FINAL PROPOSED RULE # 23-P19

Final Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the "Rule on Rulemaking" adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted at the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of these forms will be used to generate a notice of rulemaking in the portal of "Proposed Rule Postings" online, and the newspapers of record if the rule is marked for publication. Publication of notices will be charged back to the promulgating agency.

PLEASE REMOVE ANY COVERSHEET OR FORM NOT REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

5.100 Rule Pertaining to Construction and Operation of Net-Metering Systems (the "Net-Metering Rule")

/s/ Anthony Z. Roisman , on 10/15/2023
(signature) (date)

Printed Name and Title:
Anthony Roisman, Chair
Vermont Public Utility Commission

RECEIVED BY: _____

- ☐ Coversheet
- ☐ Adopting Page
- ☐ Economic Impact Analysis
- ☐ Environmental Impact Analysis
- ☐ Strategy for Maximizing Public Input
- ☐ Scientific Information Statement (if applicable)
- ☐ Incorporated by Reference Statement (if applicable)
- ☐ Clean text of the rule (Amended text without annotation)
- ☐ Annotated text (Clearly marking changes from previous rule)
- ☐ ICAR Minutes
- ☐ Copy of Comments
- ☐ Responsiveness Summary

1. TITLE OF RULE FILING:
5.100 Rule Pertaining to Construction and Operation of Net-Metering Systems (the "Net-Metering Rule")

2. PROPOSED NUMBER ASSIGNED BY THE SECRETARY OF STATE
23P019

3. ADOPTING AGENCY:
Vermont Public Utility Commission

4. PRIMARY CONTACT PERSON:
(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Jake Marren

Agency: Vermont Public Utility Commission

Mailing Address: 112 State St., Montpelier, VT 05602

Telephone: 802-828-2358 Fax:

E-Mail: jake.marren@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:
https://puc.vermont.gov/about-us/statutes-and-rules

5. SECONDARY CONTACT PERSON:
(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Elizabeth Schilling

Agency: Vermont Public Utility Commission

Mailing Address: 112 State St., Montpelier, VT 05602

Telephone: 802-828-2358 Fax:

E-Mail: elizabeth.schilling@vermont.gov

6. RECORDS EXEMPTION INCLUDED WITHIN RULE:
(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

7. LEGAL AUTHORITY / ENABLING LEGISLATION:
(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

30 V.S.A. § 8010(c)

8. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:
Section 8010(c) of Title 30 of the Vermont Statutes Annotated directs the Vermont Public Utility Commission to adopt rules that govern the installation and operation of net-metering systems.

9. THE FILING HAS CHANGED SINCE THE FILING OF THE PROPOSED RULE.

10. THE AGENCY HAS INCLUDED WITH THIS FILING A LETTER EXPLAINING IN DETAIL WHAT CHANGES WERE MADE, CITING CHAPTER AND SECTION WHERE APPLICABLE.

11. SUBSTANTIAL ARGUMENTS AND CONSIDERATIONS WERE RAISED FOR OR AGAINST THE ORIGINAL PROPOSAL.

12. THE AGENCY HAS INCLUDED COPIES OF ALL WRITTEN SUBMISSIONS AND SYNOPSES OF ORAL COMMENTS RECEIVED.

13. THE AGENCY HAS INCLUDED A LETTER EXPLAINING IN DETAIL THE REASONS FOR THE AGENCY'S DECISION TO REJECT OR ADOPT THEM.

14. CONCISE SUMMARY (**150 WORDS OR LESS**):

This rulemaking involves amendments to the Net-Metering Rule, including changes to the definition of the term "preferred site"; limits on the amount of forest clearing associated with projects on "preferred sites"; updates to the registration and application processes for net-metering systems; changes to project amendment processes and requirements; clarifications regarding the rates applicable to expanded net-metering systems; updates to the transfer and extension requirements for net-metering system certificates of public good; the addition of language authorizing utilities to propose tariffs assessing locational adjustor fees for constrained areas of the grid; changes to update the Rule consistent with state statute and other Commission rules, including the Commission's Rules of Practice and Interconnection Rule; changes acknowledging the use of ePUC - the Commission's electronic filing system; and other changes to otherwise improve, clarify, and streamline the Rule.

15. EXPLANATION OF WHY THE RULE IS NECESSARY:

The Rule is necessary to implement Vermont's net-metering program. The Rule was originally adopted on March 1, 2001, and has been updated five times since then. The current set of updates to the Rule are necessary to address issues with the "preferred site" framework; ensure the Rule is consistent with state statute and other Commission rules; and make various changes to update, improve, clarify, and streamline the Rule based on the Commission's experience implementing the Rule and stakeholders' comments.

16. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY:

This rulemaking effort began in December 2017 in response to a request for guidance regarding the definition of "preferred site" from the Department of Public Service, the Agency of Natural Resources, and the Natural Resources Board. In opening the Rule for changes, the Commission and stakeholders also identified other sections of the Rule to amend, many of which have been raised as practical issues by stakeholders since 2017.

During the informal rulemaking process, the Commission circulated three proposed drafts of amendments to the Rule, conducted three workshops in 2021, and solicited rounds of written comments on each rule draft and after the workshops. The Commission has given careful consideration to the voluminous record of comments filed during the informal rulemaking process and those comments have informed the proposed changes to the Rule. Additionally, in Case No. 19-0855-RULE, the Commission issued orders explaining its proposed changes to the Rule on 4/16/2019, 4/29/2022, and 12/2/2022.

17. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

The Net-Metering Rule affects:

- all Vermont electric utility customers and all Vermont retail electric utilities,

- all individuals and entities that own and operate net-metering systems or wish to do so,

- businesses that sell, install, develop, and construct net-metering systems and other renewable energy projects,
- State agencies, including the Department of Public Service; the Agency of Natural Resources; the Agency of Agriculture, Food and Markets; the Division for Historic Preservation; and the Natural Resources Board,
- municipalities and municipal and regional planning commissions,
- landowners, businesses, and members of the public potentially affected by the construction of net-metering systems, and
- environmental organizations, trade organizations, and other nonprofits and businesses concerned about climate change, natural resources, and renewable energy.

18. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

The proposed amendments do not include substantive changes to the compensation framework for net-metering systems or change the rate of compensation that systems receive.

However, the proposed amendments clarify that net-metering systems that significantly expand (i.e., increase system capacity by more than 5% or 15 kW, whichever is greater) receive the same financial incentives available to new systems. This provision ensures that customers, especially residential customers, may make small increases to their systems to accommodate electric heating and transportation systems, while maintaining the current rate of compensation they relied on to install their existing system.

Other proposed changes to the Rule could have indirect economic impacts by increasing or decreasing the rate of net-metering development. Consistent with the requirements of 30 V.S.A. § 8010(c), the Commission has crafted the proposed changes to balance the costs and benefits of the net-metering program to the extent feasible.

19. A HEARING WAS HELD.

20. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION.

Date: 8/10/2023
Time: 01:00 PM
Street Address: Virtual
Zip Code: NA
URL for Virtual: https://meet.goto.com/919115653

Date:
Time: AM
Street Address:
Zip Code:
URL for Virtual:

Date:
Time: AM
Street Address:
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URL for Virtual:

Date:
Time: AM
Street Address:
Zip Code:
URL for Virtual:

21. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):
8/17/2023

KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Net-metering
Distributed Generation
Solar
Wind

Rule 5.100

Explanation of the Vermont Public Utility Commission's changes to the original proposed rule including citations.[1]

The Vermont Public Utility Commission ("Commission") has made the following changes to the proposed amendments to Commission Rule 5.500, Interconnection Procedures for Proposed Electric Generation Resources and Energy Storage Devices (the "Interconnection Rule") that were filed with the Secretary of State on June 28, 2023.

Rule 5.502(4)

Initial Proposal

> Application Forms – Forms adopted by the Commission for Projects to request interconnection with the Interconnecting Utility. The Application Forms may be amended by the Commission from time to time. Application Forms may be submitted electronically to the Interconnecting Utility.

Final Proposal

> Application Forms – Forms adopted by the Commission, created in collaboration with the Department of Public Service and Interconnecting Utilities, for Projects to request interconnection with the Interconnecting Utility. The Application Forms may be amended by the Commission, in collaboration with the Department of Public Service and Interconnection Utilities, from time to time. Application forms may be submitted electronically or in accordance with the Interconnecting Utilities' specifications.

Rule 5.502(13)

Initial Proposal

> Facilities Study – a study to determine the cost of Interconnection Facilities or System Upgrades that are necessary for interconnection of the Generation Resource Project.

Final Proposal

> Facilities Study – any study or studies performed by an Interconnecting Utility or a designated third party to determine the cost of Interconnection Facilities or System Upgrades that are necessary for interconnection of the Project.

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[1] Per the Secretary of State's Final Proposed Filing Cover Sheet #10.

Rule 5.502(15)

Initial Proposal

Feasibility Study – a study consisting of initial engineering analyses regarding the feasibility of interconnecting the Project.

Final Proposal

Feasibility Study – any study or studies performed by an Interconnecting Utility or a designated third party consisting of initial engineering analyses regarding the feasibility of interconnecting the Project.

Rule 5.516(I)

Initial Proposal

As Built Drawings. In the case of Projects with a Nameplate Rating greater than 150 kW, the Interconnection Requester must, within 30 days of the Project in-service date, supply to the Interconnecting Utility "as built" drawings depicting the details of what was installed during the construction process. Such drawings must be stamped by a professional engineer. Any deviation from the Application not previously approved by the Interconnecting Utility must be addressed pursuant to the Interconnection Agreement.

Final Proposal

~~As Built Drawings~~ One-Line Diagram. In the case of Projects with a Nameplate Rating greater than 150 kW, the Interconnection Requester must, within 30 days of the Project in-service date, supply to the Interconnecting Utility an "as built" ~~drawings depicting the details~~ one-line diagram of what was installed during the construction process. Such ~~drawings~~ diagrams must be stamped by a professional engineer. Any deviation from the Application not previously approved by the Interconnecting Utility must be addressed pursuant to the Interconnection Agreement.

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

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1. TITLE OF RULE FILING:
   5.100 Rule Pertaining to Construction and Operation of Net-Metering Systems (the "Net-Metering Rule")
2. ADOPTING AGENCY:
   Vermont Public Utility Commission
3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):
   - **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
   - **NEW RULE** - A rule that did not previously exist even under a different name.
   - **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

   This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE)*:
   #17-036, 5.100 Rule Pertaining to Construction and Operation of Net-Metering Systems, July 1, 2017

State of Vermont
Agency of Administration
109 State Street
Montpelier, VT 05609-0201
www.aoa.vermont.gov

[phone] 802-828-3322

Kristin L. Clouser, Secretary

INTERAGENCY COMMITTEE ON ADMINISTRATIVE RULES (ICAR) MINUTES

Meeting Date/Location: June 12, 2023, virtually via Microsoft Teams
Members Present: Chair Sean Brown, Brendan Atwood, Jennifer Mojo, Diane Sherman, Michael Obuchowski, Donna Russo-Savage, Nicole Dubuque and Jared Adler
Members Absent: John Kessler
Minutes By: Melissa Mazza-Paquette

- 2:00 p.m. meeting called to order, welcome and introductions.
- Review and approval of minutes from the May 8, 2023 meeting.
- No additions/deletions to agenda. Agenda approved as drafted.
- No public comments made.
- Presentation of Proposed Rules on pages 2-7 to follow.
  1. Rule 5.400 5.400 Petitions to Construct Electric and Gas Facilities Pursuant to 30 V.S.A. §248, Public Utility Commission, page 2
  2. 5.100 Rule Pertaining to Construction and Operation of Net-Metering Systems (the "Net-Metering Rule"), Vermont Public Utility Commission, page 3
  3. Rule 5.500: Interconnection Procedures For Proposed Electric Generation Resources And Energy Storage Devices, Vermont Public Utility Commission, page 4
  4. Education Quality Standards (Rule Series 2000), State Board of Education, page 5
  5. Vermont Use of Public Waters Rules, Agency of Natural Resources, page 6
  6. Medicaid Coverage of Exception Requests, Agency of Human Services, page 7
- Committee discussion postpone to a future meeting date:
  - Potential resources available for proposed rules to be reviewed for copyediting prior to presenting to ICAR.
  - Use of terms 'regulation' and 'promulgation': Administrative Procedure Act rules are adopted. Regulations are not promulgated.
- Other business: Donna Russo-Savage resigned from ICAR effective with her retirement date of June 30, 2023.
- Next scheduled meeting is July 10, 2023 at 2:00 p.m.
- 3:54 p.m. meeting adjourned.

Proposed Rule: 5.100 Rule Pertaining to Construction and Operation of Net-Metering Systems (the "Net-Metering Rule"), Vermont Public Utility Commission

Presented By: Jake Marren

Motion made to accept the rule by Mike Obuchowski, seconded by Brendan Atwood, and passed unanimously with the following recommendations:

1. Proposed Filing – Coversheet, #8: Include language from #7 regarding how the statute authorizes the Vermont Public Utility Commission to adopt rules that govern the installation and operation of net metering systems. Add a description of net metering if possible, within the word count limit.
2. Economic Impact Analysis, #3, 2nd paragraph: Clarify "The proposed amendments do not include substantive changes to the compensation framework for net-metering systems or change the rate of compensation that systems receive."
3. Economic Impact Analysis and Proposed Rule: School district terminology needs to be changed for accuracy. Donna Russo-Savage will work directly with presenters regarding language and non-substantive changes to the proposed rule.

Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn't appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

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1. TITLE OF RULE FILING:

   5.100 Rule Pertaining to Construction and Operation of Net-Metering Systems (the "Net-Metering Rule")

2. ADOPTING AGENCY:

   Vermont Public Utility Commission

3. CATEGORY OF AFFECTED PARTIES:

   LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS ANTICIPATED:

   The Net-Metering Rule affects:

   - all Vermont electric utility customers and all Vermont retail electric utilities,

   - all individuals and entities that own and operate net-metering systems or wish to do so,

- businesses that sell, install, develop, and construct net-metering systems and other renewable energy projects,

- State agencies, including the Department of Public Service; the Agency of Natural Resources; the Agency of Agriculture, Food and Markets; the Division for Historic Preservation; and the Natural Resources Board,

- municipalities and municipal and regional planning commissions,

- landowners, businesses, and members of the public potentially affected by the construction of net-metering systems, and

- environmental organizations, trade organizations, and other nonprofits and businesses concerned about climate change, natural resources, and renewable energy.

The proposed amendments do not include substantive changes to the compensation framework for net-metering systems or change the rate of compensation that systems receive. Therefore, the proposed amendments will not have a direct economic impact on net-metering customers. However, the proposed amendments clarify that when a net-metering system significantly expands (i.e., increases system capacity by more than 5% or 15 kW, whichever is greater) the entire system will receive the same financial incentives available to a new system. This provision ensures that customers, especially residential customers, may make small increases to their systems to accommodate electric heating and transportation systems, while maintaining the current rate of compensation they relied on to install their existing system.

Any of the other proposed changes to the Rule could have indirect economic impacts by leading to increases or decreases in the rate of net-metering development. Many of the changes improve, clarify, and streamline the Net-Metering Rule in an effort to make things more efficient and less costly for all parties involved. However, some stakeholders may argue that the proposed limit on "significant forest clearing" could affect developers who want to clear more than three acres of

forest and still qualify for preferred site status under the net-metering program. Additionally, some stakeholders may argue that the Commission's clarification regarding the rates applicable to expanded net-metering systems could discourage system expansions. Detailed discussions of these two proposed changes are included in sections III. A. and I. of the Order issued on May 17, 2023, as well as in the "Explanation of the Vermont Public Utility Commission's reasons for accepting or rejecting requested changes to the original proposed rule" included with this rulemaking package.

While it is difficult, if not impossible, to predict the ultimate effect of the proposed Rule changes on the rate of development of large-scale net-metering projects, it is important to remember that the pace of net-metering development does not affect progress toward achieving Vermont's renewable energy requirements. Under the Vermont Renewable Energy Standard, electric utilities are required to obtain a certain amount of power from small, in-state renewable generators under 5 MW in size. This requirement is known as "Tier II." Net-metering projects are just one means for utilities to satisfy Tier II. Another option for complying with Tier II is for utilities to enter power purchase agreements with businesses that develop small in-state renewable generation up to 5 MW in size. In fact, the Commission is currently seeing a significant increase in these types of projects because of expanded tax incentives available under the federal Inflation Reduction Act.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

As directed by Act 81 of 2019, the proposed Rule includes amendments to Section 5.129 providing that schools and school districts, except for consolidated school districts, have a 1 MW net-metering capacity limit, rather than the generally applicable 500 kW net-metering capacity limit per customer. Consolidated

school districts may have a net-metering capacity limit of greater than 1 MW, if the cumulative capacity of the school districts' net-metering systems was greater than 1 MW before they consolidated.

5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

   The Net-Metering Rule does not directly regulate public education.

   The provision expanding schools' net-metering capacity limit, discussed immediately above, may allow a school to build a larger net-metering project than would have been allowed previously, which could result in greater potential long-term savings on the school's energy bills. This change to the Rule is required by statute.

6. IMPACT ON SMALL BUSINESSES:
   INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

   The Commission does not anticipate the proposed amendments having any negative impact on the rate of deployment of renewable energy projects developed by small businesses. The Commission's intent with many of the changes is to improve, clarify, and streamline the Net-Metering Rule to make things more efficient and less costly for all parties involved, including small businesses that develop net-metering projects.

   While some stakeholders may argue that the limit on "significant forest clearing" will harm small businesses that develop renewable projects, the Commission contends that a project involving more than three acres of forest clearing may be redesigned or relocated or, rather than seeking to participate in the net-metering program, may seek to enter a power purchase agreement with a local utility.

7. SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

Through this rulemaking, the Commission is seeking to make changes that will improve, clarify, and streamline the Net-Metering Rule to make things more efficient and less costly for all parties involved, including small businesses that develop net-metering projects and small businesses that have or wish to have a net-metering system.

Regardless of whether the applicant is a private individual, small business, large business, or other entity, compliance with the proposed Rule is the most appropriate way to ensure that all net-metering systems meet the requirements of 30 V.S.A. §§ 248 and 8010, including ensuring adequate public process and that systems will not have undue adverse effects on the public health and safety and the natural environment. Therefore, the Commission has not included alternative methods of compliance specific to small businesses only as a part of the proposed Rule.

8. COMPARISON:

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

State statute directs the Commission to adopt and implement rules governing the installation and operation of net-metering systems. Therefore, not having a Net-Metering Rule is not an option.

As to separate requirements for small businesses, net-metering systems must meet the requirements of 30 V.S.A. §§ 248 and 8010 irrespective of whether the applicant is a small business or other entity. Thus, the Rule does not include separate requirements for small businesses.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

This economic impact statement complies with the requirements of 3 V.S.A. § 838(b). The analysis is based upon the proposed amendments to the Net-Metering Rule and did not rely upon any specific internal or external documents.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify "No impact anticipated" in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

   5.100 Rule Pertaining to Construction and Operation of Net-Metering Systems (the "Net-Metering Rule")

2. ADOPTING AGENCY:

   Vermont Public Utility Commission

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*
   The Rule governs the installation and operation of net-metering systems that produce electricity using renewable resources. These renewable facilities may displace the use of fossil fuels and thereby reduce greenhouse gas emissions. The construction of net-metering facilities results in greenhouse gas emissions to transport materials, equipment, and workers to project sites and to power equipment to build the projects. However, these emissions are in line with other similar-sized construction projects.

4. WATER: *EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):*

   Except for projects that qualify for the net-metering registration form, the Commission reviews all net-metering projects to ensure they will not have undue adverse effects on water. The Commission considers information about potential impacts on headwaters, groundwater, floodways and river corridors, streams, shorelines, wetlands, stormwater, and outstanding resource waters.

5. LAND: *EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):*

   Except for projects that qualify for the net-metering registration form, the Commission reviews all net-metering projects to ensure they will not have undue adverse effects on certain land-related issues. The Commission considers information about potential impacts on orderly development, historic sites, aesthetics, necessary wildlife habitat, rare and irreplaceable natural areas, primary agricultural soils, and the natural environment generally. Additionally, in order for large-scale systems to qualify for the incentives available through the net-metering program, the Rule requires net-metering systems greater than 150 kW in size to be located on "preferred sites," which include buildings, parking lots, previously developed sites, brownfields, landfills, extraction sites, and sites identified in a letter of support from the local selectboard and planning entities. In recent years, the Commission has been concerned about the amount of forest that has been cleared to make space for certain large net-metering projects on preferred sites. To address this concern, the Commission is proposing to limit forest clearing to no more than three acres of clearing for projects located on preferred sites. A full discussion of this issue is included in section III. A. of the Order issued on May 17, 2023, as well as in the "Explanation of the Vermont Public Utility Commission's reasons for accepting or rejecting requested changes to the original proposed rule" included with this rulemaking

package. Additionally, based on extensive stakeholder comments, the Commission has included other proposed amendments to the "preferred site" definition in an effort to further clarify and improve upon this definition and ensure that large-scale net-metering projects are well-sited.

6. RECREATION: *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*
Except for projects that qualify for the net-metering registration form, the Commission reviews all net-metering projects to ensure they will not have undue adverse effects on public investments. Public investments may include recreation facilities.

7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*
The Rule governs the installation and operation of net-metering systems that produce electricity using renewable resources. These renewable facilities may displace the use of fossil fuels and thereby reduce greenhouse gas emissions. However, the Vermont Renewable Energy Standard, not the Net-Metering Rule, sets the renewable energy requirements that Vermont's retail electric utilities must satisfy, and while net-metering is used to satisfy those requirements, it is just one of a number of different ways utilities can meet their Renewable Energy Standard requirements.

8. OTHER: *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*
The changes to the "preferred site" definition, including the new "significant forest clearing" definition, were based upon the extensive comment provided by stakeholders, including the Vermont Agency of Natural Resources, the Vermont Department of Public Service, the Vermont Association of Planning and Development Agencies, and Renewable Energy Vermont, amongst many others.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

   5.100 Rule Pertaining to Construction and Operation of Net-Metering Systems (the "Net-Metering Rule")

2. ADOPTING AGENCY:

   Vermont Public Utility Commission

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

   In April 2019, the Commission issued an order opening a rulemaking to begin a review of the Net-Metering Rule. The Commission opened the rulemaking in response to a request for guidance regarding the definition of "preferred site" filed by the Vermont Department of Public Service, the Vermont Agency of Natural Resources, and the Natural Resources Board. In opening up the Rule for changes, the Commission and stakeholders also identified other sections of the Rule to amend, many of which have been raised as practical issues by State agencies and other participants since 2017, when the current Net-Metering Rule was implemented in Vermont.

   During the course of this rulemaking proceeding, the Commission has circulated three proposed drafts of amendments to Rule 5.100, conducted three workshops, solicited rounds of written comments on each rule draft and after the workshops, and received and reviewed over

200 comment letters from stakeholders and the general public. At the workshops, the Commission heard from stakeholders on net-metering application and administrative processes and issues, tree clearing related to net-metering projects, how to address net-metering in the Sheffield-Highgate Export Interface and future constrained areas in Vermont, and net-metering compensation.

The Commission held a virtual public hearing on August 10, 2023, to receive verbal comments on the Rule and received additional written comments on the Rule from stakeholders during the formal public comment period. A summary of the comments and the Commission's responses are included with this rulemaking package in the "Explanation of the Vermont Public Utility Commission's reasons for accepting or rejecting requested changes to the original proposed rule."

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

- Aegis Renewable Energy, Inc.
- Agency of Agriculture, Food and Markets
- Agency of Natural Resources
- AllEarth Renewables, Inc.
- Associated Industries of Vermont
- Chittenden County Regional Planning Commission
- Conservation Law Foundation
- Department of Public Service
- Encore Renewable Energy
- Energy Clinic at Vermont Law School
- Green Lantern Development, LLC
- Green Mountain Solar
- MHG Solar, LLC
- Natural Resources Board
- Northwest Regional Planning Commission

- Norwich Solar Technologies
- private individuals
- Regulatory Assistance Project
- Renewable Energy Vermont
- Sharon Energy Committee
- Solaflect
- Springfield Energy Committee
- Sunrun, Inc.
- Town of Colchester
- Triland Partners LP
- Two Rivers-Ottauquechee Regional Commission
- VHB
- Vermont Association of Planning and Development Agencies
- the Vermont electric distribution utilities;
- Vermont Electric Power Company, Inc.
- Vermont Public Power Supply Authority
- Vermonters for a Clean Environment
- Vote Solar

Explanation of the Vermont Public Utility Commission's changes to the original proposed rule including citations.[1]

The Vermont Public Utility Commission ("Commission") has made the following changes to the proposed amendments to Commission Rule 5.100, the Rule Pertaining to Construction and Operation of Net-Metering Systems (the "Net-Metering Rule") that were filed with the Secretary of State on June 23, 2023.

Rule 5.103

Initial Proposal

"Group Net-Metering System" means a net-metering system serving more than one customer, or a single customer with multiple electric meters, located within the service area of the same retail electricity provider. Various buildings owned by municipalities, including water and wastewater districts, fire districts, villages, school districts, and towns, may constitute a group net-metering system. A union or district school facility shall be considered in the same group net-metering system with buildings of its member municipalities that are located within the service area of the same retail electricity provider that serves the facility.

Final Proposal

"Group Net-Metering System" means a net-metering system serving more than one customer, or a single customer with multiple electric meters, located within the service area of the same retail electricity provider. Various buildings owned by municipalities, including water and wastewater districts, fire districts, villages, school districts, and towns, may constitute a group net-metering system. A union or district school facility ~~shall~~ may be considered in the same group net-metering system with buildings of its member ~~municipalities~~ schools that are located within the service area of the same retail electricity provider ~~that serves the facility~~.

Rule 5.108(C)

Initial Proposal

(C) Effect of amendment on applicable REC and siting adjustors. Except as provided below, the REC and siting adjustors applicable to an amended net-metering system, if any, will be based on the date that the first, complete application or registration was filed with the Commission and not on the date that the amendment request was filed. An amendment or series of amendments that increase the capacity of a net-metering system by more than 5% or 10 kW, whichever is

[1] Per the Secretary of State's Final Proposed Filing Cover Sheet #10.

greater, will trigger the application of the most recently adopted siting and REC adjustors to the entire output of the amended net-metering system.

Final Proposal

(C) Effect of amendment on applicable REC and siting adjustors. Except as provided below, the REC and siting adjustors applicable to an amended net-metering system, if any, will be based on the date that the first, complete application or registration was filed with the Commission and not on the date that the amendment request was filed. An amendment or series of amendments that increase the capacity of a net-metering system by more than 5% or ~~10~~15 kW, whichever is greater, will trigger the application of the most recently adopted siting and REC adjustors to the entire output of the amended net-metering system.

Rule 5.109(D)

Initial Proposal

(D) Effect of amendment on applicable REC and siting adjustors. Except as provided below, the REC and siting adjustors applicable to an amended net-metering system, if any, will be based on the date that the first, complete application or registration was filed with the Commission and not on the date that the amendment request was filed. An amendment or series of amendments that increase the capacity of a net-metering system by more than 5% or 10 kW, whichever is greater, will trigger the application of the most recently adopted siting and REC adjustors to the entire output of the amended net-metering system.

Final Proposal

(D) Effect of amendment on applicable REC and siting adjustors. Except as provided below, the REC and siting adjustors applicable to an amended net-metering system, if any, will be based on the date that the first, complete application or registration was filed with the Commission and not on the date that the amendment request was filed. An amendment or series of amendments that increase the capacity of a net-metering system by more than 5% or ~~10~~15 kW, whichever is greater, will trigger the application of the most recently adopted siting and REC adjustors to the entire output of the amended net-metering system.

Rules 5.127(A) and 5.127(A)(2)

Initial Proposal

(A) Depending on the electric company service territory in which the net-metering system is located, the blended residential rate used to determine the value of net- metering credits is the lowest of the following:

. . .

(2) For electric companies whose general residential service tariff includes inclining block rates, a blend of those rates determined by adding together all of the revenues to the company during the most recent calendar year from kWh sold under those block rates and dividing the sum by the total kWh sold by the company at those rates during the same year. Each electric company whose general residential service tariff includes inclining block rates must perform this calculation (1) by May 15 of each even- numbered year and (2) when the electric company requests approval of a tariff for general residential service that includes a change in rates of more than 5%. To the extent the calculation shows that there has been a change from the rate then in effect, the electric company must file by that same date a revision to its net-metering tariff to reflect the change. Any change to the blended residential rate calculated pursuant to (1) of this subsection may be included in a tariff compliance filing made pursuant to Section 5.128(H) of this Rule. Any change to the blended residential rate calculated pursuant to (2) of this subsection must be filed as a separate tariff case at the same time the electric company files proposed revisions to its general residential service rates; or

Final Proposal

(A) Depending on the electric company service territory in which the net-metering system is located, the blended residential rate used to determine the value of ~~net- metering~~ credits for excess generation is the lowest of the following:

. . .

(2) For electric companies whose general residential service tariff includes inclining block rates, a blend of those rates determined by adding together all of the revenues to the company during the most recent calendar year from kWh sold under those block rates and dividing the sum by the total kWh sold by the company at those rates during the same year. Each electric company whose general residential service tariff includes inclining block rates must perform this calculation ~~(1)~~ by ~~May 15~~ February 1 of each even-numbered year ~~and (2) within 15 days of the effective date of a new tariff for general residential service that includes a change in rates of more than 5%. To the extent the calculation shows that there has been a change from the rate then in effect, the electric company must file by that same date a revision to its net-metering tariff to reflect the change.~~ Any change to the blended residential rate calculated pursuant ~~to (1)~~ of this subsection ~~may~~ must be included in a tariff compliance filing made pursuant to Section 5.128(H) of this Rule. ~~Any change to the blended residential rate calculated pursuant to (2) of this subsection must be filed as a separate tariff case at the same time the electric company files proposed revisions to its general residential service rates~~; or

Rule 5.128(A)(3)

Initial Proposal

(A) The Commission must conduct a biennial update in 2024 and every two years thereafter to update the following:

(1) REC adjustors;

(2) siting adjustors;

(3) the statewide blended residential rate; and

(4) the eligibility criteria applicable to Categories I, II, III, and IV net- metering systems.

Final Proposal

(A) The Commission must conduct a biennial update in 2024 and every two years thereafter to update the following:

(1) REC adjustors;

(2) siting adjustors;

(3) the electric companies' blended residential rates and the statewide blended residential rate; and

(4) the eligibility criteria applicable to Categories I, II, III, and IV net- metering systems.

Rule 5.128(D)

Initial Proposal

(D) On or before March 1 of each even-numbered year, each electric company must file in the biennial update investigation case a form developed by the Commission in consultation with the Department and the electric companies. The form will collect the following information regarding the state of the electric company's net-metering program:

(1) the number of net-metering systems interconnected with the electric company's distribution system during the past two years;

(2) the capacity of each system;

(3) the fuel source of each system;

(4) the REC disposition of each system;

(5) the siting adjustor applicable to each system;

(6) any other information the electric company believes to be relevant to the biennial update; and

(7) any other information required by the Commission's form.

Final Proposal

(D) On or before February 1 of each even-numbered year, each electric company must file with the Commission and the Department of Public Service the following information regarding the state of the electric company's net-metering program:

(1) the number of net-metering systems interconnected with the electric company's distribution system during the past two years;

(2) the capacity of each system;

(3) the fuel source of each system;

(4) the REC disposition of each system;

(5) the siting adjustor applicable to each system;

(6) ~~any other information the electric company believes to be relevant to the biennial update~~ the electric company's updated blended residential rate and supporting calculations; ~~and~~

(7) ~~any other information required by the Commission's form~~ any other information the electric company believes to be relevant to the biennial update; and

(8) any other information relevant to the biennial update required by the Commission's form.

Rule 5.128(H)

Initial Proposal

(H) Electric companies must file no later than June 15 revisions to their net-metering tariffs that incorporate the new values set forth by the Commission in its biennial update order. Each tariff must be filed as a new tariff case in ePUC. Such tariffs must have an effective date of August 1. This tariff compliance filing may not include any other proposed changes to the utility's net-metering tariff, except for a proposed change to the utility's blended residential rate calculated pursuant to Section 5.127(A) of this Rule.

Final Proposal

(H) Electric companies must file no later than June 15 revisions to their net-metering tariffs that incorporate the new values set forth by the Commission in its biennial update order. Each tariff must be filed as a new tariff case in ePUC. Such tariffs must have an effective date of August 1. This tariff compliance filing may not include any other proposed changes to the utility's net-metering tariff, except for ~~a proposed change to the utility's blended residential rate calculated pursuant to Section 5.127(A) of this Rule.~~ any revisions to the items in Rule 5.128(A)(1)-(4) ordered in the Commission's biennial update order.

Rule 5.134

Initial Proposal

Rule 5.134 [Deleted]

Final Proposal

Tariffs. Each electric company must review its net-metering tariff and, pursuant to 30 V.S.A. § 225, file any revisions necessary to ensure consistency with this Rule.

Explanation of the Vermont Public Utility Commission's reasons for accepting or rejecting requested changes to the original proposed rule.[1]

The Vermont Public Utility Commission ("Commission") received oral comments from four entities during the public hearing held on August 10, 2023, and received written comments from 11 entities by the August 17, 2023, comment deadline for the Commission's proposed amendments to Commission Rule 5.100, the Rule Pertaining to Construction and Operation of Net-Metering Systems (the "Net-Metering Rule").[2] The Commission received comments from the following entities and individuals:

- AllEarth Renewables, Inc.;
- David Martin;
- Green Mountain Solar;
- Jennifer Goulet;
- Michael Binder;
- Norwich Solar Technologies ("NST");
- Renewable Energy Vermont ("REV");
- Stephen Bushman;
- Tom Mosakowski;
- Town of Stowe Electric Department ("SED");
- Vermont Agency of Natural Resources ("ANR");
- Vermont Electric Cooperative, Inc. ("VEC");
- Vermont Public Power Supply Authority ("VPPSA"); and
- Vermonters for a Clean Environment ("VCE")

Below is an explanation of the Commission's reasons for accepting or rejecting requested changes to the proposed rule contained in those public comments. The explanation discusses the comments generally as well as those filed in response to specific sections of the rule and explains the Commission's reasons for either accepting or rejecting the comments and any changes made to each section in the proposed rule as a result.

Rule 5.103 - Significant Forest Clearing

Summary of Proposed Rule

Rule 5.103 defines "preferred sites" that are eligible to receive enhanced net-metering compensation. Facilities with a capacity of greater than 150 kW must be located on a preferred site to participate in net-metering. Distributed generation projects not located on preferred sites can still participate in other programs such as standard offer, Rule 4.100, or bilateral contracts with their utility.

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[1] Per 3 V.S.A. § 841(b).

[2] Renewable Energy Vermont provided both oral and written comments. The Commission also received oral comments supporting the Commission's proposed net-metering rule from one citizen at a public hearing for a different rule.

