised emergency rule have proven beneficial to those who appear before and interact with the Commission.

The Commission is undertaking a process of adopting policies and promulgating permanent rules, where appropriate, so that the remaining measures in this revised emergency rule could either be phased out or incorporated into permanent rules. This emergency rule modifies three permanent Commission rules. All three of those rules are in various stages of rulemaking. The provisions in this revised emergency rule will be superseded when permanent rules regarding those measures take effect.

9. EXPLANATION OF WHY THE RULE IS NECESSARY:

The rule is necessary to reduce the risk of exposure to state employees and the general public by providing alternative procedures that reduce or eliminate person-to-person contact.

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

The rule is not arbitrary as statute specifically tasks the Commission with rulemaking for the forms, pleadings, and rules of practice and procedure before it.

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

Agencies and parties appearing before the Commission; adjoining landowners

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

Economic impacts are difficult to quantify in monetary terms, however the Commission anticipates a minimal positive impact from the reduction of gasoline usage, postage, printing costs, etc.

13. A HEARING IS NOT SCHEDULED .

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:

15. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

16. EMERGENCY RULE EFFECTIVE: 09/30/2022

17. EMERGENCY RULE WILL REMAIN IN EFFECT UNTIL

(A DATE NO LATER THAN 180 DAYS FOLLOWING ADOPTION OF THIS EMERGENCY RULE):

03/29/2023

18. NOTICE OF THIS EMERGENCY RULE SHOULD NOT BE PUBLISHED IN THE WEEKLY NOTICES OF RULEMAKING IN THE NEWSPAPERS OF RECORD.

19. KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Vermont Public Utility Commission

Procedural Rules

Filing

Application

Petition

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:**

PUC Emergency Rule 2.500 COVID-19 Emergency Procedures

2. **ADOPTING AGENCY:**

Vermont Public Utility Commission ("Commission" or "PUC")

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 as long as 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 SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

22-E09 - Vermont Public Utility Commission/PUC
Emergency Rule 2.500 COVID-19 Emergency Procedures,
04/05/2022

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:

PUC Emergency Rule 2.500 COVID-19 Emergency Procedures

2. ADOPTING AGENCY:

Vermont Public Utility Commission ("Commission" or "PUC")

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:

Agencies and parties appearing before the Commission;
adjoining landowners

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:

This rule does not affect schools or taxpayers except to the extent that they are an adjoining landowner or party appearing before the Commission.

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.*

No alternatives are currently being considered as this rule does not affect local school districts.

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):

This rule may affect small businesses, such as renewable energy developers, that file with or appear before the Commission or are adjoining landowners. However, as detailed in the comparison section below, the Commission anticipates either a neutral or positive minor economic impact due to these procedural changes.

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 burden of compliance with these procedural changes is equivalent to the burden of following the permanent procedural requirements of filing with or appearing before the Commission.

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:

Though difficult to quantify, the impact of not providing alternative procedures for filing with and appearing before the Commission could be substantial as measured by increased exposure to the COVID-19 virus. In-person contact associated with various Commission procedures increases the risk of exposure to COVID-19 between state agency personnel and members of the public or members of the public with other members of the public; such exposure could result in the spread of the virus, which has both a health and economic impact.

Evaluating just the change in procedural requirements, this rule represents a minor change likely to result in cost savings for those who participate in cases before the Commission. Economic impacts are difficult to quantify in monetary terms, however the Commission anticipates a minimal positive impact from the reduction of gasoline usage, postage, printing costs, etc.

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

This economic impact analysis is somewhat limited due to the necessity to act quickly in response to the COVID-19 virus pandemic. Since the existing emergency rule has had minimal, if any, economic impacts, this extension to that emergency rulemaking regarding those procedures is also expected to have a minimal impact economically.

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:

PUC Emergency Rule 2.500 COVID-19 Emergency Procedures

2. ADOPTING AGENCY:

Vermont Public Utility Commission ("Commission" or "PUC")

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.):*

A negligible reduction in greenhouse gases could be expected by the reduction of vehicular travel to perform previous in-person requirements that are reduced or eliminated by this emergency rule.

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.):*

No impact anticipated.

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

No impact anticipated.

