

VERMONT PUBLIC UTILITY COMMISSION'S FY23 CASE-PROCESSING PERFORMANCE MEASURE RESULTS

February 12, 2024

I. Introduction

This report provides detailed information on the Vermont Public Utility Commission’s (“Commission”) case-processing performance by case type. Historically the Commission has used two “time-to-disposition” performance measures to measure its performance. In FY23, for the first time, the Commission has also calculated its clearance rate.

Both time-to-disposition and clearance rate are part of the National Center for State Courts’ CourTools performance measurement system.

- Time-to-disposition focuses on cases “disposed” (resolved or otherwise closed) during the fiscal year. It measures the percentage of cases that were disposed within the disposition time standard or goal for that case type.
- Clearance rate measures the number of disposed cases as a percentage of incoming cases. The purpose is to measure whether the Commission is keeping up with its incoming caseload.

II. Structure of Time-to-Disposition Performance Measure

The National Center for State Courts recognizes that some cases are more complex than others and therefore can be expected to take longer to resolve. For this reason, in the CourTools performance measurement system, the time-to-disposition goals for individual case types are broken out into two or three “tiers” that correspond to simple, average, and complex cases. The Commission followed this best practice when it created its time-to-disposition performance measures.

The Commission established timeframe goals for each tier before ePUC, the Commission’s online case management system, was operational. As a result, the goals were not based on actual data regarding how long different types of cases took to resolve. During FY24, the Commission will be using data from ePUC to reevaluate the timeframe goals.

When the Commission developed the time-to-disposition performance measures, the Commission also estimated the percentage of cases that would fall within each tier.¹ In practice, whether a case is simple, average, or complex depends on factors that are often outside the Commission’s control, such as how many parties are in a case and how many issues are being

¹ When the Commission developed its time-to-disposition performance measures, the National Center for State Courts’ model case processing time standards provided for resolution of 100% of cases of a particular case type within the longest tier for that case type. Since then, the National Center for State Courts has revised its model time standards. Now the model time standards provide for resolution of only 98% of cases of a particular case type within the longest tier for that case type, presumably recognizing that there can be outliers.

contested in that case. Therefore, it is expected that the percentage of cases in each tier will vary from year to year.

III. Time-to-Disposition of Net-Metering Registration Cases

Because the number of net-metering registration cases² filed with the Commission each year is significantly larger than all other case types, the Commission measures its performance on net-metering registration cases separately from other types of cases.

The tiers for net-metering registration cases reflect the fact that smaller systems have a 10-business-day comment period while larger systems have a 30-calendar-day comment period. In addition, cases in which an electric utility files a technical objection to the project’s interconnection take longer to resolve than cases in which no objection is filed. Over time, the Commission has seen growth in the number of larger net-metering registrations with longer comment periods as well as an increase in the number of utility objections filed on systems of all sizes. These trends directly affect the percentage of cases that are resolved within the first two tiers.

The Commission’s tiers, timeframe goals, and estimates of the percentage of cases that will fall within each tier are shown below.

Timeframes	Goal	% Achieved	Number of Cases
Within 16 days	70%	58.58%	1,505
Within 34 days	85%	89.57%	2,301
Within 90 days	100%	97.28%	2,499
Did not meet goal			70
Total Number of Cases			2,569

IV. Time-to-Disposition of Other Types of Cases

The Commission’s second time-to-disposition performance metric includes 11 types of cases: Section 248a cases, Section 248 cases, Section 248(j) cases, special contracts, accounting orders, financings, net-metering applications, net-metering petitions, telecommunications certificates of public good (“CPGs”), commercial mobile radio service (“CMRS”) CPGs, and tariffs. Some of these case types are divided into two tiers while others are divided into three tiers.

² There are three different types of net-metering cases, each of which follows a different application and review process. Net-metering registrations include rooftop solar systems with a capacity of 500 kW or less, ground-mounted solar systems with a capacity of 15 kW or less, and hydroelectric systems with a capacity of 500 kW or less. Net-metering applications include solar systems with a capacity of greater than 15 kW and up to and including 50 kW, and non-photovoltaic systems with a capacity of up to and including 50 kW. Net-metering petitions include systems of all generation types with a capacity of greater than 50 kW and up to and including 500 kW.

It is important to recognize that, for some case types, the Commission resolves only a few cases each year. This means that one case that is an outlier can materially affect the percentage of cases of that case type that met the timeframe goal.

While the Commission resolved more than 95% of cases within the goals for resolving 100% of cases, there are several types of cases for which the Commission resolved a much smaller percentage of cases within the timeframe for the first tier than it had estimated that it would. For example, the Commission resolved 33% of Section 248(j) cases within the timeframe for the first tier compared to the estimate of 70%. Similarly, the Commission resolved 17% of net-metering petitions within the timeframe for the first tier compared to the estimate of 50%.

The causes for these differences vary. For example, the Commission only resolved three Section 248(j) cases in FY23; if it had resolved one more case within the timeframe for the first tier, the Commission would have been very close to meeting the estimate of 70%. And in two of the previous four years the Commission met the timeframe goal for the first tier of Section 248(j) cases.

In contrast, in the last four years the Commission has resolved a substantially smaller percentage of net-metering petitions within the timeframe for the first tier than it had estimated that it would. However, the Commission’s FY23 performance matches its best performance in this area during this time period.