The Commission has proposed to exclude sites that require "significant forest clearing" from being considered preferred sites. The proposed rule states that "significant forest clearing":

> means clearing more than three acres of forest. For purposes of this Rule, the word forest means land that has at least 10 percent canopy cover by live trees of any size and associated naturally occurring vegetation or has had at least 10 percent canopy cover of live trees and associated naturally occurring vegetation in the past and has stumps, snags, or other evidence indicating that it has not been converted to a non-forest use at the time of a CPG application filing. To qualify as forest, an area must be at least one acre in size and 120 feet wide. In determining whether an area is at least one acre in size or 120 feet wide, any portion of a group or contiguous area of trees that extends beyond the project or parcel boundaries must be counted. Canopy cover must be measured from the outermost edge of tree crowns across a group or contiguous area of trees. The three-acre limit on significant forest clearing is cumulative and includes each discrete area of any forest proposed for clearing. Clearing of individual trees that are not part of a forest will not count toward the three-acre limit on significant forest clearing.

Comments

ANR

ANR appreciates the Commission's efforts to disincentivize significant forest clearing by excluding sites that require more than three acres of forest clearing from preferred-site status. While the previous draft of the rule, which excluded sites with more than one acre of forest clearing from preferred-site status, was more protective of the many values that forests provide to Vermonters, ANR states that the proposed rule's three-acre threshold will allow for sites that clear an area roughly equal to a 500 kW solar array to qualify for preferred-site status, while disqualifying other sites that require greater amounts of clearing. The vast majority of net-metered plants currently permitted in Vermont involve less than three acres of forest clearing, so ANR sees this threshold as one that will allow continued robust deployment of net metering. ANR also supports clarifications made in the rule to other preferred-site categories.

VCE, Tom Mosakowski, and Michael Binder

These commenters support the limits on forest clearing. According to VCE, "you can do 500 kilowatts on about 2.2 acres. So I am guessing that the PUC looked at what it takes to put a 500-kilowatt project in and gave a little extra to make it the three acres. It makes sense to me to limit it to three acres."

REV

REV believes that the implementation of a prohibition on "significant forest clearing" on preferred sites in 5.103 is arbitrary and unjustified. While REV appreciates the Commission's decision to increase the threshold for significant forest clearing from

one to three acres, REV argues that the three-acre threshold does not align with meaningful climate or ecological impacts. REV asserts that the definition fails to account for the volume of biomass present on a site, forest age, species diversity, habitat connectivity, or other factors that would speak to its value as a source of carbon storage and sequestration or wildlife habitat, and it needlessly and arbitrarily limits the ability of local and regional planning entities to support renewable generation within their own jurisdictions.

REV asserts that the ISO-New England grid is heavily dependent on fossil fuels, and given Vermont's interconnection with the market, REV argues that solar is substantially more effective at reducing atmospheric CO2 concentration than forests. REV cites a 2021 analysis by Synapse Energy Economics, which calculated that in New England converting an acre of forest to a solar array will result in 470 tons of CO2 savings each year. REV states that it is unaware of any scientifically grounded assessment that contests the fact that solar development is more beneficial than maintaining tree cover from a carbon perspective.

According to REV, the specific carbon balance associated with a particular solar project depends upon a wide variety of factors that the Commission has opted to ignore by creating a simple, area-based threshold. These include how much standing biomass is on the site. REV asserts that early successional forests store very little carbon as they contain very little woody biomass compared to mature forests. REV argues that clearing early successional forests will incur very little carbon debt and will begin paying atmospheric dividends virtually immediately. REV also contends that a portion of the carbon stored in more mature forests may continue to be stored if the cleared trees are used in wood products.

REV represents that the average marginal greenhouse emissions in ISO-New England exceed 700 lbs/MWh of CO2 and that offset emissions far exceed forest sequestration rates. REV argues that the acreage threshold approach advanced by the Commission does not address this issue. REV contends that the habitat value of a specific parcel depends on much more than whether there is 10% canopy cover and its connection to other treed areas in the immediate vicinity. According to REV, the proposed rule does not address species diversity, the proliferation of invasive species, proximity to existing roads and powerlines, and many other characteristics that impact habitat quality.

REV questions the need for the proposed rule at all given the scale of forest clearing that has occurred to date because of net-metered projects. REV argues that limitations on "significant forest clearing" should be managed legislatively so that they are applied to all types of development equally rather than targeting net-metering specifically.

Should the Commission continue to pursue this new restriction, REV urges the Commission to utilize a standard that is tied to climate and ecological science. REV suggests separating the climate and habitat concerns into separate provisions. For

climate, REV would suggest barring a site from preferred-site status if it can be affirmatively demonstrated to result in an increase in atmospheric CO2 over the project's expected lifespan. As the grid becomes cleaner, this restriction would become tighter reflecting the more limited climate benefits that solar provides in a truly low-carbon environment. REV states that if the New England states succeed in dramatically decarbonizing the grid in the next decade, it may be that clearing even a single acre of mature trees would no longer provide a climate benefit. To address habitat concerns, REV suggests limiting forest clearing in Highest Priority Forest Blocks because these areas have the highest habitat and habitat connectivity value for many crucial native species.

REV asserts that 28% of the proposed project capacity under the 5.106 and 5.107 categories from 2017-2021 would have been affected by the 3-acre limitation.

NST and Green Mountain Solar

These commenters share the concerns raised by REV that the changes to the preferred-site definition – and especially the proposed "significant forest clearing" provision – arbitrarily limit the ability of local and regional governments to designate preferred sites and are not supported by ecological or climate science. These entities assert that while forests do sequester and store carbon and provide habit for wildlife, both the climate and habitat values of forest vary widely from site to site. According to the commenters, a three-acre early successional parcel with many invasive species that is crossed by existing powerlines stores considerably less carbon and provides much lower habitat value to native species than an undisturbed, interior forest block of the same size. They argue that the public good is not served by prohibiting local governments from accounting for forest quality when determining whether or not to designate these types of sites as preferred sites.

David Martin

Mr. Martin argues that the restriction of cutting forests "is just plain silly." According to Mr. Martin, "the state does not limit the ability of landowners to cut their trees if they want to for much less noble purposes."[3] Mr. Martin argues that if the trees are cut and used for lumber then the carbon will continue to be sequestered.

Response

The Commission disagrees with the assertion of REV, NST, and Green Mountain Solar that the proposed rule is arbitrary and not based on science. According to these comments, the Commission should quantify the amount of carbon sequestered and the habitat value of a forest and compare it to the carbon savings and other benefits of developing solar on that site before the Commission restrains net-metering development in any forested area.[4] As the Commission has previously explained, this framing of the issue presents a false choice between developing solar and preserving Vermont's forests.[5]

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[3] Comments of David Martin at 1.

[4] Comments of REV at 2-3.

[5] Proposed revisions to Vermont Public Utility Commission Rule 5.100, Case No. 19-0855-RULE, Order of 5/17/2023 at 6. This Order is attached to this document as Attachment A.

The proposed rule will not have a material impact on the amount of distributed generation constructed in Vermont. Therefore, the fact that some forested parcels may sequester less carbon than the amount offset by a proposed solar array is irrelevant. No participant has presented any credible information showing that it is necessary to clear forested areas due to a lack of other eligible sites for renewable energy. Therefore, the Commission views the protection of forested areas as a net-benefit to the climate because there is not a corresponding loss in renewable generation capacity. The renewable energy facility will be constructed elsewhere.

REV implies that the proposed rule will significantly reduce the amount of net-metering developed by claiming that the proposed rule would have affected 28% of the proposed project capacity under the 5.106 and 5.107 categories. However, this assessment overstates the potential impact of the proposed rule. This figure only considers applications filed pursuant to Rules 5.106 and 5.107. It does not include registrations filed under Rule 5.105. If those facilities are considered, the proposed three-acre limit would have affected only 29 out of several thousand facilities.

REV's assessment also ignores that of the 29 facilities that cleared more than three acres, 13 of those facilities cleared less than four acres.[6] REV's comments imply that these facilities would not have been developed if the proposed rule had been in place, but it is possible that these facilities could have been revised to avoid clearing more than three acres. Therefore, the Commission does not accept REV's argument that the proposed rule would have affected a significant amount of the net-metering capacity developed between 2017 and 2021.

Vermont law requires utilities to purchase a certain percentage of their electricity from distributed generation.[7] Net-metering is just one of several ways to meet the obligation. If the proposed rule does ultimately reduce the number of *net-metering* facilities constructed, other lower-cost mechanisms for deploying new renewable energy are available to satisfy Vermont's Renewable Energy Standard. The Commission disagrees with the comments asserting that the proposed rule is inconsistent with Vermont's electrification goals and the Global Warming Solutions Act. The Commission agrees with the Department's assessment that "net-metering is the most expensive means for utilities to meet the Tier II requirements, and the current structure is a barrier to realizing greenhouse gas reductions – and to achieving the goals of the Vermont Electrical Energy and Comprehensive Energy Plans – because higher power supply costs lead to higher electric rates and electricity must be affordable to encourage fuel-switching for heating and transportation end uses." [8]

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[6] ANR Net-Metering Forest Conversion and Preferred Site Spreadsheet, Case No. 19-0855-RULE, 9/23/21.
[7] 30 V.S.A. § 8005(a)(2).
[8] 2023 ANNUAL ENERGY REPORT: A SUMMARY OF PROGRESS MADE TOWARD THE GOALS OF VERMONT'S COMPREHENSIVE ENERGY PLAN, VERMONT DEPARTMENT OF PUBLIC SERVICE, at C-9 *available at*: https://publicservice.vermont.gov/sites/dps/files/documents/2023%20Vermont%20Annual%20Energy%20Report_0.pdf.

The proposal does not "limit the ability of landowners to cut their trees."[9] Instead, the rule conditions participation in the net-metering program on avoiding sites that require significant forest clearing. The Commission has conditioned participation in the net-metering program because the program confers special benefits, including above-market rates and a streamlined permitting process. The proposed rule is in keeping with the Commission's overall goal of shifting net-metering projects to sites with fewer environmental burdens. Requiring larger net-metering projects to avoid significant forest clearing will also allow the Commission to further streamline the review process of proposed net-metering projects, which the Commission has done through its proposed revisions to Rule 5.106.

In summary, the Commission disagrees with the criticisms of the proposed rule because they are overly focused on promoting the development of net-metering resources without considering the costs of net-metering and the availability of alternatives that are less costly or environmentally burdensome.

Rule 5.103 – Definition of Interconnection Facilities

Summary of Proposed Rule

Proposed Rule 5.103 defines "interconnection facilities" as:

> all facilities and equipment between the generation resource and the point of interconnection, including any modifications, additions, or upgrades that are necessary to physically and electrically interconnect the generation resource to the interconnecting utility's distribution or transmission system. Interconnection facilities are sole-use facilities and do not include system upgrades.

Comments

VPPSA

VPPSA states that the definitions of "Interconnection Facilities" under proposed Rules 5.100 and Rule 5.500 are inconsistent.

Response

The definition of "Interconnection Facilities" contained in the proposed rule is identical to the definition contained in the Commission's proposed revisions to Rule 5.500 (Rulemaking # 23P020).

Rule 5.103 – Definition of Blended Residential Rate

Summary of Proposed Rule

Rule 5.103 defines how the utilities must calculate the "blended residential rate." The Commission has not proposed any changes to this definition.

[9] Comment of David Martin at 1.

Comments

Steve Bushman

Mr. Bushman recommends that the definition of "Blended Residential Rate" be amended to delete the reference to a statewide blended residential rate. According to Mr. Bushman, allowing electric companies to use a lower weighted statewide average is inequitable to those net-metering customers subject to it, because their monetized excess credit can be used to offset a smaller percentage of their energy bill. Mr. Bushman argues that "[m]ost net metering rate payers get full (or close to it) blended residential rates." Mr. Bushman asserts that this inequity will make it harder for low- and moderate-income Vermonters to invest in net metering due to higher energy bills and increased payback periods and, therefore, is contrary to the requirements of the Affordable Heat Act recently passed.

Response

The Commission adopted the present definition of blended residential rate to ensure greater equity among net-metering customers and to ensure that the cost of net-metered power was not excessive in the service territories of utilities with above-average retail rates. Mr. Bushman has not demonstrated that allowing customers to offset a similar percentage of their bill is more equitable than giving customers equal credit for their excess generation.

The issue with retail-rate net-metering is that the cost of net-metered generation can become untethered from the value it provides to the system. The statewide blended residential rate acts as a cap to ensure that the costs of net-metered power do not become too great in the service territories of companies with high retail rates. Mr. Bushman's proposal to eliminate the statewide average rate does not address the additional cost to ratepayers of increasing the amount of compensation for net-metering customers, and the Commission declines to make this change because those additional costs are unjustified.

Rule 5.103 – Definition of Customer Charge

Summary of Proposed Rule

The rule does not define the term "customer charge" which is a term commonly used in utility rate schedules and is referenced in Rule 5.103's definition of the term "non-bypassable charges."

Comments

Steve Bushman

Mr. Bushman requests that the Commission define the term "customer charge." According to Mr. Bushman, customer charges must be defined. Mr. Bushman asserts that the lack of a definition creates a "loophole" that utilities use to raise the minimum charge a customer must pay regardless of grid energy use. Mr. Bushman argues that "utilities are free to raise this charge as often as they like with little if any regulatory controls." Mr. Bushman argues that a definition of "customer charge" would allow for stricter regulatory review and meaningful public comments.

Response

Mr. Bushman's comment is based on the mistaken belief that a utility may revise its customer charge without significant regulatory review and approval. A utility's customer charge is defined in the company's tariffs and varies by customer class. Under state law, a utility may not change the amount of a customer charge without at least 45 days' notice and such a change is subject to investigation by the Department and the Commission.[10]

The net-metering rule is not the appropriate regulatory mechanism for imposing standards for utility customer charges. Traditionally, the customer charge has been set at a level intended to recover some portion of a utility's fixed costs that do not vary with a customer's consumption.[11] Each utility's cost structure is different and, therefore, the most appropriate process for reviewing the amount of a utility's customer charge is in a rate-design case.

Rule 5.106(C)(1) and (F)(1) – Notice

Summary of Proposed Rule

Rules 5.106(C)(1) and (F)(1) identify the persons entitled to receive an advance submission and notice that an application is being filed with the Commission. The Commission has revised these sections to (1) clarify the cases in which the Natural Resources Board will receive a notice, (2) clarify that the Commission will receive a copy of the advance submission; and (3) require applicants to provide notice of an application, instead of a copy of an application to the entities listed in (F)(1). All application materials are available to the public through ePUC.

Comment

VPPSA

VPPSA asserts that the requirements of Rule 5.106(C)(1), Recipients Entitled to Advance Submission Requirements and Rule 5.106(F)(1), Entities Entitled to Notice of the Application, are inconsistent.

Response

The Commission has reviewed these provisions and found no inconsistency in these provisions. The only difference between the entities listed in each rule is that Rule 5.106(C)(1) directs the applicant to provide an advance submission to the Commission while Rule 5.106(F) does not require the applicant to provide notice of an application to the Commission. The Commission does not need to receive *notice* that an application has been filed because the applicant is separately required to submit the actual application to the Commission. Rule 5.106(D) specifies the application materials that must be provided to the Commission.

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[10] 30 V.S.A. §§ 225 and 226.

[11] *See Washington Elec. Coop., Inc. Tariff Filing for Rate Design Changes & A Change in Rate Schedules to Be Effective on Servs. Rendered Beginning June 17, 2019.* Case No. 19-1270-TF, Order of 12/19/2019 at 5 ("Traditionally, WEC has maintained a relatively low customer charge, which has resulted in nearly all of the residential fixed costs needing to be included in the energy charge. Increasing the customer charge allows WEC to make gradual progress toward a more balanced alignment of cost recovery with cost causation.").

Rules 5.108(C) and 5.109(D) – Expansions

Summary of Proposed Rule

Rules 5.108 and 5.109 have been amended to clarify what rate treatment will apply when a net-metering system expands its capacity. Generally, a net-metering system will, for a period of ten years, receive the net-metering incentives in place at the time an application for a CPG is filed. In cases where the capacity of a system is expanded by more than 10 kW or 5%, whichever is greater, then the entire output of the expanded system will receive the rates available on the date of the request to expand the system.

Comments

REV, NST, and Green Mountain Solar

These entities argue that this proposal will make system expansions significantly more expensive at the same time Vermonters are being asked to increase their level of electrification, which is inconsistent with the state's climate goals and the intent of the net-metering program to support self-generation. REV asserts that Vermonters who move to electric vehicles and heat pumps, as encouraged by the state's climate policies, could see their electricity usage more than triple. REV states that a household with what is currently an average-sized net-metering system, approximately 7 kW, would need to increase its system size by 14 kW to maintain the same level of self-generation. REV estimates that the proposed rule would reduce the value of credits for an existing residential system by 4 cents per kWh and would make system expansion several thousand dollars more expensive than if the adjustors that were in place at the time the system was built were retained. REV argues that this disadvantages early adopters of solar. NST and Green Mountain Solar echo these comments.

REV argues that the disincentive to expand Category 3 systems would be even more severe because the pre-existing system would represent a larger percentage of the total capacity of the expanded system. REV asserts that both the absolute and proportional loss in credit revenue would be higher than in the residential case. REV argues that the Commission should be doing everything in its power to maximize the utilization of existing preferred sites because the proposed rule also reduces available preferred sites. REV contends that expanded systems will have a smaller total footprint than would be required to create a separate system with the same capacity as the system expansion because the expanded system will have only one interconnection route and will have a smaller vegetation management area than the combined management areas around two smaller systems. Therefore, REV argues that disincentivizing expansions will result in greater competition between urgently needed renewable energy generation and other valuable land uses. NST and Green Mountain Solar reiterate these comments.

