

Net Metering (Section 8010)

This document is a summary of the procedural steps and opportunities for public participation when the Commission reviews a net-metering project. Net-metering is the process of measuring the difference between the electricity supplied to a customer by its utility and the electricity fed back to the utility by a customer's electric generation system (such as solar panels). Net-metering is regulated by statute and by Commission rule.

Typical Procedural Steps for Net-Metering Applications

45-Day Advance Submission

Filing of Application

Commission Determines Application to be Complete

Applicant Issues Application Notice

30-Day Period to File Public Comments; Requests to Intervene and Requests for Hearing?

No, then

Decision

This document is a general guide for the public. It is not a comprehensive list of all the applicable statutory and regulatory requirements for such projects. Every project is unique, and this general guide cannot anticipate or explain all issues that may arise in a case. For specific guidance, please refer to the applicable statutes, rules, and legal precedent, or seek legal advice. Please feel free to contact the [Clerk of the Commission](#) if you have questions about the information in this document.

Net-Metering Rule: [Commission Rule 5.100](#) governs the review of net-metering systems.

There are two types of certification processes for net-metering projects:

- Net-metering registrations ([Rule 5.105](#)) and
- Net-metering applications ([Rules 5.106](#)).

- Scheduling Conference
- Site Visit (if needed)
- Discovery (if needed)
- Testimony & Exhibits
- Stipulation or MOU (if any)
- Evidentiary Hearing
- Briefs
- Proposal for Decision
- Comments
- Oral Argument

Decision

Yes, then

Net-Metering Registrations

The simplified net-metering registration process is used for small, ground-mounted solar facilities up to 15 kW, roof-mounted solar facilities of up to 500 kW, mixed-mount solar facilities of up to 500 kW that include no more than 15 kW on the ground, and hydroelectric facilities of up to 500 kW. For such projects, [a registration form](#) is completed and filed with the Commission.

There is no advance submission requirement for a net-metering registration form, and it is not subject to public comment.

Net-Metering Applications

The net-metering application process is used for any net-metering system that does not meet the criteria for the net-metering registration process. What follows is a summary of the procedural steps for Commission review of net-metering applications. Underlined text will link you to more information about that step in the glossary or to an external website.

Advance Submission. Applicants are required to file a 45-day [advance submission](#) before filing an application with the Commission. The advance submission must be sent by first-class mail, personal delivery, or any other means authorized by the persons entitled to service to:

- the municipal legislative bodies and municipal planning commissions in the communities where the project will be located;
- all [adjoining landowners](#); and
- the [host landowner](#).

The advance submission must be served on the following entities using ePUC, the Commission's electronic filing system:

- the regional planning commission in the community where the project will be located;
- State agencies: the Department of Public Service, Agency of Natural Resources, the Natural Resources Board (if the proposed net-metering system is located on a resource extraction site), the Division for Historic Preservation, the Agency of Agriculture, Food and Markets;
- the electric company serving the project; and
- the Commission.

Recipients of an advance submission filing who have concerns about the project are encouraged to contact the applicant during the 45-day period. The purpose of the advance submission is to provide an opportunity for the applicant to resolve such concerns before the application is filed with the Commission.

Filing. Net-metering applicants are required to [file an application](#) with the Commission. In addition to detailed project information, the application must include written responses to any comments that were made in response to the 45-day advance submission.

Completeness Determination. Within seven days of an application being filed with the Commission, the applicant will be informed as to whether the application is administratively complete.

Application Notice. Within two days after the application is determined to be administratively complete, the applicant must (1) send notice of the application by first-class mail, personal delivery, or any other means authorized by the persons entitled to service to the municipal legislative bodies and planning commissions that received the advance submission, adjoining landowners, and host landowner, and (2) serve notice of the application through ePUC on the regional planning commission and State agencies that received the advance submission and the electric company serving the project.