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

No impact anticipated.

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

Negligible impact expected from reduced vehicular travel as explained above.

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

Negligible impact expected from reduced vehicular travel as explained above.

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

This environmental impact analysis is somewhat limited due to the necessity to act quickly in response to the COVID-19 virus pandemic. Since the existing emergency rule has had minimal, if any, environmental impacts, this extension to that emergency rulemaking regarding those procedures is also expected to have a minimal impact environmentally.

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:**

PUC Emergency Rule 2.500 COVID-19 Emergency Procedures

2. **ADOPTING AGENCY:**

Vermont Public Utility Commission ("Commission" or "PUC")

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 notified lists of parties frequently appearing before the Commission of the emergency rule that became effective on 04/30/2020, and again with the 10/15/2020, 04/13/2021, 10/07/2021, and 04/05/2022 revised versions of the rule. A case in the Commission's e-filing system (ePUC) was created with each filing of this emergency rule to allow for comment. Notice was also posted on the Commission's website where rules and statutes are posted. The same procedures will be used when filing this version of the emergency rule.

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

Those that have commented on the rule during each phase of the emergency rule filings. These comments have been reported to LCAR and SOS during each extension filing. No comments were received on the last four extension

filings of the emergency rule. Otherwise, not applicable.

2.500 COVID-19 EMERGENCY PROCEDURES**2.501 Purpose, Scope, and Period of Applicability**

- (A) Due to the outbreak of the novel coronavirus, COVID-19, the Governor of Vermont declared a state of emergency. The Vermont Supreme Court declared a judicial emergency in Administrative Order 49 and amendments to that order. Although the Governor has lifted the state of emergency, the risk of virus spread and the consequences of the pandemic persist. This revised emergency rule amends various filing and procedural requirements and provides alternative procedures to reduce or eliminate in-person contact between members of the public and Commission staff or other members of the public to reduce the risk of exposure to the COVID-19 virus. A number of measures included in this revised emergency rule have proven beneficial to those who appear before and interact with the Commission. The Commission is undertaking a process of adopting policies and promulgating permanent rules, where appropriate, so that the remaining measures in this revised emergency rule could either be phased out or incorporated into permanent rules. The provisions in this revised emergency rule will be superseded when permanent rules regarding those measures take effect.
- (B) This rule shall take effect on the date of its filing, and shall remain in effect for six months, or until the Commission withdraws it. This revised rule supplants in its entirety the prior Emergency Rule 2.500, which became effective April 5, 2022, and will continue to be referred to as Emergency Rule 2.500.
- (C) Emergency Rule 2.500 does not amend the Commission's Standards and Procedures Applicable to Electronic Filing Using ePUC. The Commission strongly encourages using ePUC to initiate proceedings and file non-confidential documents instead of making paper filings.

2.502 Amendments to Commission Rule 2.202 Relating to Initiation of Proceedings

The Commission amends Commission Rule 2.202 as follows. Except for cases initiated by the Commission, a proceeding is initiated by filing a complaint, petition, or other application with the Clerk in the manner specified in Commission Emergency Rule 2.503, below. If the named defendant or respondent is a utility, service of process shall be completed by the Clerk, who shall send a copy of the filing that initiates the proceeding to that utility by first-class mail. If the named defendant, respondent, or other person or entity entitled to notice is not a utility, then the party initiating the proceeding shall procure a summons from the Clerk and shall cause the summons, together with the filing that initiates the proceeding, to be served on the defendant or respondent in the manner provided by the Vermont Rules of Civil Procedure within 30 days after the initiating filing.

2.503 Amendments to Commission Rule 2.204 Relating to Pleadings and Other Filings; Service and Filing

The Commission amends Commission Rule 2.204(C) and (D) as follows:

Filing, manner and significance. While this emergency rule is in effect, filing may be accomplished by email to the Clerk at puc.clerk@vermont.gov rather than by paper mailed or other paper delivery to the Clerk. Filings sent by email will be considered filed on the date transmitted if the email is transmitted before 4:30 p.m., except that the filing is not effective if the sending party learns that the attempted service did not reach the Clerk. Filers must follow up by mailing the required number of hard copies to the Commission via first-class mail. Each filing shall constitute a representation by the attorney or *pro se* representative signing the same that a copy thereof has been or will be served on the same day on which it is filed upon every other party on whose behalf a notice of appearance has been filed.