REV believes that the reason for rejecting the Public Service Department's proposal to compensate the existing system at the existing rate and the new system at the new rates was that it was administratively difficult for the utilities to apply two different adjustors to the same system. REV appreciates this practical barrier but urges the Commission to be more creative in finding a compensation mechanism that would avoid

this perverse disincentive to expanding existing systems. REV suggests using a weighted average of the existing and current adjustors which would allow utilities to apply a single – albeit unique – adjustor to the expanded system while achieving the same result as the Department's proposal. REV has reached out to the distribution utilities about the feasibility of the approach within their existing billing systems. To date –REV states that it has not received a definitive answer to this question, outside of Vermont Electric Cooperative, which indicated that this would also be difficult to support within its billing software.

For larger systems, REV suggests considering the system expansion to be a separate plant for the purposes of determining REC and siting adjustors. REV believes that this would accomplish this same end with relatively little burden on the utilities given the comparatively small number of systems involved.

AER

AER supports REV's proposal to apply a single weighted average rate to the existing and expanded system. AER argues that this approach appears to be consistent with that advocated by the Department and is not a complicated mathematical exercise. AER submits that a blend of the Commission's approach and that put forth by REV offers the most pragmatic way to address the expansion rate question. An expansion falling within the greater of 5% or 10kW does not realistically warrant the administrative effort required of project owners, the Department, and the Commission to calculate a specific project rate, as the Commission's proposed amendment to Rule 5.109(D) implicitly recognizes. AER asserts that a reasonable balance can be struck by applying the REV weighted rate approach only to amendments that increase project size above that level, at which point a project-specific calculation can be made.

VEC

VEC supports the proposal to apply current net-metering rates to the entire output of a net-metering system which expands its capacity more than 5 percent or 10 kW, whichever is greater. This will provide clarity, enable small-scale expansion without penalty, and minimize the cost-shift between customers who net-meter and those who do not. VEC asserts that net-metering is a high-cost power resource for VEC that causes upward rate pressure. VEC estimated that for 2021, its members paid approximately $2.6 million in above-market costs. In other words, VEC represents that it could have procured the same renewable resources provided by net-metering for $2.6 million less.

VEC represents that the proposed exemption for smaller expansions covers most of the residential expansions that VEC has seen to date. In applying the current rate to the output of larger expansion projects, VEC believes that the Commission has properly balanced supporting the transition to electrification while limiting electric rate increases.

VEC would like to respond to a comment by REV at the public hearing held on August 10, which suggested that the Commission adopt a weighted average rate to an existing system that expands its capacity. This proposal would impose an administrative burden and further complicate an already complex net-metering billing system. VEC has

designed its billing system to operate based on the date that the application was filed. The billing system automatically assigns adjustors based on that date (and category and REC allocation). VEC would have to redesign the billing system to implement what would amount to a custom rate for every expanded system. VEC strongly supports the language in section 5.108(C) of the most recent proposed rule.

Response

During the informal portion of this rulemaking, the Commission considered whether it was feasible to meter the existing and expanded portion of the systems separately but did not adopt this proposal when the utilities informed the Commission that utility billing systems could not accommodate calculating and applying credits for a customer using two different rates.[12] REV and other commenters have attempted to address this issue by proposing that the utility apply a single rate, consisting of a weighted average of the two applicable rates. The Commission has considered REV's proposal and declines to adopt it because of the similar administrative burdens it creates. This proposed method would require the utility to program its billing software to apply a custom rate for each customer.[13] A weighted average rate would have to be recalculated for each customer when a utility's blended residential rate changes and when any positive adjustors expire. The Commission does not find that this level of administrative burden is justified. Additionally, REV's proposal to use a weighted average does not address how to deal with situations where the existing portion of the system is not subject to non-bypassable charges.

Some commenters have asserted, without explanation, that utility billing systems can be "easily" reconfigured to accomplish this task. The Commission has not been presented with any credible information supporting this assertion. Therefore, we have not found those comments persuasive.

Contrary to the suggestion of REV and other commenters, state energy policy and the net-metering statute do not direct the Commission to support self-generation at any cost.[14] The benefits of net-metering need to be balanced with its costs and administrative burdens.[15] The purpose of this rule change is to ensure that significant expansions to net-metering systems receive the same financial incentives that are available to new net-metering systems. The Commission has found that the very high incentives that old systems receive are no longer necessary to encourage the development of net-metering systems, and that they result in a disproportionate cost shift between customers who net-

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[12] Proposed revisions to Vermont Public Utility Commission Rule 5.100, Case No. 19-0855-RULE, Order of 5/17/2023 at 11.

[13] Each customer's rate would depend on the size of the expansion and the difference between the rates applicable to the existing and expanded portion of the system, so each customer's rate would be unique.

[14] 30 V.S.A. § 202(a) (stating that it is the general policy of Vermont "To identify and evaluate, on an ongoing basis, resources that will meet Vermont's energy service needs in accordance with the principles of *reducing greenhouse gas emissions and least-cost integrated planning*, including efficiency, conservation, and load management alternatives; wise use of renewable resources; and environmentally sound energy supply.)

[15] 30 V.S.A. § 8010(c)(1)(A)-(F).

meter and those who do not.[16] For example, a 150 kW photovoltaic system constructed in 2016 in GMP's service territory currently receives a credit of $0.2265 for each kWh produced, which is the sum of the residential rate ($0.1835) and a solar adder ($0.043). It would be inconsistent to allow this existing system to add up to 350 kW of new capacity and receive rates that greatly exceed the compensation available to a new system. A new 350 kW system would receive credits worth $0.12141, which is the blended residential rate ($0.17141) less the applicable siting adjustor (-$0.05).[17]

The Commission proposed to allow customers to increase their net-metering capacity by 10 kW or 5% of their existing capacity, whichever is greater. After considering REV's comments concerning the amount of capacity that residential customers may need to add to their existing systems to electrify heating and transportation loads, the Commission has revised its proposal to allow expansions of 15 kW or 5%, whichever is greater. This will help residential customers electrify their heating or transportation by maintaining the rates they relied on to install their existing system. This will result in some additional cost to all ratepayers for these smaller expansions, but the Commission believes this additional cost is warranted to support customers as they transition to electrifying their heating and transportation. However, as more Vermonters make these transitions, it is also vital that overall electric rates remain as low as possible. Therefore, it is appropriate to compensate very large expansions of existing net-metering systems at the same rate that a new system would receive to avoid even greater additional costs to ratepayers.

5.108 and 5.109 – Amendments

Summary of Proposed Rule

The proposed rule would require applicants and CPG holders to seek Commission approval before making a "substantial change" to a proposed or approved net-metering system. A "substantial change" is defined as "a change to a proposed or approved net-metering system that has the potential for significant impact with respect to any of the criteria of Section 248(b) or on the general good of the State under Section 248(a)."

Comments

VPPSA

VPPSA encourages the Commission to discuss with stakeholders what parameters would or should be established to define "substantial changes." According to VPPSA, Section 5.109(E) cross references "material modification" as defined under Rule 5.500, however there is little definition for the terms used in Rule 5.100.

Response

The Commission has considered VPPSA's comment and disagrees with the assertion that the term "substantial change" requires additional parameters. The

[16] "Accordingly, it is appropriate to reduce compensation for new net-metering systems to ensure that the program does not cause an undue cost-shift between customers who net-meter and those who do not." *In re: biennial update of the net-metering program*, Case No. 22-0334-INV, order of 6/17/2022 at 43.

[17] A copy of GMP's net-metering tariff can be viewed at: https://greenmountainpower.com/wp-content/uploads/2022/09/Self-Generation-and-Net-Metering-10-1-2022.pdf.

Commission has applied the substantial change test for many years in Section 248 cases. Also, the substantial change test was applied in net-metering cases before the adoption of the current rule in 2017.[18] Based on this experience, the Commission believes that developers have adequate guidance to decide whether a change has the potential for significant impact under the Section 248 criteria and, therefore, is a "substantial change."

Similarly, the term "material modification," which is the standard used under Commission Rule 5.500 to determine whether a modification to a proposed interconnection warrants a new interconnection review by the utility, is a regulatory standard that has been in place for many years.

Rule 5.125 – Pre-existing Net-Metering Systems

Summary of Proposed Rule

Rule 5.125 establishes a class of net-metering systems that receive special treatment as "pre-existing systems" because these systems applied for a CPG before January 1, 2017, the date the Commission's revision of the net-metering program pursuant to Act 99 of 2014 took effect. Rule 5.125(A)(3) has been added to clarify that systems that expand their capacity by more than 5% or 10 kW lose their status as a pre-existing system.

Comments

VPPSA

VPPSA states that "[d]ue to concerns and ongoing rulemaking proceedings and standards examining the impacts of Inverter-Based Resources on the bulk power system and sub- or transmission level planning forecasts, VPPSA suggests the Commission consider how these dates may or may not align with IEEE 1547 inverter setting standards for the necessary protection and controls to prevent voltage ride throughs or damage to the electric grid."

Response

The interconnection of net-metering systems is governed by Rule 5.500, which has its own criteria for the application of new or revised electrical safety standards. This issue is not relevant to Rule 5.100. As a general matter, once a utility has approved an interconnection using the standards required by Rule 5.500, the subsequent adoption of revised standards will not affect already-approved interconnections.[19] A "material

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[18] *See e.g., Petition of Sideline Solar I, LLC, for a certificate of public good, pursuant to 30 V.S.A. ss 248 and 219a, authorizing the installation and operation of a 500 kW solar group net-metered electric generation facility to be located in Williston*, Vermont, Case No. NMP-3644, Order of 2/4/2015.

[19] Proposed Rule 5.520 ("When any listed version of the following codes and standards is superseded by a revision approved by the standards-making organization, then the revision will be applied where these codes and standards are referenced in this Rule. Applications that are date-and-time-stamped on or before six months after the revision date may follow the previous version of the standard, unless an immediate threat to safety and reliability exists that requires the retrofit of all similarly situated equipment. Applications that are date-and-time-stamped later than six months after the revision date must follow the revised standard.").

modification" to a proposed interconnection would trigger a new interconnection review and the applicability of any updated standards.[20]

Rule 5.127 – Determination of Applicable Rates and Adjustors

Summary of Proposed Rule

Rule 5.127 establishes standards for determining what rates and adjustments are used to monetize net-metered energy into a bill credit. The Commission has proposed language to clarify the procedure for updating the blended residential rate in the case of a utility that uses inclining block rates and requests a general rate increase of more than 5%.

Comments

VEC

VEC asserts that both the current rule and the proposed rule as written do not achieve the apparent intent that the blended rate be revised to reflect the rate increases. VEC explains that because the blended rate calculation looks back at the prior calendar year, filing a new blended rate calculation at the same time as a rate increase (or within 15 days after) will not reflect the new rate increase.

VEC suggests that the biennial update is sufficient to take into account rate increases that were implemented between updates. In fact, this is the purpose of the biennial update. VEC recommends that the Commission eliminate the requirement to update the blended rate when a utility files a rate increase.

Steve Bushman

Mr. Bushman recommended changes to Rule 5.127(A) that would limit using the blended residential rate to determine the "monetized credit value of excess generation net-metering credits."

Mr. Bushman also submitted comments addressing the method to recalculate the blended residential rate when a utility has requested a general rate increase of more than 5%. Mr. Bushman "suggested that any approved rate change be applied to the current blended residential rate found in the utility's current net metering tariff as approved by PUC."

Mr. Bushman also raised concerns about how fixed costs (such as a meter charge) within a utility's net-metering tariff should be addressed. Mr. Bushman noted that the rule clearly states that any change to the blended residential rate calculation pursuant to this section must be filed as a separate tariff case at the same time the electric company files proposed revisions to its general residential service rates. Mr. Bushman asserts that net-metering fixed costs are not part of the general residential service rates. They are unique to net metering and only apply to customers with net-metering accounts. In addition, Mr. Bushman states that Rule 5.128(H), which applies to biennial updates, clearly states that each biennial tariff update must be filed as a new tariff case and the tariff compliance filing may not include any other proposed changes to the utility's net-

[20] Proposed Rule 5.516.

metering tariff, except for a proposed change to the utility's blended residential rate. Mr. Bushman notes that there has been inconsistent interpretation of this section of the rule, as shown in several recent general rate tariff revision requests. Therefore, Mr. Bushman argues that new language should be added to 5.127 to address the issue of the determination of fixed costs in a utility's net-metering tariff. Mr. Bushman argues that fixed costs found in net-metering tariffs (i.e., monthly account fee, one-time set up fee, production meter installation fee) need to be filed as a separate tariff case.

If the above cannot be addressed in this rule revision, Mr. Bushman requests that the Commission open an investigation into the proper procedure for a utility to change its net metering fixed costs, similar to case 23-1682-TF which is investigating blended residential rates in tariff cases.

Response

In response to Mr. Bushman's recommendation that we revise Rule 5.127(A) to clarify that the rule only applies to the manner of calculating the value of excess generation, the Commission has revised the first sentence of the rule to state: "Depending on the electric company service territory in which the net-metering system is located, the blended residential rate used to determine the value of ~~net-metering~~ credits for excess generation . . ." The Commission believes this clarification is consistent with current practice and does not change the meaning of the rule.

VEC is correct that the use of the previous year's sales and revenues to calculate the blended residential rate does not result in a significant adjustment to a utility's blended residential rate because the recalculation is performed at the time a utility files a rate increase and, therefore, the increased revenues are not reflected in the calculation. Accordingly, we agree with VEC that the current procedure is not useful and that utilities with inclining block rates should update their blended residential rates at the next biennial update, as opposed to at the time they file a rate request.

This change will result in similar treatment among customers across all service territories. Most net-metering customers are subject to the statewide average blended residential rate. The statewide average is only recalculated as part of the biennial update and not at the time individual utilities request rate increases. Under VEC's proposal, the relatively small number of customers who are subject to utility-specific inclining block rates will see their blended residential rates recalculated with the same frequency as most other customers in the state. Accordingly, Rule 5.127(A)(2) is revised to read as follows:

> (A) Depending on the electric company service territory in which the net-metering system is located, the blended residential rate used to determine the value of ~~net-metering~~ credits for excess generation is the lowest of the following:
>
> . . .

(2) For electric companies whose general residential service tariff includes inclining block rates, a blend of those rates determined by adding together all of the revenues to the company during the most recent calendar year from kWh sold under those block rates and dividing the sum by the total kWh sold by the company at those rates during the same year. Each electric company whose general residential service tariff includes inclining block rates must perform this calculation ~~(1)~~ by ~~May 15~~ February 1 of each even-numbered year. ~~and (2) within 15 days of the effective date of a new tariff for general residential service that includes a change in rates of more than 5%. To the extent the calculation shows that there has been a change from the rate then in effect, the electric company must file by that same date a revision to its net metering tariff to reflect the change.~~ Any change to the blended residential rate calculated pursuant to this section ~~may~~ must be included in a tariff compliance filing made pursuant to Section 5.128(H) of this Rule; or

Because the Commission has accepted VEC's argument that the biennial update process is sufficient to take into account rate increases that were implemented between updates, the Commission does not accept Mr. Bushman's recommendations regarding the calculation of the blended residential rate in the case of utilities that use inclining block rates and that have requested a rate increase of more than 5%. Mr. Bushman proposes that a utility rate increase is immediately applied to the blended residential rate. As discussed above, a recalculation of the blended residential rate does not occur contemporaneously with a utility rate case for customers who receive the statewide average rate because the statewide average is recalculated biennially.

The Commission declines to address what Mr. Bushman calls "fixed costs" in Rule 5.127. The "fixed costs" Mr. Bushman refers to are really the charges for various net-metering-specific services, such as installing an additional meter or account maintenance fees, that are authorized by Commission Rule 5.133(A)(3)-(5). Mr. Bushman is correct that these fees should be reviewed separately from a biennial update process and Rule 5.128(H) already requires this. Mr. Bushman also raises the question of whether these types of ancillary net-metering charges should automatically increase by the same percentage when a municipal or cooperative utility files a general rate request pursuant to 30 V.S.A. § 226(b). This issue is not within the scope of this rulemaking and is more appropriately addressed in the case where a utility is requesting to change its rates.

5.128 – Biennial Update

Summary of Proposed Rule

Proposed Rule 5.128 establishes standards and procedures for the biennial update, whereby the Commission reviews the calculation of the utilities' blended residential rates, the statewide average rate, and the amounts of the rate adjustors applied for siting and renewable energy credits.

The Commission has proposed several revisions to the dates for submitting data and conducting the biennial review so that the process better aligns with the Commission's fiscal year. The Commission also proposed changes to clarify that a standard form will be used to collect the required utility data.

Comments

VPPSA

VPPSA states that Rule 5.128(D)(7) has been added to include "Any other information required by the Commission's form." VPPSA finds this language to be overly broad, undefined, and excessive. VPPSA encourages the Commission to more appropriately define or establish specific parameters to prevent unnecessary overreach.

Bushman

Mr. Bushman comments that proposed Rule 5.128(A) should include blended residential rates required by 5.127(A)(1) and (2) as items that are updated biennially. Mr. Bushman notes that most utilities are required to submit this calculation by May 15 of each even-numbered year. Mr. Bushman also recommends changing "may" to "shall" in the first sentence of proposed Rule 5.128(G).

Response

In response to Mr. Bushman's recommended change to Rule 5.128(A), the Commission agrees that it is appropriate to clarify that utility-specific blended residential rates will be recalculated as part of the biennial update because that reflects what is already occurring. Recalculating utility-specific blended residential rates is a necessary prerequisite to calculating the statewide average. Accordingly, Rule 5.128(A)(3) is revised to state "the electric companies' blended residential rates and the statewide blended residential rate[.]"

