

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

INFORMATION SESSION RE: COMMISSION'S
PROCESSING OF CERTAIN NET-METERING
CASES

October 1, 2021
9:30 a.m.

Via Videoconference

Information Session held before the
Vermont Public Utility Commission, via GoToMeeting, on
October 1, 2021, beginning at 9:30 a.m.

P R E S E N T

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P R E S E N T

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1 MS. HOFFMAN: Welcome everyone, and
2 good morning. My name is Steph Hoffman, and I'm a
3 staff attorney at the Public Utility Commission.
4 With me today from the commission is Kyle
5 Landis-Marinello, General Counsel, and Ann Bishop,
6 our Operations Director.

7 This is a virtual information session
8 regarding the commission's processing of certain net-
9 metering cases. The purpose of today's information
10 session is to provide an outline of the procedure and
11 answer questions about it from members of the public.

12 Before we begin the substantive
13 information session, I just want to remind everyone
14 that the commission staff will not mute anyone's
15 microphone today. That means that you should keep
16 yourself on mute unless you are speaking. That way
17 we can minimize background noise.

18 If you're not going to be actively
19 speaking during the information session, it is also
20 helpful if you could turn your video off so that when
21 people begin speaking we can see their picture better
22 on the screen.

23 The commission has implemented a
24 procedure for processing certain net-metering
25 petitions in which after the 30-day comment period

1 there are no outstanding substantive issues and no
2 parties that have any concerns with the project that
3 warrant further investigation or a hearing. This
4 procedure only applies to net-metering petitions. So
5 systems greater than 50 KW that are not roof-mounted
6 photovoltaic systems or hydroelectric facilities.

7 After an internal review at the
8 commission, the hearing officer in such a case, may
9 issue a memorandum to the applicant. A generic
10 version of that memo was distributed publicly with
11 the announcement of this information session. The
12 memo requests that the applicant file one, a
13 commission uncontested net-metering petition waiver
14 form signed by all parties. That is available on our
15 website. And two, a document containing all the
16 final agreed upon proposed conditions introduced
17 during the comment period or during any other further
18 litigation of the case.

19 The memo further explains that the
20 commission may still have questions or concerns about
21 the proposed project, and thus, the memo does not
22 signal a final determination on the merits of the
23 application.

24 The parties in such a case may then
25 elect to sign and file a waiver form that is

1 available on the commission's website, as I
2 mentioned. You can get there either by going to
3 puc.vermont.gov, under the drop-down menu at the top
4 of bar there is a form section. And then there is a
5 drop down under that for CPG applicants. And the
6 form is on that web page. Or you can go to
7 [puc.vermont.gov/document/net-metering-petition-](http://puc.vermont.gov/document/net-metering-petition-waiver-form)
8 [waiver-form](http://puc.vermont.gov/document/net-metering-petition-waiver-form).

9 If the commission receives the two
10 documents described in the memo and that I
11 articulated above, then it will consider whether this
12 procedure applies and the case may result in a non-
13 precedential shorter final order than is typical of
14 net-metering petitions.

15 Again, submission by the applicant and
16 other parties of these materials does not guarantee
17 that the case will be processed in this way.

18 So that's the information that we have
19 to provide today. We will now turn to questions. I
20 ask that you would raise your hand or turn on your
21 camera to signal that you have a question. I will
22 call on each person individually. Please try not to
23 speak over one another. And whenever you begin
24 talking, please identify yourself by name for the
25 court reporter and provide your affiliation, if any,

1 with the group or entity if you desire.

2 I'll also remind parties that we can
3 not discuss specific cases that are pending with the
4 commission or that may be filed with the commission
5 in the future. So I will now open it up to questions
6 from members of the public.

7 MS. HOFFMAN: Yes, Ms. Hayden.

8 MS. HAYDEN: Sorry. I couldn't find
9 the icon for raising my hand. Just a quick question.
10 The non-precedential final order, why would it be a
11 non-precedential order if it's a final order?

12 MS. HOFFMAN: Well so this will be
13 explained further, should an order be received,
14 within the context of the order. But that decision
15 is available to us for a variety of reasons. We are
16 kind of designating these orders as non precedential
17 because they would not contain the same analysis as a
18 typical NMP order would contain.

19 MS. HAYDEN: But there would be a
20 Proposal for Decision including findings of fact, and
21 then an order affirming the final decision. So it
22 would be a decision on the merits.