Number of copies. Except as provided in this emergency rule or other Commission rule, or as otherwise ordered by the Commission, all materials required to be filed shall include an original only. The exception to this rule is as follows:

Rule 2.214 (Discovery Responses) - An original plus one copy.

2.504 Amendments to Commission Rule 2.216 Relating to Evidence

The Commission amends Commission Rule 2.216(A) as follows. General rule. Evidentiary matters are governed by 3 V.S.A. § 810. In addition, except as to matters covered by the succeeding paragraphs to this rule, the provisions of the Vermont Rules of Civil Procedure, Rules 43 (Evidence), 43.1 (Participation or Testimony by Video or Audio Conference), 44 (Proof of Official Record), and 44.1 (Determination of Foreign Law) shall apply in proceedings before the Commission.

The following provisions apply in proceedings before the Commission that would otherwise be governed by Vermont Rule of Civil Procedure 43.1. Notwithstanding Rule 43.1 or any other rule inconsistent with this order:

- (A) Video conference: Pursuant to Vermont Rule of Civil Procedure 43.1(c)(3), the Commission may preside remotely and may on its own motion require parties, witnesses, counsel, or other necessary persons to participate or testify in a hearing or other proceeding by video conference upon reasonable notice. Any objections to a hearing notice or order requiring video participation or testimony, or response to objections filed, should be filed as soon as possible. In ruling on any objections to the order requiring video participation or testimony, the Commission will consider the factors set forth in Vermont Rule of Civil Procedure 43.1(c)(6).
- (B) Audio conference: Notwithstanding the requirements of Vermont Rule of Civil Procedure 43.1(d), on its own motion, by agreement of the parties, or pursuant to motion of a party, the Commission may preside remotely and may set hearings, whether evidentiary or nonevidentiary, for audio conference such that parties, witnesses, counsel, or other necessary persons participate or testify by audio conference from a remote location. Any objections to

a hearing notice or order requiring video participation or testimony, or response to objections filed, should be filed as soon as possible. In ruling on any objections to the Commission's taking evidence by audio means, the Commission will consider the factors set forth in Vermont Rule of Civil Procedure 43.1(d)(3) and (4), except that the Commission need not find that any individual is physically unable to be present.

2.505 Amendments to Commission Rules 5.106 and 5.107 Relating to Method of Service for Net-Metering System Applications and Petitions

(A) Advance Submission.

- (1) The Commission amends Commission Rule 5.106(C)(2) as follows. The applicant must cause the advance submission to be served to the entities listed in Commission Rule 5.106(C)(1)(a) through (c) by first-class mail. The applicant must cause the advance submission to be transmitted to the entities listed in Commission Rule 5.106(C)(1)(d) through (i) using the Commission's electronic filing system, unless the applicant is making a paper filing in accordance with the Commission's rules, in which case service must be by first-class mail.
- (2) The Commission amends Commission Rule 5.107(B)(2) as follows. The applicant must cause the advance submission to be served to the entities listed in Commission Rule 5.107(B)(1)(a) through (c) by first-class mail. The applicant must cause the advance submission to be transmitted to the entities listed in Commission Rule 5.107(B)(1)(d) through (i) using the Commission's electronic filing system, unless the applicant is making a paper filing in accordance with the Commission's rules, in which case service must be by first-class mail.

(B) Service of Copies of Applications.

- (1) The Commission amends Commission Rule 5.106(F)(2) as follows. The applicant must provide a copy of the application to the entities named in Commission Rule 5.106(F)(1)(a) through (c) by first-class mail. The applicant must cause copies of the application to be transmitted to the entities listed under Commission Rule 5.106(F)(1)(d) through (i), using the Commission's electronic filing system, or if the applicant is making a paper filing, then using first-class mail.
- (2) The Commission amends Commission Rule 5.107(E)(2) as follows. The applicant must provide a copy of the application to the entities named in Commission Rule 5.107(E)(1)(a), (h), and (i) by first-class mail. The applicant must cause copies of the application to be transmitted to the entities listed under Commission Rule 5.107(E)(1)(b) through (g), using the Commission's electronic filing system, or if the applicant is making a paper filing, then using first-class mail.

