2.500 COVID-19 EMERGENCY PROCEDURES

2.501 Purpose, Scope, and Period of Applicability

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. The state of emergency 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. 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 Emergency Rule 2.500, effective April 30, 2020, and will continue to be referred to as Emergency Rule 2.500. 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 shall be accomplished by email to the Clerk at puc.clerk@vermont.gov. 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 30 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.

2.504 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.

2.505 Use of Grand Lists

Notwithstanding the provisions of Commission Rules 5.106(D)(3), 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.

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.

2.506 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.

2.507 Commencement of Construction

Notwithstanding any rule or order inconsistent with this emergency rule, a CPG Holder shall not begin any site preparation, construction, or other activity on a CPG project site that violates Governor Scott's Executive Order 01-20 or any addenda to that order. These orders are further described in guidance issued by the Agency of Commerce and Community Development, available at https://accd.vermont.gov/covid-19/business/stay-home-stay-safe-sector-specific-guidance.

2.508 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.

2.509 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.