23 MS. HOFFMAN: These are certainly
24 decisions on the merits, and we would have to have
25 the evidence supporting all the typical findings

1 required by statute for such an order. Yes.

2 MS. HAYDEN: But that would be in the
3 application materials, all of the evidence, and then
4 the findings of fact would cite the evidence
5 supporting each of the statutory criteria. So I'm
6 not understanding why it would not have any
7 precedential value.

8 MS. HOFFMAN: We are just providing
9 that information in advance because it's a
10 designation that would be in such -- one of these
11 shorter, abbreviated orders. Much like certain
12 orders that come out of the appellate court and other
13 courts are non precedential based on the sort of
14 posture of that case.

15 MS. HAYDEN: I guess I'm not -- I would
16 have to look at the civil rules. But I think if
17 you've got a stipulation by all of the parties, and
18 which essentially is what the waiver would be, and
19 you've got evidentiary findings that support all of
20 the criteria, that it really would be a final order
21 that should have precedential value.

22 But I don't want to belabor the point.
23 I'll look into it. I guess I didn't see that nuance
24 in the procedural order that was issued the other
25 day. So I don't want to take up everybody's time.

1 MS. HOFFMAN: Thank you for your
2 question. Mr. Anderson?

3 MR. K. ANDERSON: Good morning. I'm
4 Kevin Anderson with the Agency of Natural Resources.
5 I had a similar question. You know, the email
6 introducing this alternative process says the case
7 may then result in a non-precedential order, and I
8 guess I'm curious how we can be assured that would be
9 the case before signing the waiver.

10 I mean and kind of related is there an
11 opportunity at this point to suggest revisions to the
12 waiver form that clarify those waivers are made on
13 the condition that it would be a non-precedential
14 order?

15 MS. HOFFMAN: So I'll just clarify that
16 the "may" in that sentence applies to may result in
17 such an order. Not whether that order would contain
18 the non-precedential designation. So if the case --
19 if it's deemed by the commission that this procedure
20 applies, then the order that is issued is an
21 abbreviated order that covers the statutory criteria
22 required in such an order. But then it would be
23 designated within that order as non precedential.

24 If, in fact, there are remaining issues
25 after the commission's review of the case, then a

1 typical -- more typical NMP order would issue in that
2 case.

3 Does that answer your question?

4 MR. K. ANDERSON: Kind of. So we would
5 know that the commission intends to make it a non-
6 precedential order before we are asked to sign the
7 waiver?

8 MS. HOFFMAN: The waiver -- the waiver
9 process is one of the components required to get this
10 review. However, the commission still has the
11 authority to determine the case doesn't get sort of
12 an abbreviated order and needs a more typical order.
13 So if the waiver is signed, that's not a guarantee
14 that you get processed this way. There is still
15 commission authority to review these issues and make
16 a final determination of whether the process applies.

17 If, in fact, this process applies and
18 is going to be utilized, the order that comes out of
19 it is a shorter, non-precedential, abbreviated order.

20 MR. K. ANDERSON: I understand. I
21 think we may be, at ANR, more reluctant to sign that
22 waiver if we don't know whether that order -- that
23 final order will be non precedential.

24 And then just a follow-up question.
25 You know, what happens if a party chooses not to sign

1 the waiver form? I mean the sample memo to the
2 applicant says commission requests that you file this
3 waiver form. You know, I mean I can imagine what
4 might happen. But, you know, from the commission's
5 perspective what would happen in that case? The
6 party doesn't sign a waiver.

7 MS. HOFFMAN: All parties to a case
8 would have to sign the waiver for this process to be
9 -- to move forward. Otherwise, it would just be
10 handled as has been typically the case.

11 MR. K. ANDERSON: Okay. Thanks.

12 MS. HOFFMAN: Mr. Wing?

13 MR. WING: Alex Wing, Vermont
14 Department of Public Service. My colleague at ANR,
15 Kevin Anderson, I guess asked one of my questions
16 which was, I guess, whether this was volitional for
17 all the parties. And then I just wanted to confirm
18 that the intended scope of applicability -- I think
19 you said was 50 kilowatts?

20 MS. HOFFMAN: These apply to net-
21 metering petitions. So the 5107 category of
22 projects.

23 MR. WING: Gotcha. All right. Thank
24 you.

25 MS. HOFFMAN: Are there any other

1 questions? Yes. Ms. Westgate.