2.506 Use of Grand Lists

- (A) Notwithstanding the provisions of Commission Rules 5.106(D)(3) and 5.107(C)(3), or any other rule or order inconsistent with this emergency rule, in circumstances in which the Commission requires that the names and addresses of all adjoining landowners as obtained from the most recent version of the town's grand list be compiled to provide a notice, an applicant may obtain adjoining property owner information online through the Vermont Center for Geographic Information database, municipality-specific databases, the Vermont Department of Taxes grand lists, and/or electronic versions of grand lists maintained by municipalities.
- (B) Notwithstanding the provisions of Commission Rules 5.402(B) and 5.402(F)(3), Commission orders issued in Case No. 17-5090-INV and Case No. 18-2940-INV, or any other rule or order inconsistent with this emergency rule, in circumstances in which the Commission requires that the names and addresses of all adjoining landowners as obtained from the most recent version of the town's grand list be compiled to provide a notice, an applicant may obtain adjoining property owner information online through the Vermont Center for Geographic Information database, municipality-specific databases, the Vermont Department of Taxes grand lists, and/or electronic versions of grand lists maintained by municipalities.
- (C) An applicant must verify the online information with the relevant municipal office within 60 days before providing the notice. An applicant must document the municipal office verification, including the name of the municipal staff member and date on which the verification occurred, or, alternatively, must document at least three attempts at verifying the online information. Documentation of verification shall be signed and attested to by an applicant in the manner provided in Commission Emergency Rule 2.506, below.

2.507 Notarization and Oaths

Notwithstanding the provisions of Commission Rule 5.107(C)(7), or any other rule inconsistent with this emergency rule, in circumstances in which Commission rules require that a filed document bear the approval or verification of a notary, a filer may include the following language in lieu of notarization: "I declare that the above statement is true and accurate to the best of my knowledge and belief. I understand that if the above statement is false, I may be subject to sanctions by the Commission pursuant to 30 V.S.A. § 30." In Commission hearings in which a witness testifies by video or audio conference, the Commission may administer the oath remotely provided the Commission is satisfied as to the identity of any witness testifying remotely.

2.508 Commencement of Construction

[Repealed.]

2.509 Amendments to Commission Rule 5.110(C) Relating to Abandonment of Certificates of Public Good

The Commission amends Commission Rule 5.110(C) as follows. Non-use of a CPG for a period of one year following the date the CPG is issued will result in the revocation of the CPG. For the purpose of this section, for a CPG to be considered used, the net-metering system must be commissioned. The Commission may grant by order generic extensions of time as a result of the COVID-19 pandemic. Any other extensions of time will only be granted upon written request and for good cause shown. Before site preparation, a certificate holder may abandon a CPG at any time by filing written notice to the Commission, the Department, the Agency of Natural Resources, and the electric company.

2.510 Amendments to Commission Rule 5.402(B) Relating to Filing Requirements for Petitions to Construct Electric and Gas Facilities Pursuant to 30 V.S.A. § 248

The Commission amends Commission Rule 5.402(B) as follows. A petitioner must provide notice of the proposed project to each adjoining property owner at the time that the petition is filed with the Commission. This notice shall include, at a minimum, a general description of the type and approximate location of the facilities and upgrades proposed, a statement that a petition for approval is being filed with the Commission, instructions on how to download electronically a copy of the complete project plans and petition, and instructions on how an adjoining landowner can contact the petitioner to obtain a copy of the complete project plans and petition if the adjoining landowner is not able to access them electronically. This notice shall also include a reference and a link to the Commission document “Public Participation and Intervention in Proceedings Before the Public Utility Commission,” found on the Commission’s website at <https://puc.vermont.gov/document/public-participation-and-intervention-proceedings-public-utility-commission>. In addition, the notice shall include either (a) if the petition is filed under Section 248, a reference and a link to the Commission’s Section 248 procedures document, found on the Commission’s website at <https://puc.vermont.gov/document/section-248-procedures>; or (b) if the petition is filed under Section 248(j), a reference and a link to the Commission’s Section 248(j) procedures document, found on the Commission’s website at <https://puc.vermont.gov/document/section-248j-procedures>.

