

PUBLIC PARTICIPATION AND INTERVENTION IN PROCEEDINGS BEFORE THE PUBLIC UTILITY COMMISSION

Members of the public may participate in proceedings before the Vermont Public Utility Commission by submitting public comments or by intervening as a formal party to a case.¹

When the Commission receives a petition to open an investigation or to approve a proposed project or program, the petitioner must provide a copy of the complete petition to each entity and person entitled by Vermont law or Commission rule to receive a copy. If you have received a copy or notice of a petition, you may wish to provide comments on the petition or participate more actively in the Commission proceeding to review the petition. Members of the public may also simply monitor the Commission's actions in a specific case. This handout provides initial guidance on how to monitor, comment on, or actively participate in Commission proceedings.

MONITORING COMMISSION ACTIONS IN A CASE

By "subscribing" to a case, you will receive email notifications when parties make filings and the Commission issues documents in that case. To subscribe to a case, log in to ePUC, the Commission's electronic filing system, at <https://epuc.vermont.gov>, find the case you would like to subscribe to by using the "Search by Case Number" option, select "Subscribe to a Case" from the "Select Action" drop-down menu, and fill in the fields on that screen.

SUBMITTING PUBLIC COMMENTS

Members of the public may provide comments in any case before the Commission at any time. Typically, comments are provided orally at a public hearing (which may be convened by the Commission in many, but not all cases) or through a written filing submitted to the Commission by mail, email, or through ePUC.

¹ General information about the Commission is available in the separate document "A Citizen's Guide to the Public Utility Commission," which is available at: www.puc.vermont.gov/document/citizen-guide-public-utility-commission.

Public comments are not formal “evidence,” but they can serve a valuable function in bringing up important issues for the Commission to pursue in formal case proceedings. If an evidentiary hearing is held, public comments received before the hearing may help the Commission to ask questions of the parties and their witnesses. However, unless you have formally intervened in a case, you will not be able to present sworn testimony or cross-examine witnesses at an evidentiary hearing.

INTERVENING IN A CASE

Intervention is the procedure by which individuals or groups become formal parties to a case to present evidence and arguments directly to the Commission. Those who meet the criteria for intervention may be granted party status by the Commission and are known as “intervenor.” Examples of potential intervenors include adjacent landowners, public-interest groups (such as environmental organizations), business organizations, municipal governments, and regional planning commissions. To gain intervenor status, you must demonstrate that your rights or interests may be affected by the outcome of a case.

Rights and Obligations of an Intervenor

An intervenor is a full party to the case in question, with the right to submit testimony, participate in discovery, cross-examine witnesses at hearings, and make arguments to the Commission.² An intervenor must also comply with all applicable Commission rules and orders,³ including procedural schedules, and must respond to information requests of other parties.

Official Representation as an Intervenor

As a party in a Commission proceeding, you may choose to be represented by an attorney or you may choose to represent yourself without an attorney (referred to as a *pro se* appearance). The Commission may allow partnerships, corporations, cooperatives, associations, and State

² For a step-by-step explanation of an evidentiary hearing for non-attorneys, see the separate document “A Guide to Evidentiary Hearings,” which is available at: www.puc.vermont.gov/document/guide-evidentiary-hearings.

³ Commission rules are available at: www.puc.vermont.gov/about-us/statutes-and-rules/current-rules-and-general-orders.

agencies to be represented by an officer or an employee designated in writing by an officer of the organization. Any party appearing *pro se* must comply with the same obligations that apply to an attorney admitted to practice in Vermont.

HOW TO INTERVENE

There are *two different mechanisms for intervening*, depending on the type of case. Some entities and individuals can obtain intervention status simply by filing a letter or a “notice of intervention.” In most cases, however, you must file a more comprehensive “motion to intervene.”

Notice of Intervention

Examples of entities and individuals who may file the simpler notice of intervention form: (1) Regional and municipal planning commissions and municipal legislative bodies that are hosts to a proposed facility or are based in a town or region that is adjacent to and in close proximity to the proposed project, and (2) *only* in net-metering cases and Section 248⁴ cases related to the siting of utility infrastructure such as solar and wind facilities and electric transmission lines, electric utilities, certain State agencies, and *landowners adjoining a proposed facility site*.

A form for notices of intervention is available at:

www.puc.vermont.gov/document/notice-intervention-form.

Motion to Intervene

In most cases, a motion to intervene must be filed by all others seeking party status in a Commission case – including rate cases; net-metering cases and Section 248 cases (except for the specific entities described above); and Section 248a⁵ cases related to the siting of cell towers.

A motion to intervene must address certain legal standards, as required by Commission rules. For example, you must ensure that your motion clearly describes your circumstances

⁴ Section 248 of Title 30 of the Vermont Statutes Annotated establishes procedures and standards regarding the construction of electric or gas facilities inside Vermont, and the purchase of energy or capacity and the investment in transmission or generation facilities outside Vermont.

⁵ Section 248a governs the siting of wireless telecommunications infrastructure such as cell towers.

and the reasons you meet the standards for intervening. Before filing a motion to intervene, please read Commission Rule 2.209 (www.puc.vermont.gov/document/commission-rule-2200-procedures-generally-applicable).

The form for motions to intervene and further instructions are available at: www.puc.vermont.gov/document/motion-intervene-form.

All motions to intervene and notices of intervention must be filed using ePUC, the Commission's online filing system, unless the filing is accompanied by a request for a waiver under Commission Rule 2.107 to allow paper filings. A form to request a waiver under Commission Rule 2.107 is available at: www.puc.vermont.gov/document/request-waiver-requirement-use-epuc-form. This form is also a "notice of appearance," which provides the Commission and the parties to the case with the identity and contact information for the person legally representing a party in a case, pursuant to Commission Rule 2.201(A).⁶ The person listed in the notice of appearance is the only person who may make formal filings with the Commission in that case.

For more detailed information on public participation in the various types of Commission proceedings, including standard procedures for filing a motion to intervene, go to:

www.puc.vermont.gov/public-participation, and

www.puc.vermont.gov/public-participation/introduction-participating-commission-processes/procedures-different-types.

In all communications with the Commission regarding a case, whether through public comments or through formal intervention, you should reference the case number provided to you in the correspondence you received from the petitioner at the time the petition was officially filed. The case number will enable you to access all non-confidential documents in the case through the Commission's electronic filing system, ePUC: <https://epuc.vermont.gov/>.

⁶ If a motion to intervene or a notice of intervention is filed in paper along with a request for a waiver of the requirement to use ePUC, the filer must mail copies of the entire filing to all parties in the case. Filers can obtain a list of names and addresses of the parties in the case by contacting Commission administrative staff at 802-828-2358 or puc.clerk@vermont.gov.