State of Vermont

AGENCY OF ENVIRONMENTAL CONSERVATION
Montpelier, Vermont 05602
ENVIRONMENTAL BOARD

Department of Fish and Game
Department of Forests and Parks
Department of Water Resources
Environmental Board
Division of Environmental Protection
Division of Recreation
Interagency Committee on Natural Resources
Natural Resource Conservation Council

September 21, 1971

Mr. Richard Thomas
Secretary of State
State of Vermont
Montpelier, VT 05602

Dear Dick:

The following change to the Rules and Regulations of the Environmental Board, Appendix A, was adopted by the Environmental Board as emergency rules on July 29, 1971.

Subsequently, the Board caused to be published on August 19, 1971 and August 26, 1971 legal notices reflecting the changes in the "Burlington Free Press," the "Rutland Herald," and the "Brattleboro Reformer" pursuant to the adoption of these changes as permanent rules under the Administrative Procedures Act.

Accordingly, these rule changes, delineated by underscoring the new language and bracketing the language to be deleted, will become effective 20 days from date of filing with your office. No public hearing was ordered.

The rule change in the text of Rule A-3 (Appendix A of the Rules and Regulations of the Environmental Board governing Power and Communication Lines and Facilities) is as follows:

"(a) Permits required: Unless specifically exempted under Rule A-3(c) no person shall, without having obtained a permit under 10 VSA, Chapter 151, construct, relocate, reconstruct, or extend any transmission facility for any purpose whether above, below, or on ground if the [clearing of natural growth or ground cover] construction of improvements for the right-of-way involves more than one acre (for example, 2,200' long based on minimum width of 20' right-of-way) if within a municipality not having permanent zoning and subdivision ordinances or more than ten acres (for example, 22,000' long based on minimum width of 20' right-of-way) if within a municipality having such ordinances, or more than ten acres (for example, 22,000'

long based on minimum width of 20' right-of-way) if a municipally owned utility. Reconstruction does not mean repair or replacement of component parts. For the purposes of this sub-section, if a transmission facility is constructed, relocated, reconstructed, or extended in segments and if at any time the total acreage of the /clearing/ improvements for the right-of-way of all segments completed within the preceeding three (3) months together with any additional segment or segments to be constructed will equal or exceed the minimum acreage specified in this sub-section, then a permit shall be required for the segment or segments of the facility which result in the acreage of the right-of-way to exceed such minimums."

Sincerely,

ROBERT S. BABCOCK, JR.
Executive Officer
Vermont Environmental Board

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RULES AND REGULATIONS OF THE ENVIRONMENTAL BOARD

APPENDIX A-- Power and Communication Lines and Facilities: Permit Requirements

Rule A-1

Purpose

To establish rules and procedures for applications for a permit under the Land Use and Development Act, 10 VSA 6001 by public and private utilities.

Rule A-2

Definition

Power and communication lines and facilities, hereinafter "transmission facilities" or "facilities", shall mean any wire, conduit, and physical structure or equipment related thereto whether above, below, or on ground used for the purpose of carrying, transmitting, distributing, storing, or consuming of electricity or communications, but shall not include an electric generation or transmission facility which requires a certificate of public good under Section 248 of Title 30.

Rule A-3

Scope

(a) Permits required: Unless specifically exempted under Rule A-3(c) no person shall, without having obtained a permit under 10 VSA, Chapter 151, construct, relocate, reconstruct, or extend any transmission facility for any purpose whether above, below, or on ground if the construction of improvements for the right-of-way involves more than one acre (for example, 2,200' long based on minimum width of 20' right-of-way) if within a municipality not having permanent zoning and subdivision ordinances or more than ten acres (for example, 22,000' long based on minimum width of 20' right-of-way) if a municipally owned utility. Reconstruction does not mean repair or replacement of component parts. For the purposes of this sub-section if a transmission facility is constructed, relocated, reconstructed, or extended in segments and if at any time the total acreage of the improvements for the right-of-way of all segments completed within the preceding three (3) months together with any additional segment or segments to be constructed will equal or exceed the minimum acreage specified in this sub-section, then a permit shall be required for the segment or segments of the facility which result in the acreage of the right-of-way to exceed such minimums.

(b) Exceptions:

(i) a generation or transmission facility which requires a certificate of public good under 30 VSA, Chapter 5, Section 248, is exempted under 10 VSA, Section 6001(3), and no permit is, therefore, required.

(ii) in an emergency situation requiring immediate action such as, to protect the health or safety of the public, utility companies may take whatever steps without notice or hearing or a permit as may be necessary or appropriate to meet such an emergency on a temporary basis, but upon the cessation of said emergency, the provisions of these Rules and Regulations will apply. Any action taken under this sub-section will be followed within 48 hours by written notice to the Environmental Board.