If an adjoining landowner asks the petitioner for a copy of the complete project plans and petition, the petitioner must provide paper copies by first-class mail, or, if the requester has the required technology to read digital copies and has agreed to receive digital copies, the petitioner may provide them via compact disc or thumb drive.

2.500 COVID-19 EMERGENCY PROCEDURES

2.501 Purpose, Scope, and Period of Applicability

(A) Due to the outbreak of the novel coronavirus, COVID-19, the Governor of Vermont declared a state of emergency. The Vermont Supreme Court declared a judicial emergency in Administrative Order 49 and amendments to that order. Although the Governor has lifted the state of emergency, the risk of virus spread and the consequences of the pandemic persist. This revised emergency rule amends various filing and procedural requirements and provides alternative procedures to reduce or eliminate in-person contact between members of the public and Commission staff or other members of the public to reduce the risk of exposure to the COVID-19 virus. A number of measures included in this revised emergency rule have proven beneficial to those who appear before and interact with the Commission. The Commission is undertaking a process of adopting policies and promulgating permanent rules, where appropriate, so that the remaining measures in this revised emergency rule could either be phased out or incorporated into permanent rules. The provisions in this revised emergency rule will be superseded when permanent rules regarding those measures take effect.

(B) This rule shall take effect on the date of its filing, and shall remain in effect for six months, or until the Commission withdraws it. This revised rule supplants in its entirety the prior Emergency Rule 2.500, which became effective ~~October 7, 2021~~April 5, 2022, and will continue to be referred to as Emergency Rule 2.500.

~~(A)~~**(C)** Emergency Rule 2.500 does not amend the Commission's Standards and Procedures Applicable to Electronic Filing Using ePUC. The Commission strongly encourages using ePUC to initiate proceedings and file non-confidential documents instead of making paper filings.

2.502 Amendments to Commission Rule 2.202 Relating to Initiation of Proceedings

The Commission amends Commission Rule 2.202 as follows. Except for cases initiated by the Commission, a proceeding is initiated by filing a complaint, petition, or other application with the Clerk in the manner specified in Commission Emergency Rule 2.503, below. If the named defendant or respondent is a utility, service of process shall be completed by the Clerk, who shall send a copy of the filing that initiates the proceeding to that utility by first-class mail. If the named defendant, respondent, or other person or entity entitled to notice is not a utility, then the party initiating the proceeding shall procure a summons from the Clerk and shall cause the summons, together with the filing that initiates the proceeding, to be served on the defendant or respondent in the manner provided by the Vermont Rules of Civil Procedure within 30 days after the initiating filing.

2.503 Amendments to Commission Rule 2.204 Relating to Pleadings and Other Filings; Service and Filing

The Commission amends Commission Rule 2.204(C) and (D) as follows:

Filing, manner and significance. While this emergency rule is in effect, filing may be accomplished by email to the Clerk at puc.clerk@vermont.gov rather than by paper mailed or other paper delivery to the Clerk. Filings sent by email will be considered filed on the date transmitted if the email is transmitted before 4:30 p.m., except that the filing is not effective if the sending party learns that the attempted service did not reach the Clerk. Filers must follow up by mailing the required number of hard copies to the Commission via first-class mail. Each filing shall constitute a representation by the attorney or *pro se* representative signing the same that a copy thereof has been or will be served on the same day on which it is filed upon every other party on whose behalf a notice of appearance has been filed.

Number of copies. Except as provided in this emergency rule or other Commission rule, or as otherwise ordered by the Commission, all materials required to be filed shall include an original only. The exception to this rule is as follows:

Rule 2.214 (Discovery Responses) - An original plus one copy.