In response to VPPSA's comments regarding the scope of information required by the Commission's data reporting form, the Commission notes that Section 18 of Title 30 states that "[s]o far as is necessary for the performance of its duties, the Public Utility Commission . . . . shall have power to examine the books, accounts, and papers of any [utility]company." The biennial update proceeding should be informed by available relevant data concerning the deployment of net-metering that the utility may possess. The broad construction of the rule is necessary to give the Commission flexibility to update its forms to collect relevant utility data because the type of data that utilities may possess can evolve over time. The Commission has no interest in requiring the production of irrelevant information in biennial update proceedings. In response to VPPSA's concern about the breadth of this provision, the Commission has revised Rule 5.128(D)(8) to state: "any other information relevant to the biennial update required by the Commission's form."

Because the Commission has adopted VEC's recommended changes to Rule 5.127(A)(2), the Commission is also revising Rule 5.128(D) to require that utilities file a recalculation of each utility's blended residential rate as part of the biennial update process. Accordingly, Rule 5.128(D)(6)-(8) are revised to state:

(D) On or before February 1 of each even-numbered year, each electric company must file with the Commission and the Department of Public Service the following information regarding the state of the electric company's net-metering program:

. . .

(6) ~~any other information the electric company believes to be relevant to the biennial update~~ the electric company's updated blended residential rate and supporting calculations; ~~and~~
(7) any other information the electric company believes to be relevant to the biennial update; and
(8) any other information relevant to the biennial update required by the Commission's form.

The Commission declines to adopt Mr. Bushman's recommended change to Rule 5.128(G) because there may be situations where the Commission determines that it is not appropriate to revise the items identified in Rule 5.128(A)(1) through (4). Therefore, mandatory language is not appropriate.

After considering these comments and reviewing the rule, the Commission also determined that it is appropriate to clarify Rule 5.128(H). The rule currently states that utilities "may not include any other proposed changes to the utility's net- metering tariff, except for a proposed change to the utility's blended residential rate calculated pursuant to Section 5.127(A) of this Rule." The purpose of this language is to restrict compliance tariffs to only addressing the changes required by the biennial update order. However, this language is potentially confusing because it doesn't appear to allow for changes to the REC and siting adjustors, which are also included in utility tariffs. The Commission has revised this sentence to state that utilities "may not include any other proposed changes to the utility's net- metering tariff, ~~except for a proposed change to the utility's blended residential rate calculated pursuant to Section 5.127(A) of this Rule.~~ except for any revisions to the items in Rule 5.128(A)(1)-(4) ordered in the Commission's biennial update order. This change accurately reflects that the purpose of the compliance tariffs is to implement the changes determined in the biennial update order.

5.129(C) – Group Net-Metering

Summary of Proposed Rule

Rule 5.129(C) requires that individual customer accounts may be enrolled in only one net-metering group at a time. Customers with multiple accounts may enroll each account in a separate net-metering group. The Commission has not proposed any changes to this portion of the rule.

Comments

David Martin

Mr. Martin asserts that there is no valid reason to continue the provision preventing participants in a group solar project from joining a second project. According to Mr. Martin, many early adopters in community solar projects have added heat pumps

and/or electric vehicles and now consume much more electricity than they did several years ago when they joined these projects. Mr. Martin contends that the electric companies could "easily modify their billing programs to enable residents to receive different reimbursement rates if they join a new project."

Response

The Commission has not adopted Mr. Martin's recommendation because it has not been demonstrated that the utilities' billing systems can be easily modified to enable residents to receive different reimbursement rates. The utilities have credibly represented that these net-metering arrangements cause an unreasonable amount of complexity for their billing systems.

5.134 Electric Company Tariffs

Summary of Proposed Rule

The Commission proposed to delete this rule, which required utilities to file revised net-metering tariffs implementing the Commission's 2017 revisions to the net-metering rule.

Comments

Stephen Bushman

Mr. Bushman recommends that Rule 5.134 should not be deleted but updated. According to Mr. Bushman, new utilities are still being formed in Vermont (i.e. Global Foundries) and there's no reason to rule out other utilities being formed as the grid matures and sources of power evolve.

Response

The Commission agrees with Mr. Bushman that it is possible for new utilities to be formed. However, the procedures for new utilities to file tariffs with the Commission is governed by statute.[21] While the statute does give the Commission discretion on when to require the filing of tariffs by a new utility, it does not make sense for the net-metering rule to dictate that process. Therefore, the Commission has not adopted Mr. Bushman's recommendation.

However, the Commission has decided to revise its proposal for other reasons. Some utilities may require revisions to their net-metering tariffs to be consistent with the changes proposed in this rulemaking. In particular, the Commission's proposed changes to Rule 5.125's requirements for pre-existing systems may necessitate minor revisions to utility tariffs to ensure that expanded systems are not treated as pre-existing systems under a utility tariff. Therefore, the Commission has revised Rule 5.134 to read as follows:

> Tariffs. Each utility must review its net-metering tariff and, pursuant to 30 V.S.A. § 225, file any revisions necessary to ensure consistency with this Rule.

[21] 30 V.S.A. § 225(a).

It will be necessary for utilities to file these tariff revisions with the Commission at least 45 days before the proposed rule changes take effect. The Commission will provide the utilities further guidance on the timing of these tariff filings after the Legislative Committee on Administrative Rules completes its review.

5.135 – Participation in Wholesale Markets

Summary of Proposed Rule

Proposed Rule 5.135 prohibits participants in the net-metering program from also participating in regional wholesale markets.

Comments

VPPSA

VPPSA suggests that the Commission more clearly define what criteria would be used to determine whether such participation would or would not harm the interests of Vermont ratepayers and/or be in the interests of the public good. VPPSA argues that these are overly broad standards. VPPSA reiterated its comments, filed on May 27, 2022, that there are still significant concerns about how the proposed rule interplays with FERC Order 2222.

REV

REV's states that it interprets the Commission's language in the Order Requesting Comments on the Draft Rule from 12/2/2022 as seeking to protect against double compensation (i.e., double-counting for the same services), but REV asserts that the broad language of the proposed rule goes much further to presume that net-metering systems have no right to wholesale markets to provide any service, even if it is a service that is not already being compensated through the net-metering program.

REV notes that the Commission has reserved the right to approve such participation but argues that the proposed rule establishes a vague and blanket prohibition, with no clearly defined criteria for granting approval. REV asserts that the proposed rule would discourage innovation to take advantage of FERC Order No. 2222 that could create additional opportunities for net-metered systems to provide value to the system owner and to reduce overall system costs for all Vermont utilities and their ratepayers. REV urges the Commission to be more specific about its concerns with net-metering participation in wholesale markets and the process for gaining approval for doing so.

Norwich Solar Technologies

NST asserts that the ability of net-metered systems to participate in wholesale markets as envisioned in FERC Order No. 2222 creates additional opportunities for net-metered systems to provide value to the system owner and to reduce overall systems costs for all Vermont utilities and their ratepayers. NST echoes REV in urging the Commission to be more specific about its concerns with net-metering participation in wholesale markets and the process for gaining approval for doing so.

Response

FERC Order 2222 establishes rules for the participation of distributed energy resource aggregations in the capacity, energy, and ancillary service markets operated by Regional Transmission Organizations and Independent System Operators ("RTO/ISO").[22] Distributed energy resource ("DER") refers to "any resource located on the distribution system, any subsystem thereof or behind a customer meter," which may include, but not be limited to, "electric storage resources, distributed generation, demand response, energy efficiency, thermal storage, and electric vehicles and their supply equipment."[23]

REV argues that "the broad language of the proposed Rule goes much further to presume that net-metering systems have no right to wholesale markets to provide any service, even if it is a service that is not already being compensated through the net metering program." However, the scope of the proposed rule is very narrow because it applies only to net-metered generation resources. The rule does not apply to energy storage devices, demand response, energy efficiency, thermal storage, or electric vehicles. The rule also does not apply to solar facilities or other distributed energy resources that are not participating in the net-metering program.

Thus, the rule does not "presume that net-metering systems have no right to wholesale markets." Any behind-the-meter generation resource may elect to forgo the benefits of net-metering and participate in wholesale markets to the extent allowed by Order 2222 if they choose.[24] Rather, the rule conditions participating in Vermont's net-metering program on staying out of the wholesale market. There are sound reasons for such a condition; allowing a net-metering system to receive payments from ISO markets without safeguards will result in net-metering systems being paid twice for a service. Currently, net-metering systems reduce the utility's load, which in turn reduces the utility's obligations in ISO-NE markets. This direct reduction of a utility's cost to serve is the basis for providing net-metering customers with a retail credit. However, when a DER participates in an ISO-NE market, the DER will not reduce the utility's load.[25] Therefore, it would not make sense to offer a retail rate credit to a wholesale market participant because the market participant is not directly reducing the costs that compose the utility's retail rate. The appropriate compensation for market participants is the wholesale rate, not the retail rate.

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[22] *Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Independent System Operators*, 172 FERC ¶ 61,247 ("Order 2222") at 1. ("For purposes of this final rule, we define RTO/ISO markets as the capacity, energy, and ancillary services markets operated by the RTOs and ISOs.").

[23] *Id.*

[24] The Commission notes that facilities with a capacity of 150 kW or less would be eligible to apply for a CPG using the same simplified procedures available to net-metering systems. 30 V.S.A. § 8007b(a).

[25] FERC has held that "if a distributed energy resource is offered into an RTO/ISO market and is not added back to a utility's or other load serving entity's load profile, then that resource will be double counted as both load reduction and a supply resource." Accordingly, RTO/ISOs are directed "to place narrowly designed restrictions on the RTO/ISO market participation of distributed energy resources through aggregations, if necessary to prevent double counting of services." Order 2222 at 161.

Contrary to REV's suggestion that net-metering systems could be providing "a service that is not already being compensated through the net metering program," the Commission finds that the net-metering program amply compensates participants for all energy, capacity, and ancillary services they may provide. The net-metering credit, which is based on the utility's retail rate, necessarily accounts for all the utility's power supply costs, including the utility's cost to acquire services in the markets within the scope of Order 2222. Therefore, the Commission reasons that a net-metering customer has relinquished title to all products or services provided by a net-metering system in exchange for a retail credit.

Because it would be inappropriate to give a DER both retail and wholesale compensation, Order 2222 acknowledges that state regulatory authorities are "able to condition a distributed energy resource's participation in a retail distributed energy resource program on that resource not also participating in the RTO/ISO markets."[26] Further, Order 2222 prohibits any customer of a utility with less than 4 million MWh of load from participating in a DER aggregation without state regulatory commission approval.[27] The small-utility opt-in provisions of Order 2222 will likely apply to every Vermont utility, at least for some period of time.[28] For these reasons, we reject REV's argument that the proposed Rule 5.135 is overly broad, improperly excludes net-metering systems from wholesale markets, or could result in net-metering systems not receiving compensation for services they provide.

While the Commission does not find good cause to allow net-metering systems access to wholesale markets presently, the Commission recognizes that ISO-NE markets and net-metering compensation in Vermont are ever evolving. Changes in circumstances may cause the Commission to allow a net-metering system to participate in a wholesale market. Proposed Rule 5.135 would allow the Commission to approve the wholesale market participation of net-metering systems if the Commission finds that such participation "will not harm the interests of Vermont ratepayers and will be in the public good."

NST, REV, and VPPSA commented that this standard for approving market participation is vague and has "no clearly defined criteria for granting approval." The Commission rejects this comment because the standards contained in the rule are sufficiently clear. The "public good" standard is a commonly applied standard in regulatory proceedings and one that is necessarily flexible enough to account for the

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[26] Order 2222 at 61.

[27] *Id.* at 53 ("Specifically, we determine that customers of utilities that distributed 4 million MWh or less in the previous fiscal year may not participate in distributed energy resource aggregations unless the relevant electric retail regulatory authority affirmatively allows such customers to participate in distributed energy resource aggregations."). This rulemaking addresses the criteria for participating in the net-metering program and does not address the participation of other DERs in ISO NE markets.

[28] In 2022, GMP's retail sales were just above the 4 million MWh threshold. Once Global Foundries completes its transition from a customer of GMP to a separate utility, GMP's sales will likely fall below 4 million MWh, at least for a period until increasing electrification lifts GMP's sales.

technical complexity and breadth of the policy considerations involved.[29] Similarly, the requirement that wholesale market participation "not harm the interests of ratepayers" is sufficiently clear yet broad enough to capture the wide array of interests that ratepayers have.

However, in response to these concerns, the Commission proposes the following additional criterion in Rule 5.135 that would guide the Commission's review of a proposal to allow the participation of net-metering systems in wholesale markets:

> No net-metering system may participate in a wholesale market unless the Commission finds that such participation is consistent with federal law, will not harm the interests of Vermont ratepayers, and will be in the public good.

The reason for this additional criterion is that the participation of a net-metering system in both the wholesale and retail markets raises the possibility that the Commission would be entering an area of regulation reserved to the federal government. The Supreme Court of the United States has held that state programs that are tethered to a generation resource's wholesale market participation are preempted where the program results in a market participant receiving a price different than the FERC-approved wholesale price.[30] Therefore, any proposal to allow wholesale market participation would need to demonstrate that it is consistent with federal law.

5.136 – Locational Adjustor Fee

Summary of Proposed Rule

An electric company may propose for Commission approval a tariff assessing a locational adjustor fee on new net-metering systems located in constrained or limited-headroom areas of the grid. The fee will be assessed on a per-kilowatt basis and collected before a net-metering system is energized. The amount of the fee must reflect the incremental economic harm caused by constructing additional generation in the area or the incremental cost to ratepayers of expanding the available grid capacity in the area. The rule specifies the information that must be included in a tariff filing.

Comments

VPPSA

VPPSA is generally supportive of analyzing or implementing a locational adjustor fee to assess system impact of increased net-metering. However, VPPSA argues that the proposed rule places an inequitable priority on transmission or sub-transmission constraints. According to VPPSA, the entire distribution, generation and transmission level impacts should be equally considered as they relate to system impact and costs. VPPSA expressed concern that "[a] tariff proposed under this section may apply to new electric generation facilities other than net metering systems." VPPSA argues that this language is exceptionally vague and creates significant concerns around how a proposed

[29] *See e.g.*, 30 V.S.A. §§ 108, 231, and 248 (conditioning regulatory approval on the Commission making a finding that an activity will be in the public good).

[30] *Hughes v. Talen Energy Mktg., LLC*, 136 S. Ct. 1288 (2016).

tariff for a net-metering qualified system could impact utility-owned, utility-scale or behind-the-meter generation or energy storage facilities.

Response

The Commission disagrees with VPPSA's argument that the proposed rule is overly focused on the transmission or sub-transmission system. Nothing in the rule excludes the possibility of a utility proposing a tariff to address constraints on its distribution system.

Turning to VPPSA's concern about how a proposed tariff for a net-metering qualified system could impact utility-owned, utility-scale, or behind-the-meter generation or energy storage facilities, this issue can only be addressed when a utility proposes a tariff. The Commission notes that the proposed rule permits, but does not require, a utility to propose a tariff that applies to generation resources other than net-metering facilities. This is a reasonable feature of the rule given that other generation resources have the potential to affect grid constraints in the same manner as net-metering systems.

Proposed Rule 5.136 states that "[t]he fee will be assessed on a per-kilowatt basis and collected before a net-metering system is energized." Thus, the proposed rule does not authorize the assessment of a locational adjustor fee on existing generation resources. A utility planning to construct an electric generation facility outside of its service territory should inquire with the interconnecting utility before constructing such a facility to determine whether any locational adjustor fee would apply.

General Comment: Slopes

Comment

Michael Binder

Mr. Binder recommends that the Commission consider including a limitation on the construction of solar projects on significant slopes (i.e., over 15%).

Response

The Commission has not included a limitation on the slope on which net-metering systems may be constructed. Net-metering systems that exceed certain thresholds are subject to the stormwater and erosion-control permitting requirements adopted by ANR. ANR has not recommended that additional restrictions addressing the slope of sites are necessary to protect the natural environment. Mr. Binder's comments do not demonstrate that ANR's stormwater regulations are inadequate to mitigate the effects of runoff from solar arrays on slopes greater than 15% or that systems that do not meet ANR's permitting thresholds require additional regulation.

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 19-0855-RULE

Proposed revisions to Vermont Public Utility Commission Rule 5.100	

Order entered: 05/17/2023

ORDER RESPONDING TO PARTICIPANT COMMENTS

I. INTRODUCTION

In today's Order, the Vermont Public Utility Commission ("Commission") responds to comments received during the final stages of the informal rulemaking process for amendments to Commission Rule 5.100, the Net-Metering Rule, and notifies the participants that it will begin the formal rulemaking process by filing a draft proposed rule with the Vermont Interagency Committee on Administrative Rules and the Vermont Secretary of State. Attached to this Order are clean and redline copies of the proposed Net-Metering Rule that include changes previously discussed in this rulemaking and incorporate other changes discussed below.

II. BACKGROUND

On April 16, 2019, the Commission issued an order opening a rulemaking to begin a review of Commission Rule 5.100, the Commission rule that governs the construction and operation of net-metering systems in Vermont. The Commission opened the rulemaking in response to a request for guidance regarding the definition of "preferred site" filed by the Vermont Department of Public Service ("Department"), the Vermont Agency of Natural Resources ("ANR"), and the Natural Resources Board ("NRB").[1] In opening up the rule for changes, the Commission and stakeholders also identified other sections of the rule to amend, many of which have been raised as practical issues by State agencies and other participants since 2017, when the current net-metering rule was implemented in Vermont.