2 MS. WESTGATE: Sorry. Victoria
3 Westgate from Dunkiel Saunders. I was just wondering
4 if you could speak a little bit to the expected time
5 lines. I assume that this kind of order would result
6 in a quicker decision from the commission. So I
7 didn't know if you had any, like, expectations about
8 that you could share.

9 MS. HOFFMAN: I can just share that the
10 procedure is now available to hearing officers in
11 cases where this might apply as of the end of this
12 information session. And so we aren't absolutely
13 certain about how this process will go in the
14 beginning, but certainly there is an intention here
15 to create sort of efficiency in the process in some
16 ways. But only after that complete and comprehensive
17 review would take place that is typical in an NMP
18 case.

19 MS. WESTGATE: Okay. Thank you.

20 MS. HOFFMAN: Any other questions? Mr.
21 Anderson?

22 MR. K. ANDERSON: Yes. Just one. I
23 kind of asked it earlier, but is there, you know, is
24 this kind of set? And this is the process moving
25 forward? But is the commission or is the commission

1 open to, you know, making changes, for example, to
2 the waiver form at this point? Are you open to that
3 feedback if that's something that would, you know, be
4 more likely to result in parties executing the waiver
5 form?

6 MS. HOFFMAN: So I think that the best
7 way to answer that is we would accept comments,
8 public comments, in our miscellaneous administration
9 case which is Case No. 21A-0013 should anyone have
10 comments on the procedure itself.

11 MR. K. ANDERSON: Okay. Thank you.

12 MS. HOFFMAN: Ms. Hayden.

13 MS. HAYDEN: Yes. So in terms of Mr.
14 Anderson's questions, a thought. If the parties were
15 to provide both the waiver form and the conditions
16 document as well as a stipulation that included the
17 standard language of no precedential effect, would
18 the commission consider receiving that and
19 conditioning its order on that? Or do you -- maybe
20 you don't know the answer to that.

21 In other words, the parties would
22 stipulate or they could expand the waiver to include
23 language with a stipulation that it's being offered
24 on the condition that the if -- if it's kind of fast
25 tracked through this process, that the order would

1 not have any precedential effect. It would just --
2 kind of a standard condition that's in most of the
3 ANR stipulations that we enter into.

4 MS. HOFFMAN: I think that the parties
5 are free to kind of provide a context or additional
6 information with the filings that are required, and
7 we would certainly consider that information in
8 processing the application.

9 MS. HAYDEN: Okay. Thank you.

10 MS. HOFFMAN: Any other questions?

11 (No response).

12 MS. HOFFMAN: All right. Seeing none,
13 we will conclude this information session. And thank
14 you all for attending this morning on a Friday in
15 peak foliage season. So thank you all. Have a
16 wonderful day.

17 (Whereupon, the proceeding was
18 adjourned at 9:53 a.m.)
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C E R T I F I C A T E

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2
3 I, Kim U. Sears, do hereby certify that I
4 recorded by stenographic means the information session re:
5 Commission's processing of certain net-metering cases, via
6 GoToMeeting, on October 1, 2021, beginning at 9:30 a.m.

7 I further certify that the foregoing
8 testimony was taken by me stenographically and thereafter
9 reduced to typewriting and the foregoing 13 pages are a
10 transcript of the stenograph notes taken by me of the
11 evidence and the proceedings to the best of my ability.

12 I further certify that I am not related to
13 any of the parties thereto or their counsel, and I am in
14 no way interested in the outcome of said cause.

