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**State of Vermont
Public Utility Commission
MEMORANDUM**

To: Environmental Justice Advisory Council
From: Vermont Public Utility Commission
Re: 2024 Environmental Justice Complaint Report
Date: January 10, 2024

Pursuant to 3 V.S.A. § 6004(d), the Vermont Public Utility Commission (“Commission”) must annually submit a report to the Environmental Justice Advisory Council detailing all complaints alleging environmental justice issues (“EJIs”) and any action taken to resolve those complaints. Section 6004(d) also requires covered agencies to submit complaints alleging Title VI violations, if applicable. Title VI of the Civil Rights Act of 1964 applies to Vermont State agencies that receive federal funds.¹ The Commission does not receive federal funds and therefore is not subject to Title VI, so the EJI complaint-reporting requirements of Vermont’s Environmental Justice law are new to the Commission.

Because this is a new requirement, the Commission is setting up a webpage with information about what constitutes an EJI complaint and how to submit such a complaint. If the Environmental Justice Advisory Council provides guidance in the future on EJI complaint-reporting best practices or procedures, the Commission may amend its processes and provisions regarding EJI complaint reporting.

Based on the law, the Commission interprets the term “EJI complaint” based on the definition of “environmental justice” in Vermont law.² Therefore, the Commission is defining “environmental justice issue complaint” as:

¹ See e.g., Public Act 154 (2022 Vt.) § 1(12).

² “‘Environmental justice’ means all individuals are afforded equitable access to and distribution of environmental benefits; equitable distribution of environmental burdens; and fair and equitable treatment and meaningful participation in decision-making processes, including the development, implementation, and enforcement of environmental laws, regulations, and policies. Environmental justice recognizes the particular needs of individuals of every race, color, income, class, ability status, gender identity, sexual orientation, national origin, ethnicity or ancestry, religious belief, or English language proficiency level. Environmental justice redresses structural and institutional racism, colonialism, and other systems of oppression that result in the marginalization, degradation, disinvestment, and neglect of Black, Indigenous, and Persons of Color. Environmental justice requires providing a proportional amount of resources for community revitalization, ecological restoration, resilience planning, and a just recovery to communities most affected by environmental burdens and natural disasters.” 3 V.S.A. § 6002(3).

A complaint alleging that an individual or individuals, because of their race, color, income class, ability, gender identity, sexual orientation, national origin, ethnicity or ancestry, religious belief, or English language proficiency level, were not afforded equitable access to and distribution of environmental benefits; equitable distribution of environmental burdens; or fair and equitable treatment and meaningful participation in decision-making processes, including the development, implementation, and enforcement of environmental laws, regulations, and policies.

Individuals who wish to file an EJI complaint with the Commission may do so via an online public comment form available on the homepage for ePUC (the Commission's electronic document filing system), by email, or by regular mail.³ Complainants should specify, with as much detail as possible, the alleged discrimination. All complaints will be stored in ePUC for purposes of organization, and then compiled and tracked in an Excel spreadsheet for purposes of annual reporting to the Environmental Justice Advisory Council. The Commission will protect from public disclosure complaint and complainant information, as required by 1 V.S.A. § 317(c)(27) and (42).⁴ All complaints will be reviewed by an attorney on staff, who may consult with the Commission's general counsel and other staff, as necessary, to recommend to the Commissioners what, if any, further action is required to address or investigate the complaint. All complaints that are filed will be acknowledged.

To publicize this newly available EJI complaint reporting process, the Commission will email its extensive listserv of individuals and entities that participate in and have an interest in Commission proceedings. The Commission will also provide a prominent link on its homepage to the EJI complaint-reporting webpage.

As the Commission is working to develop its EJI complaint-reporting process, the Commission has also identified an area of concern that the Interagency Environmental Justice Committee and Environmental Justice Advisory Council may wish to address. While certain exemptions under the Public Records Act will protect complainant information in specified cases, not all complaints and complainant information will be protected from disclosure. Without this protection, some individuals may be reluctant to file a complaint. A legislative amendment to create an exemption to the Public Records Act specific to EJI complaints could resolve this issue.

³ In addition, if an EJI complaint is raised during a Commission proceeding, the complaint will be reviewed, acknowledged, dealt with as appropriate, tracked, and reported like all other EJI complaints that are submitted to the Commission.

⁴ Section 317(c)(27) exempts from public disclosure "[i]nformation and records provided to the Department of Public Service or the Public Utility Commission by an individual for the purposes of having the Department or Commission assist that individual in resolving a dispute with a utility regulated by the Department or Commission, or by the utility or any other person in connection with the individual's dispute."

Section 317(c)(42) exempts from public disclosure "[e]xcept as otherwise provided by law, information that could be used to identify a complainant who alleges that a public agency, a public employee or official, or a person providing goods or services to a public agency under contract has engaged in a violation of law, or in waste, fraud, or abuse of authority, or in an act creating a threat to health or safety, unless the complainant consents to disclosure of his or her identity."