During the course of this rulemaking proceeding, the Commission has circulated three proposed drafts of amendments to Rule 5.100, conducted three workshops, and solicited rounds

[1] *Rule 5.103 Preferred Site Workshop Request*, Case No. 17-5202-PET. In the preferred site proceeding, the Commission solicited two rounds of written comments and conducted a workshop, which resulted in the initial set of changes proposed to the "preferred site" definition in this rulemaking proceeding.

of written comments on each rule draft and after the workshops.[2] At the workshops, the Commission heard from stakeholders on net-metering application and administrative processes and issues, tree clearing related to net-metering projects, how to address net-metering in the Sheffield-Highgate Export Interface and future constrained areas in Vermont, and net-metering compensation.[3] Participants in this process have included:

- Aegis Renewable Energy, Inc.
- Agency of Agriculture, Food and Markets
- Agency of Natural Resources
- AllEarth Renewables, Inc.
- Associated Industries of Vermont
- Chittenden County Regional Planning Commission
- Conservation Law Foundation
- Department of Public Service
- Encore Renewable Energy
- Energy Clinic at Vermont Law School
- Green Lantern Development, LLC
- MHG Solar, LLC
- Natural Resources Board
- Northwest Regional Planning Commission
- Norwich Solar Technologies
- private individuals
- Regulatory Assistance Project
- Renewable Energy Vermont ("REV")
- Sharon Energy Committee
- Solaflect
- Springfield Energy Committee

[2] Several sets of written comments were filed outside of the formal comment solicitations. The Commission received and reviewed all these comments as well.

[3] After the workshop on net-metering compensation, the Commission determined it would address net-metering compensation in a future separate proceeding.

- Sunrun, Inc.
- Town of Colchester
- Triland Partners LP
- Two Rivers-Ottauquechee Regional Commission
- VHB
- Vermont Association of Planning and Development Agencies ("VAPDA")
- the Vermont electric distribution utilities;
- Vermont Electric Power Company, Inc. ("VELCO")
- Vermont Public Power Supply Authority ("VPPSA")
- Vermonters for a Clean Environment
- Vote Solar

The draft amendments to Rule 5.100 attached to this order represent the Commission's consideration of all comments made in this proceeding. The Commission intends to begin the formal rulemaking process by filing a draft proposed rule with the Interagency Committee on Administrative Rules and the Secretary of State. The Commission will conduct the formal rulemaking using ePUC, with the same case number that has been used in this informal process (Case No. 19-0855-RULE). Therefore, any person or entity that is a participant in this case will continue to receive notices of all documents issued by the Commission or filed by participants throughout this process.

III. DISCUSSION

The Commission thanks all the participants for their thoughtful comments and insights throughout the informal portion of this rule amendment process. Below, we address the comments that were filed in response to the most recent draft rule that the Commission issued on December 2, 2022.[4]

A. 5.103, "Preferred Site" Definition – "Significant Forest Clearing"

In recent years, the Commission has been concerned about the amount of forest that has been cleared to make space for certain large net-metering projects on "preferred sites." When it

[4] The Commission also issued a response to comments on December 2, 2022, regarding comments that were filed on the version of the draft rule that the Commission issued on April 29, 2022.

originally adopted the "preferred site" incentive framework, the Commission intended to ensure that the very largest ground-mounted net-metering systems – between 150 kW and 500 kW – were sited so as to have minimal environmental impacts.[5] However, because the "preferred site" definition lacked a standard addressing forest clearing, projects involving as many as nine acres of forest clearing have received certificates of public good and the attendant "preferred site" financial subsidies.

Vermont ratepayers pay above-market rates for power generated by net-metering systems. Because ratepayers provide a subsidy for the development of these smaller in-state renewable energy projects, the Commission believes it is essential that these projects limit their impacts on forests, which play a vital role as carbon sinks and provide important habitat. Vermonters should not have to choose between protecting forests and supporting renewable energy development.

During the course of this rulemaking, the Commission has been working to develop a clear and implementable definition of "significant forest clearing" to limit the amount of forest clearing allowed for net-metering projects on "preferred sites." The Commission has heard from numerous stakeholders on all sides of this issue and aims to strike a reasonable balance that protects Vermont's forest resources while not negatively affecting net-metering development. The current proposed definition of "significant forest clearing" includes some amendments and clarifying changes to the definition that was proposed in the December 2022 draft rule.

First, the Commission understands that some forest clearing may be needed around the edges of a site and in order to interconnect a project with the grid. While the Commission was initially considering limiting forest clearing to no more than one acre, after further consideration and review of the data, the Commission believes it is appropriate to allow up to three acres of tree clearing. In an August 2021 presentation to the Commission, ANR provided data that between 2017 and 2021, the vast majority of net-metering projects – that is, 86% of projects – involved either no forest clearing or less than three acres of forest clearing.[6] This demonstrates

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[5] *In Re: Revised net-metering program pursuant to Act 99 of 2014*, Case No. 16P010, Order of 8/29/2016 at 14-15.

[6] This figure only considers applications filed pursuant to Rules 5.106 and 5.107. It does not include registrations filed under Rule 5.105. If those facilities are considered, the proposed three-acre limit would have affected only 29 out of several thousand facilities. "Forest Conversion for Net-Metering: Trends & Options to

that most net-metering projects can be developed with limited forest clearing, and therefore the Commission believes this limitation will not materially affect the pace of net-metering development.

Next, after further consideration, the Commission has removed the draft provision that would have exempted "significant forest clearing" in State-designated Village Centers, Downtowns, New Town Centers, Neighborhood Development Areas, and Growth Centers. While these are areas identified for development, they are largely identified for the development of homes and businesses.[7] The Commission would not want its definition of "significant forest clearing" to have the unintended consequence of pushing a disproportionate number of large net-metering projects into areas meant to invite compact development and walkable communities.[8]

Additionally, the Commission has made a few changes to address commenters' concerns that using 10 percent canopy cover to define "forest" is too low and that clearing a few mature shade trees in an agricultural field would amount to "significant forest clearing." First, the Commission notes that 10 percent canopy cover is the threshold recommended by ANR and comes from the definition of forest used by the U.S. Forest Service.[9] To address this concern the Commission has added language to clarify that "'forest' means land that has at least 10 percent canopy cover by live trees of any size *and associated naturally occurring vegetation*." This means an area with at least 10 percent canopy cover will not trigger application of this rule unless the area includes the naturally occurring vegetation that is associated with forested areas.

Finally, the Commission has added a sentence at the end of the definition stating, "Clearing of individual trees that are not part of a forest will not count toward the three-acre limit on significant forest clearing." The Commission does not intend to prevent the clearing of a smattering of trees in an agricultural field or count that tree clearing toward a project's forest clearing.

Reduce" PowerPoint presentation, Vermont Agency of Natural Resources, Case No. 19-0855-RULE, 8/24/2021 at slide 3.

[7] 24 V.S.A. § 2790.

[8] The Commission's rules separately provide specific incentives for locating net-metering systems on roofs.

[9] The definition of a forest as having at least 10% canopy cover and being at least one acre in size and 120 feet wide comes from the Forest Inventory and Analysis Program of the U.S. Forest Service. *See e.g.*, Vermont Forests Report 2017, United States Department of Agriculture, p. 7, available at: https://fpr.vermont.gov/forest-inventory-and-analysis-fia.

Commenters also raised concerns that the definition does not define how far in the past the Commission may consider historical evidence of a forest on-site. The definition does not require an extensive review of historic land use. The Commission's assessment of forest clearing is based on the conditions present at the time an application is being developed.

Some commenters have suggested that any limitation on "significant forest clearing" should be addressed legislatively and apply to all types of development equally. The Commission does not have jurisdiction over all types of development; rather, the Commission is seeking to ensure that net-metering projects, which receive above-market rates, have minimal environmental impacts, as was intended when the Commission first adopted the "preferred site" framework.

Next, commenters have suggested that the forest-clearing limitation will conflict with towns that have already designated certain forested areas as suitable for renewable energy projects and will hamper local and regional planning entities designating preferred sites. The Commission disagrees. Forested areas may continue to be identified as areas where renewable energy projects could be sited and specifically as preferred sites; however, project proponents must ensure their net-metering projects don't involve more than three acres of tree clearing within those designated areas.

Commenters have also argued that solar is more effective at reducing atmospheric carbon dioxide concentrations than forests and that the standard is flawed because it treats all forests equally. These comments present a false choice between developing solar projects and protecting the vital role that forests serve as carbon sinks. The Commission maintains that greater carbon reductions are achieved by developing solar projects with minimal forest clearing, and that it is counter-productive to clear a forested area to build a solar project. There is significant environmental and carbon-sequestration value in protecting all Vermont forests from significant tree clearing.

Finally, commenters contend that this limit will push development to open sites and create conflict in areas of Vermont with limited open space or with agricultural and other land-use interests. The Commission's intent with this limit is to direct project development to non-forested sites. Solar can be sited on rooftops, parking lots, other impervious surfaces, brownfields, old landfills, old extraction sites, Superfund sites, and farm fields that can be

restored to their prior agricultural use after project decommissioning. The Commission believes all these sites are preferable to siting projects on forest lands, and the rule provides financial incentives to direct projects to these other sites.

The Commission has revised the definition of "significant forest clearing" (proposed in the December 2, 2022, rule draft) as follows:

> "Significant Forest Clearing" means clearing more than ~~one-acre~~ three acres of forest ~~not in a state-designated Village Center, Downtown, New Town Center, Neighborhood Development Area, or Growth Center~~. For purposes of this Rule, the word forest means land that has at least 10 percent canopy cover by live trees of any size and associated naturally occurring vegetation or has had at least 10 percent canopy cover of live trees and associated naturally occurring vegetation in the past and has stumps, snags, or other evidence indicating that it has not been converted to a non-forest use at the time of a CPG application filing. To qualify as forest, ~~the~~ an area must be at least one acre in size and 120 feet wide. In determining whether an area is at least one acre in size or 120 feet wide, any portion of a group or contiguous area of trees that extends beyond the project or parcel boundaries shall be counted. Canopy cover shall be measured from the outermost edge of tree crowns across a group or contiguous area of trees. The ~~one-acre~~ three-acre limit on significant forest clearing is cumulative and includes each discrete area of any forest proposed for clearing. Clearing of individual trees that are not part of a forest will not count toward the three-acre limit on significant forest clearing.

B. 5.103, "Preferred Site" Definition – Subsection (2), Parking Lot Canopies

REV suggested including unpaved parking lots in subsection (2) of the "preferred site" definition regarding parking lots. While the Commission has previously had concerns that a broad definition of parking lot could lead to applicants seeking preferred-site status for areas that are used only intermittently for parking, such as a field used for parking at a fair, the Commission now believes the likelihood of that is extremely low because of the added expense associated with building parking lot canopies for solar panels sited on parking lots. Therefore, to further encourage the siting of solar projects on parking lots, the Commission has expanded the definition of parking lot within the preferred-site definition.

REV also suggested allowing for a specific siting adjustor for parking lot canopies because of the higher cost associated with such projects. The Commission previously determined that it would consider issues related to compensation in a future separate proceeding. Therefore, the Commission declines to incorporate this suggested change.

C. 5.103, "Preferred Site" Definition – Subsections (3) and (6), Previously Developed Tracts and Extraction Sites

REV suggested removing the requirement in subsections (3) and (6) of the latest draft of the "preferred site" definition that the energy generation component of a plant be located entirely within the previously disturbed area. Subsection (3) of the "preferred site" definition includes the requirements for previously developed tracts, and subsection (6) includes the requirements for extraction sites. As the rule currently exists, the limits of disturbance of the net-metering system must include the previously disturbed site. To encourage the use of previously disturbed sites while providing some flexibility, the Commission has proposed requiring that at least 51% of the energy generation component of the plant be located within the previously disturbed area.

D. 5.103, "Preferred Site" Definition – Subsection (7), Joint Letters

The Department recommended a clarifying change to the proposed language in subsection (7) of the "preferred site" definition regarding sites identified in letters of support. The Department recommended moving the clause regarding the 45-day advance notice for a project to ensure it is clear that the letters of support from the municipal legislative body and the municipal and regional planning commissions must be based on evaluations made after those entities have received the 45-day notice for the project. The Commission has incorporated this clarifying change.

The requirement that letters of support may only be issued after the municipal legislative body and the municipal and regional planning commissions have evaluated the 45-day notice for a project also addresses a concern raised in comments that entities seeking preferred-site letters are not required to notify adjacent landowners. Applicants are required to provide adjoining landowners with the same 45-day notice that is provided to the municipal legislative body and the municipal and regional planning commissions.

E. 5.103, "Preferred Site" Definition – Other

VAPDA recommended extending the definition of "preferred site" to include net-metering facilities located on-site at a perpetually affordable housing development. This change is not necessary. As long as the affordable housing development is allocated more than 50% of the net-metering system's electrical output, such a site is already included in subsection (9) of the preferred-site definition.

F. 5.103, Definitions – Other Comments

Thomas Weiss recommended that the Commission add a definition of the term "system owner" and that the registration form or application form should identify the applicant, certificate holder, host landowner, and system owner. Rule 5.103 defines the role of an "applicant" (e.g., the entity seeking authority to construct a net-metering system) and "CPG holder" (e.g., the entity that holds a CPG and has legal control of the system"). These parties may be, but are not always, the owner of the system. Mr. Weiss has not identified a regulatory need for the Commission to identify the owner of a system where the owner is distinct from the entity that is an applicant or a certificate holder.

Mr. Weiss also commented that the words "vegetation clearing" used in the definition of "project limits" are superfluous because the definition includes the words "earth disturbance," which itself is a defined term and includes "clearing." The Commission agrees that including "vegetation clearing" in the definition of "project limits" results in some redundancy because "clearing" is included in the definition of "earth disturbance." However, the Commission prefers to leave the language as is for ease of reading.

G. 5.105, Registration Process for Hydroelectric Facilities

The Department recommended that hydroelectric facilities be asked to verify compliance with the proposed Section 5.135 upon registration, which states that "[n]o net-metering system may participate in a wholesale market unless the Commission finds that such participation will not harm the interests of Vermont ratepayers and will be in the public good." Once the new Net-Metering Rule is in effect, the Commission will revise the net-metering registration form to require all registrants to certify compliance with this requirement. This change does not require any modifications to the text of the rule.

H. 5.106, Applications for Ground-Mounted Photovoltaic Net-Metering Systems Greater than 15 kW and up to and including 50 kW and for Facilities using Other Technologies up to and including 50 kW

In our order of December 2, 2022, the Commission stated that it would adopt the Department's recommendation to require an explanatory and organizational project narrative for ground-mounted facilities with capacities above 50 kW. The Department noted that this revision

was not contained in the draft of Section 5.106 accompanying the order. The Commission has amended Section 5.106 to address this oversight.

The Department also commented that 30 V.S.A. § 8010(c)(3)(D) requires the use of the "Quechee" test to assess the aesthetic impacts of net-metered systems. The Department recommended that a Quechee analysis and related evidence be expressly included as a filing requirement for relevant project types. The Commission has not adopted this recommendation. Section 5.106(D)(11) states that "the applicant must provide evidence demonstrating that the proposed net-metering system will meet the criteria applicable to the system under Section 5.111 of this Rule." Section 5.111 identifies Section 248(b)(5) as an applicable criterion, and Section 5.112 identifies the Quechee test as the applicable standard for evaluating projects under Section 248(b)(5). The application form that the Commission will develop for applications submitted under Section 5.106 will include sections devoted to each of the applicable Section 248 criteria, which will ensure that applicants include all necessary information with an application.

REV objected to a recommendation made by the Department for "comparative site plans" showing any nearby planned or existing energy facilities. The Commission's proposed rule does not require "comparative site plans" but does require a site plan showing the location of any such facilities. The purpose of this requirement is so the Commission can understand the distance and relationship of two facilities that would be near each other, which is necessary information to apply to the statutory definition of a single plant.

REV commented that Section 5.106 (D)(12)(e) would add a new decommissioning requirement for systems equal to or greater than 150 kW. According to REV, this standard is inconsistent with the size thresholds used throughout the rule, which otherwise divide plants with a capacity less than or equal to 150 kW from those that are greater than 150 kW. REV argued that using differing size thresholds creates unnecessary confusion and that it is unclear what value is achieved by adding a decommissioning requirement for systems that are exactly 150 kW. As the Commission has previously explained, Section 5.106(D)(12)(e) is consistent with the Commission's rules on decommissioning energy facilities, which apply to all generation systems equal to or greater than 150kW. The requirement to submit a decommissioning plan is not particularly burdensome and is necessary to demonstrate that proposed facilities can comply with their obligation to decommission their facility under Commission Rule 5.900.

I. 5.108, 5.109, 5.125, and 5.103, Amendments

Effect of Amendments on Applicable Rates

The December 2022 draft rule included provisions addressing the rates applicable to net-metering systems that request a CPG amendment to increase their capacity. The draft rule stated that systems that increase their capacity by 5% or 10 kW, whichever is greater, will be subject to the most recently adopted rates and adjustors.

The Department supported the Commission's revisions to address concerns about the rate treatment for large amendments to legacy net-metering systems. The Department recommended clarifying that only the new portion of an expanded net-metering system – not the entire system – is subject to the application of the most recent REC and siting adjustors. The Department proposed that the 10-year rate period for pre-existing systems under Rule 5.125, or the 10-year applicability of adjustors under Rule 5.127, should be similarly bifurcated between the original and amended portions of a system. The Department recommended that any exemption for non-bypassable charges afforded by Rule 5.125(D) not apply to the amended portion. The Department stated that incentives should not be merged or restarted whenever an applicable capacity amendment is made.

In contrast, the Town of Stowe Electric Department ("Stowe Electric Department") and Green Mountain Power Corporation ("GMP") recommended that the entire amended project receive treatment under the rules in effect at the time the increased capacity is installed. Stowe Electric Department stated that it does not have a billing system that can easily apply different adjustors and charges to systems based on a pre-existing capacity and the expanded capacity. According to Stowe Electric Department, having multiple adjustors and charges for a single net-metering customer will also complicate reporting and administrative tracking of data.