15 Dated at Williston, Vermont, this 2nd day of
16 October, 2021.

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<p style="text-align: center;">0</p> <p>05402-0329 - 1:20</p> <hr/> <p style="text-align: center;">1</p> <p>1 [3] 1:6, 1:9, 14:6 13 - 14:9</p> <hr/> <p style="text-align: center;">2</p> <p>2021 [4] 1:6, 1:9, 14:6, 14:16 21A-0013 - 12:9 2nd - 14:15</p> <hr/> <p style="text-align: center;">3</p> <p>30-day - 3:25 329 - 1:19</p> <hr/> <p style="text-align: center;">5</p> <p>50 [2] 4:5, 10:19 5107 - 10:21</p> <hr/> <p style="text-align: center;">8</p> <p>802 - 1:20 863-6067 - 1:20</p> <hr/> <p style="text-align: center;">9</p> <p>9:30 [3] 1:6, 1:9, 14:6 9:53 - 13:18</p> <hr/> <p style="text-align: center;">A</p> <p>a.m [4] 1:6, 1:9, 13:18, 14:6 Aaron - 2:11 abbreviated [4] 7:11, 8:21, 9:12, 9:19 ability - 14:11 absolutely - 11:12 accept - 12:7 actively - 3:18 additional - 13:5 adjourned - 13:18 administration - 12:8 advance - 7:9 affiliation - 5:25 affirming - 6:21 Agency - 8:4 agreed - 4:16 Alex [2] 2:2, 10:13 alternative - 8:6 Amanda - 2:6 analysis - 6:17 Anderson [12] 2:3, 2:8, 8:2, 8:3, 8:4, 9:4, 9:20, 10:11,</p>	<p>10:15, 11:21, 11:22, 12:11 Anderson's - 12:14 Ann [2] 1:13, 3:5 announcement - 4:11 ANR [4] 2:3, 9:21, 10:14, 13:3 anyone's - 3:14 appellate - 7:12 applicability - 10:18 applicant [4] 4:9, 4:12, 5:15, 10:2 applicants - 5:5 application [3] 4:23, 7:3, 13:8 applies [6] 4:4, 5:12, 8:16, 8:20, 9:16, 9:17 apply [2] 10:20, 11:11 aren't - 11:12 articulated - 5:11 assume - 11:5 assured - 8:8 attending - 13:14 attorney [2] 1:11, 3:3 authority [2] 9:11, 9:15 available [4] 4:14, 5:1, 6:15, 11:10</p> <hr/> <p style="text-align: center;">B</p> <p>background - 3:17 bar - 5:4 begin [3] 3:12, 3:21, 5:23 beginning [3] 1:9, 11:14, 14:6 belabor - 7:22 Ben - 2:6 Bergeron - 2:13 best [2] 12:6, 14:11 better - 3:21 Bill - 2:8 Bishop [2] 1:13, 3:5 bit - 11:4 BOX - 1:19 BURLINGTON - 1:20</p> <hr/> <p style="text-align: center;">C</p> <p>camera - 5:21 CAPITOL - 1:19 Carol - 2:7 Carolyn - 2:8 Carrara - 2:9 case [18] 4:8, 4:18, 4:24, 5:12, 5:17, 7:14, 8:6, 8:9, 8:18, 8:25, 9:2, 9:11, 10:5, 10:7, 10:10,</p>	<p>11:18, 12:9, 12:9 cases [5] 1:4, 3:9, 6:3, 11:11, 14:5 category - 10:21 cause - 14:14 certain [6] 1:4, 3:8, 3:24, 7:11, 11:13, 14:5 certainly [3] 6:23, 11:14, 13:7 certify [3] 14:3, 14:7, 14:12 changes - 12:1 chooses - 9:25 cite - 7:4 civil - 7:16 Civiletti - 2:6 clarify [2] 8:12, 8:15 colleague - 10:14 comes - 9:18 comment [2] 3:25, 4:17 comments [3] 12:7, 12:8, 12:10 commission [21] 1:1, 1:9, 3:3, 3:4, 3:14, 3:23, 4:8, 4:13, 4:20, 5:9, 6:4, 6:4, 8:19, 9:5, 9:10, 9:15, 10:2, 11:6, 11:25, 11:25, 12:18 commission's [6] 1:3, 3:8, 5:1, 8:25, 10:4, 14:5 complete - 11:16 components - 9:9 comprehensive - 11:16 concerns [2] 4:2, 4:20 conclude - 13:13 condition [3] 8:13, 12:24, 13:2 conditioning - 12:19 conditions [2] 4:16, 12:15 confirm - 10:17 consider [3] 5:11, 12:18, 13:7 contain [3] 6:17, 6:18, 8:17 containing - 4:15 context [2] 6:14, 13:5 couldn't - 6:8 counsel [3] 1:12, 3:5, 14:13 court [3] 1:19, 5:25, 7:12 courts - 7:13 covers - 8:21 CPG - 5:5 create - 11:15 criteria [3] 7:5,</p>	<p>7:20, 8:21 curious - 8:8</p> <hr/> <p style="text-align: center;">D</p> <p>Dated - 14:15 decision [5] 6:14, 6:20, 6:21, 6:22, 11:6 decisions - 6:24 deemed - 8:19 Department - 10:14 described - 5:10 designated - 8:23 designating - 6:16 designation [2] 7:10, 8:18 desire - 6:1 determination [2] 4:22, 9:16 determine - 9:11 Director [2] 1:13, 3:6 discuss - 6:3 distributed - 4:10 document [2] 4:15, 12:16 documents - 5:10 drop - 5:5 drop-down - 5:3 Dunkiel - 11:3</p> <hr/> <p style="text-align: center;">E</p> <p>earlier - 11:23 effect [2] 12:17, 13:1 efficiency - 11:15 either - 5:2 elect - 4:25 email [2] 1:21, 8:5 enter - 13:3 entity - 6:1 Eric [2] 2:4, 2:13 Esq [4] 2:2, 2:2, 2:3, 2:4 essentially - 7:18 everybody's - 7:25 everyone [2] 3:1, 3:13 evidence [4] 6:25, 7:3, 7:4, 14:11 evidentiary - 7:19 example - 12:1 executing - 12:4 expand - 12:22 expectations - 11:7 expected - 11:4 explained - 6:13 explains - 4:19</p> <hr/> <p style="text-align: center;">F</p> <p>facilities - 4:6 fast - 12:24 feedback - 12:3 file [3] 4:12,</p>	<p>4:25, 10:2 filed - 6:4 filings - 13:6 final [9] 4:16, 4:22, 5:13, 6:10, 6:11, 6:21, 7:20, 9:16, 9:23 findings [4] 6:20, 6:25, 7:4, 7:19 follage - 13:15 follow-up - 9:24 foregoing [2] 14:7, 14:9 forward [2] 10:9, 11:25 free - 13:5 Friday - 13:14 future - 6:5</p> <hr/> <p style="text-align: center;">G</p> <p>Gadway - 2:10 General [2] 1:12, 3:5 generic - 4:9 Gillian - 2:13 Gotcha - 10:23 GoToMeeting [2] 1:9, 14:6 Grace - 2:7 greater - 4:5 group - 6:1 Grundhauser - 2:7 guarantee [2] 5:16, 9:13 Guerin - 2:12 guess [5] 7:15, 7:23, 8:8, 10:15, 10:16 Guzman - 2:4</p> <hr/> <p style="text-align: center;">H</p> <p>handled - 10:10 happen [2] 10:4, 10:5 happens - 9:25 Hayden [9] 2:2, 6:7, 6:8, 6:19, 7:2, 7:15, 12:12, 12:13, 13:9 hearing [3] 4:3, 4:8, 11:10 held - 1:8 helpful - 3:20 hereby - 14:3 Hildebrand - 2:9 Hoffman [21] 1:11, 3:1, 3:2, 6:7, 6:12, 6:23, 7:8, 8:1, 8:15, 9:8, 10:7, 10:12, 10:20, 10:25, 11:9, 11:20, 12:6, 12:12, 13:4, 13:10, 13:12 However - 9:10 hydroelectric - 4:6</p>	<hr/> <p style="text-align: center;">I</p> <p>icon - 6:9 identify - 5:24 imagine - 10:3 implemented - 3:23 include - 12:22 included - 12:16 including - 6:20 individually - 5:22 info@capitolcour - 1:21 information [14] 1:3, 1:8, 3:7, 3:9, 3:13, 3:19, 4:11, 5:18, 7:9, 11:12, 13:6, 13:7, 13:13, 14:4 intended - 10:18 intends - 9:5 intention - 11:14 interested - 14:14 internal - 4:7 introduced - 4:16 introducing - 8:6 investigation - 4:3 issue [2] 4:9, 9:1 issued [2] 7:24, 8:20 issues [3] 4:1, 8:24, 9:15 itself - 12:10</p> <hr/> <p style="text-align: center;">J</p> <p>Jarvis - 2:5 John - 2:12</p> <hr/> <p style="text-align: center;">K</p> <p>Karly - 2:9 Kevin [4] 2:3, 2:10, 8:4, 10:15 kilowatts - 10:19 Kim - 14:3 Kimberly - 2:2 KW - 4:5 Kyle [2] 1:12, 3:4</p> <hr/> <p style="text-align: center;">L</p> <p>Landis-marinello [2] 1:12, 3:5 language [2] 12:17, 12:23 Laurie - 2:5 Lavallee - 2:11 Lazorchak - 2:11 likely - 12:4 lines - 11:5 litigation - 4:18</p> <hr/> <p style="text-align: center;">M</p> <p>making - 12:1 materials [2] 5:16, 7:3 maybe - 12:19</p>