(iii) in situations requiring the temporary installation of transmission facilities, the utility companies may proceed with construction, relocation, reconstruction, or extension of transmission facilities without complying with the provisions of these Rules and Regulations after obtaining written approval from the applicable District Environmental Commission.

(c) Exemptions: Subject to the provisions of Rule A-4 below the following transmission facilities shall be exempt from the permit requirements of the Rules and Regulations of the Environmental Board and this Appendix A.

(i) a transmission facility within a development or subdivision having a permit from a District Environmental Commission; or

(ii) an under or on ground transmission facility below the elevation of 2,500', reseeded and/or reforested provided it is not located in a natural area, scenic area, or scenic corridor, as defined in 10 VSA, Section 1309; or

(iii) an under or on ground transmission facility within a right-of-way, including a public highway, existing, cleared, and in use, as of the effective date of these rules or having a permit under 10 VSA, Chapter 151 provided that such installation will not require widening or changing the character of the existing right-of-way or as may be specified in a permit; or

(iv) an above ground transmission facility in a right-of-way existing, cleared, and in use, as of the effective date of these rules, excepting rights-of-way for public highways, where such installation does not require widening or changing of the character of the right-of-way;

or

(v) an above ground transmission facility to be located on existing, and in use, transmission facilities.

(d) All utilities undertaking the development of a transmission facility considered exempt under sub-section (c) above will notify in writing the District Environmental Commission in which the majority of the facility will lie of said development.

Rule A-4

Installations

(a) Underground installation should be installed whenever feasible.

(b) All utility companies should contact each other prior to underground installation in order to coordinate efforts.

(c) Installation shall be such as to make the facility inconspicuous and not have an undue adverse affect on the scenic and aesthetic qualities and character of the area; due consideration shall be given to screening from view and lines of sight from public highways, and residential and recreational areas; height, number, color, type, and material of poles, width and degree of clearance of natural growth and cover; encroachment on open spaces, historic sites, rare and irreplaceable natural areas, conspicuous natural out-croppings on hillsides and ridgelines of exposed natural features of the countryside.

Rule A-5

Permit Applications

An application for a permit from the District Environmental Commission to construct, relocate, reconstruct, or extend any transmission facility shall contain the following information and documents and shall be submitted to the District Commission in which the greatest number of miles of the transmission facility are located. The utility undertaking the construction of a transmission facility shall apply for the permit under 10 VSA, Chapter 151, if said permit is required and will disclose anticipated use by other utilities.

(a) General location

(i) approximate location on a 20' contour U.S.G.S. map, except when other contour intervals are requested by the District Commission after filing of an application.

(b) Plan showing:

(i) pole, transformer, and substation locations, if applicable. Proof of inability to comply shall be furnished in the permit application and the approximate locations of poles, transformers, and substations shall be provided in areas where property access is not available.

(ii) approximate highway rights-of-way related to the lines or to the community the line is to serve.

(iii) approximate location of the forest canopy of any existing wooded areas, and the forest canopy after the proposed construction.

(iv) all lot lines intersecting the existing or proposed rights-of-way and names of property owners.

(c) Specifications:

(i) a drawing showing a representative profile of a supporting structure as related to existing buildings and tree heights.

(ii) elevation drawings of any building to be constructed as part of the transmission facility and its relation to existing man-made and natural objects on the site and along the periphery of contiguous properties within 500'. In urban areas with a population in excess of 2,500, a general profile of the buildings may replace the requirement for elevation drawings.

(iii) a typical drawing of a supporting structure to be used.

(iv) a list of specifications, including voltage, pole sizes, cross-arms, wire size, guys.

(v) a list of specifications for the major, visible components and exterior materials and color of any buildings.

(vi) specifications for any ground cover to be seeded, refoliated, planted or sown and maintained.

(d) Certification:

(i) certification and supporting evidence to prove that use of an existing right-of-way is not feasible or practicable if a new right-of-way is intended.

Rule A-6

Care of Right-of-Way

Right-of-way improvements shall be specified in the application and shall clearly not have an undue adverse affect on the ecology and aesthetics of the area, and should include vegetation control techniques to avoid unreasonable soil erosion or water pollution. All herbicide applications shall be in strict conformance with the regulatory and licensing requirements of the Commissioner of Agriculture or as provided by statute.

Rule A-7

Structures

Nothing herein shall be construed to exempt structures and other physical construction or placement related to transmission facilities from such other requirements of the Land Use and Development Act and the Rules and Regulations of the Environmental Board as may be applicable.

ADOPTED after compliance with the Administrative Procedures Act by the following members of the Environmental Board on June 16, 1971:

Benjamin W. Partridge, Jr., Chairman
Roland E. Keenan
John D. Veller
Ronald Hagen
Mrs. Margaret Garland