During FY22 the Commission implemented a new “uncontested net-metering waiver process” to try to streamline the processing of such cases. The effects of that process improvement can be seen by looking at the Commission’s results for the second tier of net-metering petition cases, which at 75% were close to the 80% estimate, and significantly higher than the Commission’s results in previous years for this case type, which varied between 34% and 64%.

The Commission’s tiers, timeframe goals, and estimates of the percentage of cases that will fall within each tier for each type of case are shown below.

Case Types and Timeframes	Goal	% Achieved	Number of Cases
§ 248a			
Within 90 days	90%	99.28%	138
Within 180 days	100%	99.28%	138
Did not meet goal			1
§ 248			
Within 180 days	33%	15.38%	2
Within 365 days	80%	84.62%	11
Within 545 days	100%	92.31%	12
Did not meet goal			1
§248(j)			
Within 90 days	70%	33.33%	1
Within 180 days	90%	66.67%	2
Within 270 days	100%	100.00%	3

Case Types and Timeframes	Goal	% Achieved	Number of Cases
Did not meet goal			0
Special Contracts			
Within 60 days	95%	100.00%	1
Within 120 days	100%	100.00%	1
Did not meet goal			0
Accounting Orders			
Within 45 days	95%	0.00%	N/A
Within 90 days	100%	0.00%	N/A
Did not meet goal			N/A
Financings			
Within 60 days	95%	62.50%	5
Within 90 days	100%	100.00%	8
Did not meet goal			0
Net-Metering Applications			
Within 60 days	75%	42.86%	3
Within 90 days	85%	57.14%	4
Within 120 days	100%	85.71%	6
Did not meet goal			1
Net-Metering Petitions			
Within 60 days	50%	16.67%	2
Within 120 days	80%	75.00%	9
Within 270 days	100%	75.00%	9
Did not meet goal			3
Telecommunications CPGs			
Within 30 days	75%	75.00%	3
Within 45 days	100%	100.00%	4
Did not meet goal			0
Cellular CPGs			
Within 30 days	75%	56.25%	9
Within 45 days	100%	68.75%	11
Did not meet goal			5
Tariffs			
Within 45 days	90%	89.06%	57
Within 135 days	100%	100.00%	64
Did not meet goal			0
Total Number of Cases			267
Within first time period		82.77%	221
Within second time period		94.38%	252
Within third time period (includes cases within second period for those case types without a third period)		95.88%	256
Did not meet goal		4.12%	11

V. Clearance Rate

The clearance rate reflects the number of resolved cases as a percentage of the number of incoming cases. The purpose is to measure whether a court is keeping up with its incoming caseload. A clearance rate above 100% indicates that the Commission is resolving more cases than it is adding. Conversely, a clearance rate below 100% indicates that the Commission has resolved fewer cases than have been added, which means that a backlog of cases may be developing.

The clearance rate is calculated by comparing the number of cases filed during a fiscal year (in this report during FY23) with the number of cases that were resolved during the same time period. For the purpose of calculating this performance measure, “filed” means when a case was first submitted to the Commission, even if the case submission did not yet include all the information necessary for the Commission to process the case.

As with the Commission’s time-to-disposition measures, it is important to recognize that for some case types, only a few cases are filed or resolved each year. This means that for those case types, the clearance rate could be significantly above or below 100% simply because one more case was resolved than filed or vice versa.

It is also important to note that the Commission does not have control over when cases are filed and there can be significant variability from year to year regarding when cases are filed. Because cases filed close to the end of a fiscal year are likely to be resolved during the next fiscal year, differences in the number of cases filed close to the end of one fiscal year compared to the previous fiscal year can affect the clearance rate. For example, if more cases were filed close to the end of FY22 than were filed close to the end of FY23, the FY23 clearance rate could be greater than 100%. The converse is also true – if more cases were filed close to the end of FY23 than were filed close to the end of FY22, there could be an FY23 clearance rate of less than 100%.

The Commission’s clearance rate for each case type is shown below.

Case Types	Number of Cases Filed	Number of Cases Resolved	Clearance Rate
§ 248a	133	139	104.51%
§ 248	19	13	68.42%
§248(j)	4	3	75.00%
Special Contracts	3	1	33.33%
Accounting Orders	1	0	0.00%
Financings	8	8	100.00%
Net-Metering Applications	12	7	58.33%
Net-Metering Petitions	11	12	109.09%
Telecommunications CPGs	4	4	100.00%
Cellular CPGs	18	16	88.89%
Tariffs	68	64	94.12%
Sum of Cases Other Than Net-Metering Registrations	281	267	95.02%
Net-Metering Registrations	2606	2,569	98.58%

VI. Future Plans

As noted above, the Commission is planning to reevaluate in FY24 its two time-to-disposition measures, including the tiers, the timeframe goals for each tier, and the estimates of the percentages of cases that will be resolved in each tier for each type of case.

In addition, the Commission intends to implement for FY24 a third performance measure recommended by the National Center for State Courts – age of active pending caseload. This is a point-in-time measurement that is typically done on the last day of the fiscal year. The age of the active pending cases is measured against the time standard or disposition goal for that case type set by the Commission to determine how many of the active unresolved cases are within the goal and how many have exceeded the goal.