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<p>McCollister - 2:10 means [2] 3:15, 14:4 members [2] 3:11, 6:6 memo [6] 4:10, 4:12, 4:19, 4:21, 5:10, 10:1 memorandum - 4:9 mentioned - 5:2 menu - 5:3 merits [3] 4:22, 6:22, 6:24 metering [2] 3:9, 10:21 microphone - 3:15 Mike [2] 2:10, 2:11 minimize - 3:17 miscellaneous - 12:8 morning [3] 3:2, 8:3, 13:14 move - 10:9 moving - 11:24 mute [2] 3:14, 3:16</p> <hr/> <p style="text-align: center;">N</p> <hr/> <p>Natural - 8:4 needs - 9:12 net [2] 3:8, 10:20 net-metering [6] 1:4, 3:24, 4:4, 4:13, 5:14, 14:5 Newton - 2:12 NMP [3] 6:18, 9:1, 11:17 noise - 3:17 non [6] 5:12, 6:16, 7:13, 8:23, 9:5, 9:23 non-precedential [6] 6:10, 6:11, 8:7, 8:13, 8:18, 9:19 none - 13:12 notes - 14:10 nuance - 7:23</p> <hr/> <p style="text-align: center;">O</p> <hr/> <p>October [4] 1:6, 1:9, 14:6, 14:16 offered - 12:23 officer - 4:8 officers - 11:10 open [3] 6:5, 12:1, 12:2 Operations [2] 1:13, 3:6 opportunity - 8:11 order [30] 5:13, 6:10, 6:11, 6:11, 6:13, 6:14, 6:18, 6:21, 7:1, 7:20, 7:24, 8:7, 8:14, 8:17, 8:17, 8:20, 8:21, 8:22, 8:23,</p>	<p>9:1, 9:6, 9:12, 9:12, 9:18, 9:19, 9:22, 9:23, 11:5, 12:19, 12:25 orders [3] 6:16, 7:11, 7:12 Otherwise - 10:9 outcome - 14:14 outline - 3:10 outstanding - 4:1</p> <hr/> <p style="text-align: center;">P</p> <hr/> <p>P.O - 1:19 pages - 14:9 parties [13] 4:2, 4:14, 4:24, 5:16, 6:2, 7:17, 10:7, 10:17, 12:4, 12:14, 12:21, 13:4, 14:13 party [2] 9:25, 10:6 peak - 13:15 pending - 6:3 period [2] 3:25, 4:17 perspective - 10:5 petition - 4:13 petitions [4] 3:25, 4:4, 5:14, 10:21 Petraska - 2:4 Phanuef - 2:13 photovoltaic - 4:6 please [2] 5:22, 5:24 point [3] 7:22, 8:11, 12:2 posture - 7:14 Powell - 2:8 precedential [10] 5:13, 6:16, 7:7, 7:13, 7:21, 8:23, 9:6, 9:23, 12:17, 13:1 procedural - 7:24 procedure [7] 3:10, 3:24, 4:4, 5:12, 8:19, 11:10, 12:10 proceeding - 13:17 proceedings - 14:11 process [9] 8:6, 9:9, 9:16, 9:17, 10:8, 11:13, 11:15, 11:24, 12:25 processed [2] 5:17, 9:14 processing [5] 1:4, 3:8, 3:24, 13:8, 14:5 project [2] 4:2, 4:21 projects - 10:22 Proposal - 6:20 proposed [2] 4:16, 4:21 provide [5] 3:10, 5:19, 5:25,</p>	<p>12:15, 13:5 providing - 7:8 public [7] 1:1, 1:9, 3:3, 3:11, 6:6, 10:14, 12:8 publicly - 4:10 puc.vermont.gov - 5:3 puc.vermont.gov/ - 5:7 purpose - 3:9</p> <hr/> <p style="text-align: center;">Q</p> <hr/> <p>quick - 6:9 quicker - 11:6</p> <hr/> <p style="text-align: center;">R</p> <hr/> <p>raise - 5:20 raising - 6:9 re [2] 1:3, 14:4 really - 7:20 reasons - 6:15 received - 6:13 receives - 5:9 receiving - 12:18 recorded - 14:4 reduced - 14:9 