




**State of Vermont
Public Utility Commission**

MEMORANDUM

To: All Filers of Annual Reports Under 30 V.S.A. § 22
From: Kyle Landis-Marinello, General Counsel 
Re: Process for Filing Annual Reports in Light of Potentially Confidential Information
Date: March 22, 2019

Under 30 V.S.A. § 22, each utility must file an “annual report . . . with the Department of Public Service on the form prescribed by it and containing such information as may be necessary to enable the Department to determine the amount of the [gross receipts] tax payable.” Public Utility Commission Rule 3.100 further provides: “Each utility shall file with the Commission one copy of the annual report which it is required to submit to the Department of Public Service. The copy shall be filed with the Commission at the same time the report is submitted to the Department.”

Historically, most filers of annual reports have made those filings public, although some filers have instead filed a complete version of their annual report under seal, alongside a redacted version for public viewing. On January 2, 2019, the Civil Division of the Washington County Superior Court held that annual reports filed by telecommunications companies “fall squarely within the definition of a tax return” and “are wholly exempt from public disclosure.” *Bell Atl. Mobile Systems et al. v. Vermont Dept. of Public Serv.*, Docket Nos. 629-11-17 Wncv, 630-11-17 Wncv, 631-11-17 Wncv, 636-11-17 Wncv, 639-11-17 Wncv, slip op. at 4 (Jan. 2, 2019) (relying on 1 V.S.A. § 317(c)(6), which exempts tax returns from public disclosure under the Vermont Public Records Act). The Superior Court further held that 1 V.S.A. § 317(c)(6) “exempts the entire return and does not authorize the Department to disclose selected portions.” *Id.*

In light of this decision, the Commission currently intends to treat all annual reports as containing potentially confidential information. It is our understanding that the Department is working on a long-term resolution of how annual reports will be filed in future years. In the meanwhile, under Section IV of the Commission’s *Standards and Procedures Applicable to Electronic Filing Using ePUC* (as amended September 1, 2018), “electronic filing procedures are not available” for filing “confidential information.” For this reason, annual reports must now be filed directly with the Commission, rather than relying on the Department’s electronic system to forward a copy of the annual report to the Commission. Although the *Procedures* state that confidential information “shall continue to be filed in hard copy” (an option that annual report filers have here), we are also temporarily authorizing an alternative method of filing. In light of this unique situation, the Commission’s copy of each annual report may be filed via email to puc.clerk@vermont.gov with “Annual Report” listed at the beginning of the subject line.