Public Comment Period. Members of the public can [file comments](#) in net-metering cases before the Commission. [Public comments](#) can be provided within 30 days of the date the application is determined by the Commission to be complete. During the 30-day comment period, a member of the public can request to be a party to the case (also referred to as [intervention](#)) and request that the Commission hold an [evidentiary hearing](#) on the application. A request for a hearing can only be made by a party in a case.

Intervention. If you want to be able to make your case directly before the Commission in an evidentiary hearing, you must [intervene](#), which means you must become a party in the case. If you are one of the following, you may file a request to intervene using a [notice of intervention form](#):

- the interconnecting utility;
- the legislative body and the planning commission of the town in which the project is located;
- the regional planning commission of the region in which the facility is located;
- the regional planning commission of an adjacent region, and the legislative body and planning commission of an adjacent town, if the distance between the net-metering system's nearest component and the boundary of that adjacent region or town is less than or equal to 500 feet or ten times the height of the facility's tallest component, whichever is greater;
- adjoining landowners; and
- State agencies: the Vermont Agency of Agriculture, Food, and Markets, the Vermont Division for Historic Preservation, and the Natural Resources Board.

If you do not fit one of the categories listed above, you must file a motion to intervene that complies with standard procedures for filing a motion to intervene. For more information on this procedure, please see the explanation under [intervention](#) in the glossary and [Commission Rules 2.209 and 2.407](#). [Motion to intervene form](#)

Becoming a party gives you the opportunity to participate directly in the case (e.g., testify and present expert witnesses, exhibits, and testimony). Becoming a party also comes with responsibilities (e.g., following the Commission's rules and responding to discovery questions from other parties).

As a party to a case, you may choose to use an attorney to represent you, or you can represent yourself in the proceedings before the Commission (referred to as a [pro se](#) appearance).

Request for Hearing. If you have filed a motion to intervene and an objection to the project, or if you wish to challenge the accuracy of the information contained in the application, you can request that the Commission hold an [evidentiary hearing](#) on the application. A request for a hearing must be made within the 30-day comment period. [Net-Metering Hearing Request form](#).

A request for a hearing must be supported by more than just a general statement. For example, it is not enough to state that an application "violates Section 248(b)(5)" or "will harm wetlands." Instead, a commenter should state with specificity why the project raises a substantive issue under the Section 248 criteria. For example: "The application raises an issue under the aesthetics criterion under Section 248(b)(5) because the applicant has not proposed adequate mitigation to screen the view of the project from Maple Street."

Section 248 criteria applicable to net-metering systems:

<p>Conversion of an existing system to a net-metering arrangement:</p>	<p>New net-metering facilities:</p>
<ul style="list-style-type: none"> • System stability and reliability 	<ul style="list-style-type: none"> • System stability and reliability, • Project need, • Orderly development of the region, • Aesthetics, • Historic sites, • Air and water purity, • The natural environment, • Use of natural resources, • Public health and safety, • Outstanding resource waters, and • Municipal setback requirements

Please see [Commission Rule 5.112](#) for more information on how the Commission assesses aesthetics impacts for net-metering applications.

To participate in an evidentiary hearing, you must be a party to a case.

Scheduling Conference. The purpose of a [scheduling conference](#) is to discuss procedural details and to set the schedule leading to an evidentiary hearing and briefing in the case. Scheduling conferences are open to the public. After the scheduling conference, the Commission will issue an order summarizing the results of the scheduling conference, which generally include a schedule for the next steps in the case ([scheduling order](#)). Please see [Commission Rule 2.225](#).

Site Visit. The Commission (or a hearing officer assigned to the case by the Commission) may conduct a [site visit](#) to the property where the proposed net-metering project would be located. Site visits help the Commission and others to better understand the proposed project and the issues that the proposed project may present. Observations and facts from the site visit are not considered as evidence unless the Commission or a party specifically enters them into the evidentiary record.

Discovery. The [discovery](#) process may be used if there will be an evidentiary hearing on a case. Discovery is the process by which the parties to the case exchange information to get a better understanding of what facts they agree on and disagree about. Information produced in discovery is not evidence, unless the Commission admits it into evidence during the evidentiary hearing. Only the parties to the case are permitted to issue discovery requests.