regarding - 3:8 related [2] 8:10, 14:12 reluctant - 9:21 remaining - 8:24 remind [2] 3:13, 6:2 reporter - 5:25 REPORTERS - 1:19 requests [2] 4:12, 10:2 required [4] 7:1, 8:22, 9:9, 13:6 Resources - 8:4 response - 13:11 result [5] 5:12, 8:7, 8:16, 11:5, 12:4 review [5] 4:7, 8:25, 9:10, 9:15, 11:17 revisions - 8:11 Robertson - 2:7 roof-mounted - 4:5 rules - 7:16 Ryan - 2:5</p> <hr/> <p style="text-align: center;">S</p> <hr/> <p>sample - 10:1 Sara - 2:9 Saunders - 11:3 says [2] 8:6, 10:2 scope - 10:18 screen - 3:22 Sears - 14:3 season - 13:15 section - 5:4 Seeing - 13:12 Service - 10:14</p>	<p>session [10] 1:3, 1:8, 3:7, 3:10, 3:13, 3:19, 4:11, 11:12, 13:13, 14:4 share [2] 11:8, 11:9 shorter [3] 5:13, 7:11, 9:19 sign [6] 4:25, 9:6, 9:21, 9:25, 10:6, 10:8 signal [2] 4:22, 5:21 signed [2] 4:14, 9:13 signing - 8:9 Simard - 2:6 similar - 8:5 Sorry [2] 6:8, 11:2 sort [3] 7:13, 9:11, 11:15 speak [2] 5:23, 11:4 speaking [3] 3:16, 3:19, 3:21 specific - 6:3 staff [4] 1:11, 1:11, 3:3, 3:14 standard [2] 12:17, 13:2 Stanley - 2:5 STATE - 1:1 statute - 7:1 statutory [2] 7:5, 8:21 stenograph - 14:10 stenographic - 14:4 stenographically - 14:8 Steph - 3:2 Stephanie - 1:11 stipulate - 12:22 stipulation [3] 7:17, 12:16, 12:23 stipulations - 13:3 submission - 5:15 substantive [2] 3:12, 4:1 suggest - 8:11 support - 7:19 supporting [2] 6:25, 7:5 systems [2] 4:5, 4:6</p> <hr/> <p style="text-align: center;">T</p> <hr/> <p>taken [2] 14:8, 14:10 Taylor - 2:12 terms - 12:13 testimony - 14:8 thank [7] 8:1, 10:23, 11:19, 12:11, 13:9, 13:13, 13:15 Thanks - 10:11</p>	<p>thereafter - 14:8 thereto - 14:13 thus - 4:21 today [3] 3:4, 3:15, 5:19 today's - 3:9 Tom - 2:4 top - 5:3 tracked - 12:25 transcript - 14:10 turn [3] 3:20, 5:19, 5:20 typewriting - 14:9 typical [7] 5:13, 6:18, 6:25, 9:1, 9:1, 9:12, 11:17 typically - 10:10</p> <hr/> <p style="text-align: center;">U</p> <hr/> <p>uncontested - 4:13 understand - 9:20 understanding - 7:6 unless - 3:16 upon - 4:16 Utility [3] 1:1, 1:9, 3:3 utilized - 9:18</p> <hr/> <p style="text-align: center;">V</p> <hr/> <p>value [2] 7:7, 7:21 variety - 6:15 Vermont [5] 1:1, 1:9, 1:20, 10:13, 14:15 version - 4:10 via [3] 1:7, 1:9, 14:5 Victoria [2] 2:3, 11:2 video - 3:20 Videoconference - 1:7 virtual - 3:7 volitional - 10:16</p> <hr/> <p style="text-align: center;">W</p> <hr/> <p>waiver [18] 4:13, 4:25, 7:18, 8:9, 8:12, 9:7, 9:8, 9:8, 9:13, 9:22, 10:1, 10:3, 10:6, 10:8, 12:2, 12:4, 12:15, 12:22 waiver-form - 5:8 waivers - 8:12 wanted - 10:17 warrant - 4:3 ways - 11:16 web - 5:6 website [2] 4:15, 5:1 Welcome - 3:1 Westgate [5] 2:3, 11:1, 11:2, 11:3, 11:19</p>	<p>whenever - 5:23 Whereupon - 13:17 whether [5] 5:11, 8:17, 9:16, 9:22, 10:16 Williston - 14:15 Wing [5] 2:2, 10:12, 10:13, 10:13, 10:23 within [2] 6:14, 8:23 wonderful - 13:16 wondering - 11:3</p> <hr/> <p style="text-align: center;">Y</p> <hr/> <p>yourself [2] 3:16, 5:24</p>
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