2.504 Amendments to Commission Rule 2.216 Relating to Evidence

The Commission amends Commission Rule 2.216(A) as follows. General rule. Evidentiary matters are governed by 3 V.S.A. § 810. In addition, except as to matters covered by the succeeding paragraphs to this rule, the provisions of the Vermont Rules of Civil Procedure, Rules 43 (Evidence), 43.1 (Participation or Testimony by Video or Audio Conference), 44 (Proof of Official Record), and 44.1 (Determination of Foreign Law) shall apply in proceedings before the Commission. ~~Additionally, the Commission adopts Section 5 of the Vermont Supreme Court's Emergency Administrative Order, A.O. 49 and amendments (Remote participation in hearings), as follows:~~

The following provisions apply in proceedings before the Commission that would otherwise be governed by Vermont Rule of Civil Procedure 43.1. Notwithstanding Rule 43.1 or any other rule inconsistent with this order:

- (A) Video conference: Pursuant to Vermont Rule of Civil Procedure 43.1(c)(3), the Commission may preside remotely and may on its own motion require parties, witnesses, counsel, or other necessary persons to participate or testify in a hearing or other proceeding by video conference upon reasonable notice. Any objections to a hearing notice or order requiring video participation or testimony, or response to objections filed, should be filed as soon as possible. In ruling on any objections to the order requiring video participation or testimony, the Commission will consider the factors set forth in Vermont Rule of Civil Procedure 43.1(c)(6).
- (B) Audio conference: Notwithstanding the requirements of Vermont Rule of Civil Procedure 43.1(d), on its own motion, by agreement of the parties, or pursuant to motion of a party, the Commission may preside remotely and may set hearings, whether evidentiary or

nonevidentiary, for audio conference such that parties, witnesses, counsel, or other necessary persons participate or testify by audio conference from a remote location. Any objections to a hearing notice or order requiring video participation or testimony, or response to objections filed, should be filed as soon as possible. In ruling on any objections to the Commission's taking evidence by audio means, the Commission will consider the factors set forth in Vermont Rule of Civil Procedure 43.1(d)(3) and (4), except that the Commission need not find that any individual is physically unable to be present.

2.505 Amendments to Commission Rules 5.106 and 5.107 Relating to Method of Service for Net-Metering System Applications and Petitions

(A) Advance Submission.

- (1) The Commission amends Commission Rule 5.106(C)(2) as follows. The applicant must cause the advance submission to be served to the entities listed in Commission Rule 5.106(C)(1)(a) through (c) by first-class mail. The applicant must cause the advance submission to be transmitted to the entities listed in Commission Rule 5.106(C)(1)(d) through (i) using the Commission's electronic filing system, unless the applicant is making a paper filing in accordance with the Commission's rules, in which case service must be by first-class mail.
- (2) The Commission amends Commission Rule 5.107(B)(2) as follows. The applicant must cause the advance submission to be served to the entities listed in Commission Rule 5.107(B)(1)(a) through (c) by first-class mail. The applicant must cause the advance submission to be transmitted to the entities listed in Commission Rule 5.107(B)(1)(d) through (i) using the Commission's electronic filing system, unless the applicant is making a paper filing in accordance with the Commission's rules, in which case service must be by first-class mail.

(B) Service of Copies of Applications.

- (1) The Commission amends Commission Rule 5.106(F)(2) as follows. The applicant must provide a copy of the application to the entities named in Commission Rule 5.106(F)(1)(a) through (c) by first-class mail. The applicant must cause copies of the application to be transmitted to the entities listed under Commission Rule 5.106(F)(1)(d) through (i), using the Commission's electronic filing system, or if the applicant is making a paper filing, then using first-class mail.
- (2) The Commission amends Commission Rule 5.107(E)(2) as follows. The applicant must provide a copy of the application to the entities named in Commission Rule 5.107(E)(1)(a), (h), and (i) by first-class mail. The applicant must cause copies of the application to be transmitted to the entities listed under Commission Rule 5.107(E)(1)(b) through (g), using the Commission's electronic filing system, or if the applicant is making a paper filing, then using first-class mail.

2.506 Use of Grand Lists

~~(A)~~ Notwithstanding the provisions of Commission Rules 5.106(D)(3), ~~and 5.107(C)(3), 5.402(B), and 5.402(F)(3), Commission orders issued in Case No. 17-5090-INV and Case No. 18-2940-INV,~~ or any other rule or order inconsistent with this emergency rule, in circumstances in which the Commission requires that the names and addresses of all adjoining landowners as obtained from the most recent version of the town's grand list be compiled to provide a notice, an applicant may obtain adjoining property owner information online through the Vermont Center for Geographic Information database, municipality-specific databases, the Vermont Department of Taxes grand lists, and/or electronic versions of grand lists maintained by municipalities.