The Commission agrees with Stowe Electric Department and GMP that bifurcating the rate treatment of the original and expanded portions of a net-metering system will unduly complicate the billing and tracking of amended net-metering systems. The Commission's proposed amendment to Sections 5.108(C) and 5.109(D) means that a request to increase a system's capacity beyond the thresholds stated in the rule will trigger application of the most recently adopted rates and adjustors:

> An amendment or series of amendments that increase the capacity of a net-metering system by more than 5% or 10 kW, whichever is greater, will trigger the application of the most recently adopted siting and REC adjustors to the entire output of the amended net-metering system.

REV argued that this proposal will discourage expansion of net-metering systems at the same time Vermonters need to increase their level of electrification. Therefore, REV argued that the proposal is inconsistent with the State's climate goals and the intent of the net-metering program. REV also argued that the thresholds (5% or 10 kW) would have a disparate effect on residential customers, who would be able to expand their system by as much as 66% if they had a 15 kW system, and commercial customers, who would be limited to a 5% system expansion. REV recommended that an expansion should only trigger this rule if it resulted in a system crossing a Category threshold.

Similarly, AllEarth Renewables argued that the threshold is unduly small and likely to discourage the land-use efficiencies and other benefits inherent in the expansion of existing net-metering systems. AllEarth Renewables argued that if a threshold is used, it should be "much higher."

The purpose of this rule change is to ensure that significant expansions to net-metering systems receive the same financial incentives that are available to new net-metering systems. The Commission has found that the very high incentives that old systems receive are no longer necessary to encourage the development of net-metering systems, and that they result in a disproportionate cost shift between customers who net-meter and those who do not.[10] For example, a 150 kW photovoltaic system constructed in 2016 in GMP's service territory currently receives a credit of $0.2265 for each kWh produced, which is the sum of the residential rate ($0.1835) and a solar adder of ($0.043). It would be inconsistent to allow this existing system to add up to 350 kW of new capacity and receive rates that greatly exceed the compensation available to a new system. A new 350 kW system would receive credits worth $0.12141, which is the blended residential rate ($0.17141) less the applicable siting adjustor (-$0.05).[11]

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[10] "Accordingly, it is appropriate to reduce compensation for new net-metering systems to ensure that the program does not cause an undue cost-shift between customers who net-meter and those who do not." *In re: biennial update of the net-metering program*, Case No. 22-0334-INV, order of 6/17/2022 at 43.

[11] A copy of GMP's net-metering tariff can be viewed at: https://greenmountainpower.com/wp-content/uploads/2022/09/Self-Generation-and-Net-Metering-10-1-2022.pdf.

The proposal will still allow customers to increase their net-metering capacity by 10 kW or 5% of their existing capacity, whichever is greater. This will help customers electrify their heating or transportation by maintaining the rates they relied on to install their existing system. This will result in some additional cost to all ratepayers for these smaller expansions, but the Commission believes this additional cost is warranted to support customers as they transition to electrifying their heating and transportation. However, as more Vermonters make these transitions, it is also vital that overall electric rates remain as low as possible. Therefore, it is appropriate to compensate very large expansions of existing net-metering systems at the same rate that a new system would receive to avoid even greater additional costs to ratepayers.

Material Modifications

The Department commented that Rule 5.108 and Rule 5.109 use the term "material modification" as defined in Commission Rule 5.500 regarding the interconnection of amendments. The Department noted that Rule 5.500 as proposed and pending in Case No. 19-0856-RULE defines this term, but the currently adopted version of Rule 5.500 does not define "material modification." Therefore, the Department recommends that both the pending Rule 5.100 and Rule 5.500 undergo the formal rulemaking process as concurrently as possible, and that extra care be taken to ensure mutual consistency.

The Commission agrees with this comment. By separate order in Case No. 19-0856, the Commission is initiating the formal rulemaking process to adopt changes to Rule 5.500. The Commission intends to have both revised rules take effect at the same time.

J. 5.110, Transfers

The Department recommended that the Commission retain the requirement for filing notice of transfers of residential systems with the Commission. Stowe Electric Department, on the other hand, supports the Commission's proposal to eliminate the requirement to file notice of transfers with the Commission.

The Commission is retaining the language as drafted in the December 2022 draft rule. Under the Net-Metering Rule currently in effect, a certificate of public good for a net-metering system is deemed to be automatically transferred when the property hosting a net-metering system is sold or legal title is otherwise conveyed to a new owner, yet the new owner may not continue operating the system unless they file a transfer form with the Commission, the

Department, and the electric company. As noted by Stowe Electric Department, this requirement can be confusing and burdensome for customers. Because new property owners must contact their utility to set up billing, it is a simple requirement just to provide written notice of the transfer to the electric company, as the rule now proposes.

The Department raised concerns that billing disputes and disputes as to the identity or timing of ownership could be more difficult to resolve without the Commission and Department separately tracking this information. The Commission does not share this concern. The rule as proposed does not change the fact that a certificate of public good for a net-metering system is deemed automatically transferred when the property hosting the system is sold or legal title is otherwise conveyed to a new owner. If disputes arise, the Commission can request that utility companies produce the transfer information in their records.

K. 5.110, Extensions

The Department recommended that automatic extensions to certificates of public good upon a timely filed extension request within the first year should be filed with the Commission to afford initial case parties an opportunity to comment, in addition to the interconnecting electric company. The Commission has not altered the December 2022 draft rule requirement that notice of an automatic one-year extension be filed with the Commission and the electric company.

L. 5.115, Rule 2.200 Applicability

The Department recommended that the words "or a hearing thereon" be stricken from Rule 5.115 – specifically as applied to Rule 2.207 (time), 2.213 (prefiled testimony), 2.214 (discovery), and 2.216 (evidence). The Department stated that in the event of a hearing, the case is by definition contested, and a litigation schedule is typically set. According to the Department, the sections of Rule 2.200 identified in Section 5.115 are typically applied whenever a net-metering case is litigated, notwithstanding the rule. The Department also stated that Rule 5.115 is partially inconsistent with the provisions of Sections 5.119, 5.120, 5.121, 5.122, 5.123.

The Commission agrees with this comment. Rule 5.115 was written at a time when the Commission's rules of practice had not been updated for several decades. The old Rule 2.200 contained many references to paper filing practices (for example, requiring certain documents to be filed in triplicate) that had become outdated when Rule 5.115 took effect. Therefore, it was

necessary to make certain portions of Rule 2.200 not apply in net-metering cases. The Commission recently revised Rule 2.200, and therefore we are now comfortable allowing the provisions of Rule 2.200 to generally govern net-metering cases, except where Rule 5.100 creates specific procedures. The new Rule 2.200 also includes important procedures for remote hearings that should apply in net-metering cases.

Therefore, the Commission has revised Rule 5.115 in the following manner:

> The purpose of this Rule is to simplify the process of participating in the review of applications for net-metering CPGs. In keeping with this purpose, the process for reviewing CPG applications is described in Sections 5.116 through 5.124, below. ~~The following provisions of the Commission's general rules of practice, Commission Rule 2.200 (Procedures Generally Applicable), do not apply in the review of a net-metering application or a hearing thereon: Commission Rules 2.202 (initiation of proceedings), 2.204(A) (G) (filing and service requirements), 2.205 (notice), 2.207 (time), 2.213 (prefiled testimony), 2.214 (A)(discovery), and 2.216(A) (C) (evidence).~~ Any procedure not described in this Rule is governed by the provisions of Rule 2.200. Where there is a conflict between the procedures described in this Rule and any other Commission rule, the provisions of this Rule govern.

The Commission also agrees that the computation of time in net-metering proceedings should be the same as in other proceedings. Therefore, in addition to eliminating the reference to Rule 2.207 in Rule 5.115, we have deleted Section 5.102 from this rule. The manner of computing time described in Rule 2.207 will apply in net-metering proceedings.

M. 5.117, Grounds for Intervention

The Department recommended that Section 5.117 intervenors—particularly those who are not a party as of right—be asked, or in some cases be required, to articulate the concerns that led to their motion or notice of intervention. The Department stated that its experience is that intervenors are sometimes unclear as to when or how they should articulate their concerns, and asking or requiring them to provide this information upfront would help parties understand what is at issue and resolve issues more quickly.

The Commission's intervention form requires intervenors requesting permissive intervention to articulate the grounds for intervention, including their interests in a proposed net-metering system.[12] Similarly, the hearing request form requires a party requesting a hearing to

[12] https://puc.vermont.gov/document/motion-intervene-form.

articulate the issues that they would like to address in a hearing.[13] Once an intervenor has been granted party status and a hearing, Rule 5.120 describes how the scheduling conference is an appropriate venue for the parties to identify the issues and concerns that will need to be addressed in an evidentiary hearing.[14] Requiring or requesting additional upfront information from a party seeking intervenor status could constitute a real or perceived barrier to participation and could suggest limitations to the scope of the intervenor's participation that the Commission does not wish to imply.

N. 5.118, Requests for Hearing

The Department recommended that the section regarding requests for hearings be amended to allow for such requests after the 30-day period for comments and requests for hearing has concluded, provided they regard concerns initially identified in comments made during the 30-day period. The Commission does not think such a change is necessary. Parties may always request reasonable extensions of the comment and request for hearing period on a case-by-case basis.

O. 5.121, Discovery

The Department recommended striking the cumulative limit of 20 discovery questions, inclusive of subparts, in Rule 5.121. The Department stated that parties routinely exceed the cap in contested cases without requesting Commission approval, as required by this rule, and this invites dispute. Additionally, the Department noted that excessive discovery, which is relatively rare in net-metering cases, could be adequately checked on a case-by-case basis by the provisions of Commission Rule 2.200 and the Commission's discretion and decision-making authority. The Commission agrees with the Department's recommendation and has deleted Section 5.121 in its entirety. Rule 2.200 contains comprehensive discovery rules, and those will apply in Commission proceedings. Section 5.115 has also been revised to reflect this change.

P. 5.126, Energy Measurement for Net-Metering Systems

Thomas Weiss recommended that the Commission "[r]ewrite 5.126(A)(2)(a)(iii) and (iv), 5.126(A)(3)(a)(iii) and (iv), and 5.126(A)(4)(a) and (b)." Mr. Weiss did not explain the basis for

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[13] https://puc.vermont.gov/document/hearing-request-form.

[14] Rule 5.120 "The following topics may be addressed at a scheduling or status conference:
(a) clarifying the issues to be addressed at the hearing and, if possible, narrowing them."

his recommendation or state how these rules should be rewritten. Therefore, the Commission has not made any changes in response to Mr. Weiss's comment.

Q. 5.127 Determination of Applicable Rates and Adjustors

This section, among other topics, establishes the method and timing of calculating the "blended residential rate." Electric companies are directed to calculate their blended residential rate and file tariffs implementing any changes as part of the biennial process. The rule also calls for an electric company to reassess its blended residential rate outside of the biennial update process if the company uses inclining block rates and requests a general rate increase of more than 5%. The current rule requires the electric company to file a revised net-metering tariff "within 15 days of the effective date of a new tariff for general residential service that includes a change in rates of more than 5%." This requirement has led to confusion about the correct procedure for filing revised net-metering tariffs because the timing of "within 15 days of the effective date of a new tariff" does not align well with the procedure for the review and approval of utility tariffs.[15]

The Commission proposes to revise this requirement so that the utility must file a revised net-metering tariff at the same time that the company files for a general rate increase. The revised net-metering tariff would be filed in a separate tariff case. This would align the timeframes for reviewing.

The Commission invites comment from stakeholders during the formal rulemaking process about whether the Commission should consider different procedures for updating an electric company's blended residential rate as a result of a general rate case. The Commission proposes to revise Section 5.127(b)(2) in the following manner:

> For electric companies whose general residential service tariff includes inclining block rates, a blend of those rates determined by adding together all of the revenues to the company during the most recent calendar year from kWh sold under those block rates and dividing the sum by the total kWh sold by the company at those rates during the same year. Each electric company whose general residential service tariff includes inclining block rates must perform this calculation (1) by May 15 of

[15] This issue only affects companies that: (1) use inclining block rates, (2) request a general rate increase of more than 5%, and (3) whose blended residential rate is less that the statewide average. A company with a blended residential rate that is greater than the statewide average blended residential rate would use the statewide rate as the applicable blended residential rate in their net-metering tariff. The statewide average is updated biennially. Rule 5.127(A).

each even-numbered year and (2) ~~within 15 days of the effective date of a new~~ when the electric company requests approval of a tariff for general residential service that includes a change in rates of more than 5%. To the extent the calculation shows that there has been a change from the rate then in effect, the electric company must file by that same date a revision to its net-metering tariff to reflect the change. Any change to the blended residential rate calculated pursuant to (1) of this subsection may be included in a tariff compliance filing made pursuant to Section 5.128(H) of this Rule. Any change to the blended residential rate calculated pursuant to (2) of this subsection must be filed as a separate tariff case at the same time the electric company files proposed revisions to its general residential service rates; or

. . .

R. 5.128, Biennial Update

Utility Bills

The Department requested that utilities be required to submit sample utility bills reflecting the various ways they bill net-metering system types (e.g., residential, group, directly or indirectly interconnected, etc.). The Department stated that this requirement would help stakeholders understand and assess different utilities' billing standards and implementation of various rules and tariffs.

Similarly, AllEarth Renewables recommended that the Commission adopt clear standards and procedures as to how net-metering information is reflected on customer bills.

The Commission does not necessarily disagree with the Department and AllEarth Renewables that it would be appropriate to review utilities' net-metering billing practices. However, it would not be appropriate to conduct such a review as part of the biennial update. The schedule of the biennial update is too compressed to conduct such a detailed proceeding involving all the distribution utilities.

It is also not clear from the comments of the Department and AllEarth Renewables that such an investigation would need to occur every two years. Therefore, it does not make sense to include this requirement in Section 5.128. If the Department believes that a general investigation into net-metering billing practices or an investigation into a specific company's practices is warranted, the Department may petition the Commission to open a proceeding outside this rulemaking. As discussed further below, the Commission will conduct a separate rulemaking to

investigate whether the compensation of net-metering systems should be reformed generally. That proceeding may offer an opportunity to address standards for utility billing practices.

Locational Adjustors

VAPDA recommended setting siting adjustors based on the most accurate available data regarding existing electric load and grid constraints. VAPDA argued that it makes sense to locate future net-metering facilities in areas with high existing electric load. VAPDA stated that locational adjustors could reduce the need to charge a locational adjustor fee in grid-constrained areas.

The Commission agrees with the sentiment of VAPDA's comment, which is that pricing signals could steer development to areas of the grid where distributed energy resources can provide more value to the system. The Commission previously investigated this topic in the context of the Standard Offer Program and reviewed a proposal to evaluate the locational value of new generation.[16] In addition to a facility's location, the time of day that energy is delivered to the system also can affect its value.

VAPDA has not described how the Commission should value net-metering systems that avoid grid constraints or how to value net-metering systems located near existing load. This topic is complex and does not lend itself to the notice and comment procedures used in the biennial update process. Under the Commission's proposed rule, utilities will be able to propose mitigation fees that reflect the actual cost of grid constraints. These fees would be developed in a tariff proceeding, which provides a better process for investigating this issue. Therefore, we have not revised the Section 5.128 in response to VAPDA's comment.

Data Reporting Templates

The Department has provided Vermont's electric companies with a data submission template, but in its comments the Department observed that utilities' use of the template varies widely. REV recommended that the rule require electric companies to submit that template without modification. The Commission has revised Rule 5.128(D) to refer to the reporting tool as a "form" rather than a "template" to make clear that utilities must use the reporting tool approved by the Commission.

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[16] *In re: review of the standard-offer program*, Case No. 17-5257-INV, Order of 1/15/2019 at 1-3.

Compliance Tariffs

AllEarth Renewables recommended that the Commission require that net-metering compliance tariffs be served on the participants in the biennial update proceeding that led to the need to file those tariffs. The Commission considered similar comments from AllEarth Renewables and rejected them in our December 2, 2022, Order. For the same reasons stated in that order, the Commission declines to make any revisions in response to AllEarth's reiteration of its comments.

S. 5.130, Group System Requirements

VAPDA recommends striking the phrase "which must be located within the same electric service territory" from Rule 5.130(A)(1), so that net-metering groups would not be prohibited from including meters that are located in different utility territories. VAPDA acknowledges that such an arrangement might not be technically feasible today but recommends that the Commission not disallow it in case distribution utilities are able to solve the technical obstacles to such an arrangement in the future. In our December 2, 2022, Order, the Commission described the significant legal and accounting issues that VAPDA's proposal created, in addition to the technical implementation issues for electric company billing systems. VAPDA's latest comments do not address these significant issues, and therefore we have not made any changes to the rule in response to VAPDA's comments.

T. 5.136, Locational Adjustor Fee

In our December 2, 2022, Order, the Commission proposed that any locational adjustor fee would be assessed on a per-kW basis as determined by a system's AC capacity. The Department responded that "the use of DC capacity and/or a representative output curve would be necessary, in addition to AC capacity, to ascertain potential economic harm of additional generation interconnected in a constrained area, or to assess temporally dependent grid upgrades or non-transmission alternatives."

The Commission agrees that more factors than just a facility's AC capacity may be used to determine "the incremental economic harm caused by constructing additional generation in the constrained area or the incremental cost to ratepayers of expanding the available grid capacity in the area." The intent behind the Commission's proposal was to ensure that a customer can determine the amount of the applicable fee before they apply to interconnect their net-metering

system. The Commission now understands that there may be other ways to assess a fee, in addition to using a project's AC capacity, that would still be transparent so that a customer could determine the amount of any fee they would have to pay before they submit an application.