Testimony and Exhibits. The parties to a case prepare [testimony](#) and [exhibits](#) that support their position on whether the proposed project complies with the relevant review criteria. The applicant includes [pre-filed testimony](#) and [exhibits](#) with the application. The applicant may also file supplemental pre-filed testimony to address issues that come up before the evidentiary hearing. Please see [Commission Rules 2.204 and 2.213](#).

Other parties to a case have the opportunity to file testimony and exhibits before the evidentiary hearing. In filing such documents, a party must provide a copy to all other parties in the case. The deadline for filing testimony and exhibits is usually set in a [scheduling order](#) issued by the Commission after the scheduling conference.

Parties to a case may file an objection to the admissibility of some or all of another party's pre-filed testimony and exhibits. Typically, objections must be filed at least 14 days before the evidentiary hearing. For more information on filing objections, please see [Commission Rules 2.216 and 2.217](#).

Stipulation or Memorandum of Understanding. Two or more of the parties may agree to a settlement, also called a [stipulation](#) or [memorandum of understanding](#) (MOU) that resolves some or all of the disputed issues in a case. Settlements can be entered into at any point in a case and may be submitted to the Commission before or after the evidentiary hearing.

Evidentiary Hearing. At the [evidentiary hearing](#), the Commission will develop an evidentiary record on which to base its decision. This involves admitting the pre-filed testimony and exhibits and conducting cross-examination. While the public is welcome to attend and observe an evidentiary hearing, only the parties are permitted to participate in the hearing. Members of the public can become parties to a case by intervening following the process described above.

An evidentiary hearing may be conducted by the full Commission, two Commissioners, or a hearing officer.

Parties to a case must follow the procedures for evidentiary hearings; for more information about these procedures, please see the explanation under [evidentiary hearing](#) in the glossary.

Briefs and Proposed Findings of Fact. The parties (and friends-of-the-court) will have an opportunity to file [briefs](#) and [proposed findings of fact](#) after the evidentiary hearing. A brief is a written document that presents a party's legal and factual arguments for consideration by the Commission. Briefs can include proposed findings of fact, which are statements of facts from the evidentiary record that a party wants to be the basis for the Commission's decision. Please see [Commission Rule 2.223](#).

If you are not a party but would like an opportunity to tell the Commission how you think the evidence and law should be applied in the case, you can make a request to file a [friend-of-the-court](#) brief.

Decision. If there are no substantive issues raised concerning the application, the Commission will issue a [decision](#) following the 30-day comment period.

If a substantive issue has been raised and an evidentiary hearing is held by a hearing officer, he or she will issue an initial [proposal for decision](#) that recommends an outcome to the Commission. The parties to the case will have the opportunity to file written comments on the proposal for decision and ask for [oral argument](#) before the Commission. The Commission will consider the hearing officer's proposal for decision, the parties' comments, and any arguments made at oral argument. The Commission may accept, reject, or modify the proposal for decision. In so doing, the Commission will issue a [final order](#) deciding the case. If the decision is to approve the project, the final order will be accompanied by a [certificate of public good](#).

If the evidentiary hearing is held by the Commission itself, no proposal for decision will be issued. Instead, the Commission will issue a final order following review of the parties' briefs.

Final Commission orders are subject to [motions to alter or amend](#) (also referred to as [motions for reconsideration](#)) under [Commission Rule 2.221](#). A motion to alter or amend must be filed within 28 days after a final order is issued. Any final decision by the Commission may be appealed to the Vermont Supreme Court. An appeal must be filed within 30 days after a final order is issued.

Up-to-date information about specific cases, current deadlines, and more can be accessed anytime in [ePUC](#).

This document can be accessed at puc.vermont.gov/document/net-metering-procedures where the glossary terms and other links will be active. Similar documents for other types of cases can be accessed at puc.vermont.gov/public-participation/introduction-participating-commission-processes/procedures-different-types.