~~(A)(B)~~ Notwithstanding the provisions of Commission Rules 5.402(B) and 5.402(F)(3), Commission orders issued in Case No. 17-5090-INV and Case No. 18-2940-INV, or any other rule or order inconsistent with this emergency rule, in circumstances in which the Commission requires that the names and addresses of all adjoining landowners as obtained from the most recent version of the town's grand list be compiled to provide a notice, an applicant may obtain adjoining property owner information online through the Vermont Center for Geographic Information database, municipality-specific databases, the Vermont Department of Taxes grand lists, and/or electronic versions of grand lists maintained by municipalities.

~~(B)(C)~~ An applicant must verify the online information with the relevant municipal office within 60 days before providing the notice. An applicant must document the municipal office verification, including the name of the municipal staff member and date on which the verification occurred, or, alternatively, must document at least three attempts at verifying the online information. Documentation of verification shall be signed and attested to by an applicant in the manner provided in Commission Emergency Rule 2.506, below.

2.507 Notarization and Oaths

Notwithstanding the provisions of Commission Rule 5.107(C)(7), or any other rule inconsistent with this emergency rule, in circumstances in which Commission rules require that a filed document bear the approval or verification of a notary, a filer may include the following language in lieu of notarization: "I declare that the above statement is true and accurate to the best of my knowledge and belief. I understand that if the above statement is false, I may be subject to sanctions by the Commission pursuant to 30 V.S.A. § 30." In Commission hearings in which a witness testifies by video or audio conference, the Commission may administer the oath remotely provided the Commission is satisfied as to the identity of any witness testifying remotely.

2.508 Commencement of Construction

[Repealed.]

2.509 Amendments to Commission Rule 5.110(C) Relating to Abandonment of Certificates of Public Good

The Commission amends Commission Rule 5.110(C) as follows. Non-use of a CPG for a period of one year following the date the CPG is issued will result in the revocation of the CPG. For the purpose of this section, for a CPG to be considered used, the net-metering system must be commissioned. The Commission may grant by order generic extensions of time as a result of the COVID-19 pandemic. Any other extensions of time will only be granted upon written request and for good cause shown. Before site preparation, a certificate holder may abandon a CPG at any time by filing written notice to the Commission, the Department, the Agency of Natural Resources, and the electric company.

2.510 Amendments to Commission Rule 5.402(B) Relating to Filing Requirements for Petitions to Construct Electric and Gas Facilities Pursuant to 30 V.S.A. § 248

The Commission amends Commission Rule 5.402(B) as follows. A petitioner must provide notice of the proposed project to each adjoining property owner at the time that the petition is filed with the Commission. This notice shall include, at a minimum, a general description of the type and approximate location of the facilities and upgrades proposed, a statement that a petition for approval is being filed with the Commission, instructions on how to download electronically a copy of the complete project plans and petition, and instructions on how an adjoining landowner can contact the petitioner to obtain a copy of the complete project plans and petition if the adjoining landowner is not able to access them electronically. This notice shall also include a reference and a link to the Commission document “Public Participation and Intervention in Proceedings Before the Public Utility Commission,” found on the Commission’s website at <https://puc.vermont.gov/document/public-participation-and-intervention-proceedings-public-utility-commission>. In addition, the notice shall include either (a) if the petition is filed under Section 248, a reference and a link to the Commission’s Section 248 procedures document, found on the Commission’s website at <https://puc.vermont.gov/document/section-248-procedures>; or (b) if the petition is filed under Section 248(j), a reference and a link to the Commission’s Section 248(j) procedures document, found on the Commission’s website at <https://puc.vermont.gov/document/section-248j-procedures>.

If an adjoining landowner asks the petitioner for a copy of the complete project plans and petition, the petitioner must provide paper copies by first-class mail, or, if the requester has the required technology to read digital copies and has agreed to receive digital copies, the petitioner may provide them via compact disc or thumb drive.