Thomas Weiss recommended that Category I systems should be exempt from mitigation fees for constrained areas of the grid. All systems contribute to grid constraints. Any fee approved by the Commission will be based on a system's proportional impact. Therefore, while Category I systems may be subject to a fee, they would not pay as large a fee as a larger system. The Commission has not made any changes to the rule in response to this comment.

U. 5.137, Energy Storage Systems

In a response to a previous round of comments, the Commission wrote that part of the intent of this section is to prevent customers from charging a battery from the grid (at the retail rate) and then discharging that battery and receiving net-metering compensation (which can be greater than the retail rate). Thomas Weiss requested that the Commission explain how net-metering compensation could be higher than the retail rate. Net-metering compensation is established through this rule and is adjusted during the biennial update process, and the Commission has the discretion to establish net-metering compensation that is higher than or lower than the retail rate. Many customers are currently receiving net-metering compensation that is higher than the retail rate based on a combination of the residential rate and positive adders or adjustors applied to their net-metering generation. Furthermore, some customer classes have per-kWh-rates that are less than the blended residential rate. Without the rule, these customers would be billed at a lower rate when charging and would receive net-metering credits valued at the higher blended residential rate.

V. Comment Periods

The Department supported retaining a 30-day period for the public to comment on net-metering CPG applications. However, the Department noted that several process timelines have been changed to 28 days instead of the 30 days allowed under the current rule (e.g., Sections 5.130(B) and Section 5.132(E)). The Department stated that it has no objection to 28 days in these other instances, but was unsure whether this inconsistency was deliberate. In response to this comment, the Commission has restored the original language of Sections 5.130(B) and 5.132(E), which used 30-day periods.

W. Compensation

AllEarth Renewables commented that the next iteration of Rule 5.100 "should offer a simplified 'behind the meter' option that would have the effect of equalizing net-metering credits with residential rates on an individual utility basis." AllEarth Renewables argued that the case for such an approach is even stronger now because of inflation, supply issues, power supply costs, and other factors resulting in significant utility rate increase requests in recent months. According to AllEarth Renewables, there is an increasing financial disconnect between net-metering compensation and more rapidly rising electric rates, and that disconnect is exacerbated by the application of negative adjustors under a complex and unpredictable system. AllEarth Renewables recommended addressing this issue in a timely fashion.

In response to AllEarth Renewables' comments regarding inflation and other economic factors, we note that the pace of net-metering development continues to be robust despite the economic challenges experienced over the past several years. The Commission is continuing to evaluate the appropriate manner of compensating net-metering customers. For example, California recently implemented significant changes to its net-metering compensation. It will take more time to receive input from stakeholders about what lessons from California's reforms, if any, are applicable to Vermont.

Meanwhile, many other revisions to the net-metering rule have been thoroughly considered in this proceeding, and these aspects of the net-metering rule are ready to move toward adoption through the formal rulemaking process. The Department commented that it looks forward to continued discussions regarding revisions to the net-metering compensation framework in a separate proceeding. We agree. By separate order, the Commission will open a new proceeding to continue our evaluation of net-metering compensation and potential rule amendments to address that issue.

IV. CONCLUSION

Further comments and participation in the amendment of Rule 5.100 will follow the formal rulemaking procedures described in the Vermont Administrative Procedure Act. As noted above, the Commission will process the rulemaking in ePUC and will retain the same case

number (19-0855-RULE). By separate order, the Commission will initiate a new proceeding to address net-metering compensation separately from this rulemaking.

SO ORDERED.

Dated at Montpelier, Vermont, this 17th day of May, 2023.

Anthony Z. Roisman) PUBLIC UTILITY

Margaret Cheney) COMMISSION

J. Riley Allen) OF VERMONT

OFFICE OF THE CLERK

Filed: May 17, 2023

Attest: _____
Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

CASE NO. 19-0855-RULE

PROPOSED REVISIONS TO VERMONT PUBLIC UTILITY COMMISSION RULE 5.100

August 10, 2023
1 p.m.

Via videoconference

Public Hearing held before the Vermont Public Utility Commission, via GoToMeeting, on August 10, 2023, beginning at 1 p.m.

P R E S E N T

HEARING OFFICER: Jake Marren, Staff Attorney

STAFF: Elizabeth Schilling, Staff Attorney
Rowan Cornell-Brown, Net Metering Program Manager

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MR. MARREN: Good afternoon everyone. And thank you for being here. This is Vermont Public Utility Commission public hearing in Case No. 19-0855-RULE, regarding proposed revisions to Vermont Public Utility Commission 5.100, the net-metering rule.

My name is Jake Marren. I'm a Deputy General Counsel and hearing officer at the Vermont Public Utility Commission. With me today is Elizabeth Schilling also a Deputy General Counsel and hearing officer, as well as Rowan Cornell-Brown who is the net-metering program manager at the Vermont Public Utility Commission.

The purpose of today's hearing is to provide an opportunity to hear input from the public regarding this rulemaking. The comments received at this hearing will become part of the public record in this case. You can also provide written comments using the commission's online document management system ePUC or by direct mail or email to the clerk of the commission. You can comment in ePUC without establishing a log-in.

Please file all comments by the deadline of August 17, 2023. Contact information is provided on the commission's website www.

puc.vermont.gov. You can also subscribe to this case in ePUC which means you will receive an email notification of any commission-issued document or any filing made by a participant in this case. More information about how to participate in commission proceedings is available in the public participation section of the commission's website.

Today's hearing will be transcribed by a court reporter. This transcript, along with all other comments received by the commission, will become part of the case's public file so that the commission members, staff and participants in this case can consider the comments. The transcript will be available in ePUC which is accessible directly online at https://ePUC.Vermont.gov or from links on the commission's website.

If a participant or member of the public intends to record this public hearing via video or audio, please indicate this when you provide your name for the court reporter. Public comments can be helpful in raising new issues or perspectives that the commission should consider, so we look forward to hearing your input today.

Today's public hearing is being conducted remotely. We are using a web-based

platform called GoToMeeting. Anyone who participates -- anyone who anticipates speaking during the public hearing should keep their camera on until they have provided their public comment. It is very helpful to see you, particularly when you're speaking. If you do not plan on speaking in today's public hearing, please keep your camera off, that way I'll know who is still waiting to speak.

I will not mute anyone's microphone during this hearing. This means you should keep yourself on mute unless you are speaking. That way we can minimize background noises which can be disruptive. I will ask each member of the public whose camera is on at the time if they would like to speak. I will also ask whether anyone participating by phone wishes to speak.

It is very important that we avoid talking over one another, so please wait to be called on to begin your comments. Each time you begin speaking, please identify yourself by your name for the court reporter, and spell your name. If your internet connection cuts out, please try to rejoin GoToMeeting or call into the public hearing using the GoToMeeting telephone number that was provided in the public hearing notice.

If at any point any of you becomes aware that another participant or member of the public is having trouble accessing the video or audio feeds of this remote public hearing, please let us know immediately. We will pause the public hearing and try to resolve the issue.

Does anyone have any questions or concerns before we begin the substantive portion of today's hearing?

(No response)

MR. MARREN: All right. With that covered, I'll begin calling on participants who have their cameras on so that we can start taking public comments. I'll start with Tom Mosakowski.

MR. MOSAKOWSKI: Okay. Thank you. I believe I have to spell my name. T-O-M, space, M-O-S-A-K-O-W-S-K-I. I'm hoping I can ask a question and get an answer. Is that an option?

MR. MARREN: Depends on how complicated and substantive it is. We really are here to take public comments.

MR. MOSAKOWSKI: Right.

MR. MARREN: I'm also available -- this is not a contested case, so you're free to call us outside of this. So if it's a really complicated

question, I may try to direct that to an off line conversation. But shoot, and we will see what we can do.

MR. MOSAKOWSKI: Great. Yeah. I don't think it is. And regardless of if I can get an answer or not, I have a comment to follow up. My question is for the preferred site definition and the proposed inclusion of an exclusion for significant forest clearing, with a three-acre maximum limit, does that three acres only consider the footprint of the array? Or the surface area of access and driveway and anything else related to the owner's work and project?

MR. MARREN: My understanding it is within the limits of disturbance of the project. So it would include any disturbance related to the project including the access or anything like that. If any of my teammates disagree with my answer to the question, please jump in though.

MR. MOSAKOWSKI: That's fantastic. And I would like to hear if there are any different interpretations.

MS. SCHILLING: I agree with Jake's interpretation.

MR. MOSAKOWSKI: Okay. Well in that

respect, I was going to say if it didn't, I feel like the three acres isn't too substantive because I think I have heard of a couple 500-kilowatt developments where it's standard or easy for it to come in around two or two and-a-half acres. But then when you add the access and the driveway is when it's getting to be, you know, 6, 7, 8, 9, 10 acres.

And anyway, I just commend the commission for adding this provision to -- or exclusion to the preferred site definition, because it's really clear to me that the preferred site program should incentivize just solar that's on already disturbed and developed sites. And it seems to me like, you know, I think it's important to give municipalities some independence of decision making, but that provision in there that allows for them to decide what is a preferred site just -- I've seen a bunch of examples, but that just opens it up to doing exactly the opposite of what I believe the preferred site program is and should be. You know, as far as putting it on forest land and prime agriculture land. That's another one that I would like to bring attention to.

Yeah. So I commend you guys for adding that, and I would encourage you to make it even

stricter. Thank you.

MR. MARREN: Jonathan Dowds, I believe, is next.

MR. DOWDS: Thank you. Can you hear me okay?

THE COURT REPORTER: Yes.

MR. DOWDS: Okay. Jonathan Dowds. D-O-W-D-S. With Renewable Energy Vermont. I would like to thank the commission for doing a significant amount of cleanup in this rulemaking process. I think it is much easier to follow than the previous version was. That consolidation is really helpful including moving the interconnection language to the interconnection rule. I think a lot of yeoman's work there, and all, will make the process smoother in general.

With that said, Renewable Energy Vermont continues to have concerns with several of the provisions in the proposed rule, one of them being the significant forest clearing definition. Another being in 5.108 and elsewhere the effects of amendments on applicable rates, what happens when you stay in the system.

And the third being the language in 5.135 in the participation of wholesale markets. And

the forest clearing is probably where I have the most extensive comments. I'll speak briefly on the other two before moving back to that.

On 5.108 which would, as currently written, means that somebody expanded a system by 10 kilowatts and 5 percent, the entire system would get the new adjustors. We are very concerned that this will make it economically infeasible for early adopters of solar to expand their systems as they electrify. Electric vehicles and heat pumps they will not be able to meet that load with new solar power because the economic hit on the existing system will be so severe it would make no sense to do that, too severe for homeowners and others to expand their system in a way that makes any kind of financial sense.

And I want to say I think the Department proposal, probably the most -- was the most logical solution, that the existing system would receive its existing rates and the new system would get the new rates. My understanding -- the primary concern raised by the distribution utilities in this regards from a pragmatic perspective is that it is difficult to apply multiple rates to the same system. You know, this was something that Stowe Electric

raised.

I think mathematically we can get around this pretty easily if instead of trying to apply two rates in different parts of the system we apply a single weighted-average to the existing and expanded system. So providing mathematically a simple example. If a homeowner had a 10-kilowatt system that got a positive one cent REC adjustor and they added an additional kilowatt, that would be due a negative one cent adjustor. Rather than giving the entire system a negative one cent REC adjustor, those would average to a zero REC adjustor. So it's just one adjustment that the utility has to be making, very similar to what is being done now.

REV has started reaching out to and will continue to reach out to the utilities to get a sense of how viable this is with their billing systems. It's a mathematical solution that gets to the Department's fundamental proposal about what is a fair and just thing to do without imposing undue burden on the utilities to achieve that end.

On 5.135 the participation wholesale market, we would continue to push for a better understanding of the commission's concern about net-metered systems participating in wholesale

markets. We would like to see a process for addressing them. As the language is written right now, we are quite worried that companies that are looking for opportunities to do aggregation and multiply the benefits of distributed energy resources will simply steer clear of Vermont; that individual system owners will miss out on those benefits, and that Vermonters, as a whole, will miss out on the system benefits there. So we would like to see a clear articulation of what the concerns are there and how an aggregator could address them with some assurance.

Finally, on 5.103 the significant forest clearing definition, we continue to be concerned that the three-acre limit acreage threshold is relatively arbitrary and doesn't get into the science of either -- of either carbon or habitat, which are the two issues that the commission cites in this rule.

It's very clear that habitat value is quite site-specific. It depends on the type of forest, how much of that we have in Vermont, how connected it is to other forest areas. The Vermont conservation design effort to identify high priority blocks speaks to this explicitly, but this blanket

three-acre requirement really doesn't speak to habitat importance at all.

On the carbon issue, while it is true that forest can be carbon sink, again the level of carbon that is taken up by a forest is also very site-specific. It depends on the age of the trees, the size of the trees, et cetera. All of the science that I have been able to find points to the fact that with the grid that we have today, clearing trees for -- for installation of solar arrays is a net carbon benefit, and we need as many of those as we can get at this point in time.

Again, I would encourage the commission to find a way to link this to the carbon science rather than just a nod to the fact that forest has carbon sinks in general.

I wanted to follow up briefly on information that the Agency of Natural Resources provided that the Department cites specifically that from 2017 to 2021 the majority of net-metering projects did not impact forest clearing. While this is true, I think it's more helpful to look at this in terms of proposed capacity than the number of projects that are involved here. And so in the ANR's -- the data that ANR shared it's approximately 22

percent of the proposed capacity, and the 5.106 and 5.107 applications that would have been impacted by this rule. So that's more than the round number of projects. And from our estimate from August of 2021 to July of 2022, excuse me, just a moment there. (Noise interruption).

Sorry about that. That would be 28 percent of the proposed project in that 5.106 and 5.107 tranche that would be impacted by this rule. Due to increasing concerns about how the aesthetics process is managed, we think this number is likely to increase.

I also want to mention that these projects are typically built on the periphery of forested areas, near roads and existing power lines, so this is generally not encroaching on continuous forest block.

And finally, highlight that the number of applications for 5.106 and 5.107 projects has decreased significantly from the period that the Agency of Natural Resources provided data for over the last two years.

In terms of total capacity the total capacity in the four-year period that the Agency of Natural Resources cited was 65 megawatts while in

the last two years it's been just over 12 megawatts. So we are talking about applications dropping from approximately 50 megawatts a year to -- to less than half of that.

So this speaks, I think, to the commission's assertion that this limitation will not materially affect the pace of net-metering development. I think we are really seeing the impact of this rule would have an increasing effect over time at the same time that the rate of installations are already decreasing.

So again, we urge the commission to revisit this forest clearing definition and more tightly link it to the science of carbon sequestration and how to attack value rather than using a blanket acreage threshold as is currently the case.

We are in the process of talking with some of the other environmental groups in the state and hope to have a more specific recommendation of what we think might work in this section in our written comments next week.

Thank you for the opportunity to provide comments today. I believe that wraps up the issues that I wanted to speak to.

MR. MARREN: Thank you, Mr. Dowds. All right. Annette Smith.

MS. SMITH: Thank you. My name is Annette Smith. A-N-N-E-T-T-E, S-M-I-T-H. I'm with Vermonters for a Clean Environment. I would like to speak in support of two changes. One is the -- related to preferred site letters. And the other is to the significant forest clearing.

Very few net-metering projects come to Vermonters for a Clean Environment from citizens. But I think in almost every recent case, the reason that Vermonters contact us is -- has to do with the process for issuing preferred site letters. And in particular, the lack of notice to anyone when a company comes to the planning commission or select board to get that preferred site letter.

So with the change in this rule that requires the preferred site letter to be gotten after the advance notice is sent out, that will assure that adjoiners are notified, and I believe that solves a very big problem. And I thank you for that.

The other issue that people come to us with is the significant forest clearing. And I think I understand where the three acres come from. I know that initially this was considered to be a one-acre

limitation. But empirically based on what I've seen with 500-kilowatt projects, you can do 500 kilowatts on about 2.2 acres. So I am guessing that the PUC looked at what it takes to put a 500-kilowatt project in and gave a little extra to make it the three acres. It makes sense to me to limit it to three acres.

Otherwise, I've seen projects that are 500 kilowatts that are proposing to clear eight to nine acres which -- on which you can put a two-megawatt project. So the environmental effects of putting -- of clearing a forest for a 500-kilowatt project are numerous. I mean I've seen impacts to wetlands where once you clear the forest, then you're exposing more of the wetland to more daylight even if you do have the minimum buffer.

The wildlife habitat assessment and the standard of necessary wildlife habitat is so high that you really, you know, even deer wintering areas don't seem to qualify anymore. It's very hard to protect wildlife, and many of these sites that I have had to review involve bear habitat, deer wintering areas, all kinds of fur bearers using the habitat. Yet none of them really seem to matter in the approval process.

And so there are also lower priority forests, urban forests, that really matter for wildlife and are especially important. Yet trying to protect those in any way through the criteria on wildlife is almost impossible. And so limiting the amount of clearing for these 500-kilowatt projects, which also, for the most part, are virtual net metering and are not really serving local load, they are essentially getting net-metering prices for putting the electricity up on the grid. They are not reducing transmission costs. There are all kinds of problems with these 500-kilowatt projects. And they are not doing what I think was the intention of the preferred sites which is, as Tom Mosakowski said, to put them on the landscape.

What I keep hearing people saying, and what I hope we may see in the net-metering rate cases, is an incentive to construct solar on parking lots. Everybody I talk to that's one of the issues they raise first; why aren't we doing this on parking lots? And there is so much capacity in Vermont in the built landscape, and if it costs more then -- this was a topic as part of this rule update, you know, what does it cost? And I don't think the developers submitted any information.

But I would really like to see the priorities put in place that are what I hear Vermonters saying and that is: Stop destroying the planet to save it, and please use the built landscape that we have.

There are other changes that I could recommend making to this rule, but overall I'm very pleased with the outcomes that I've -- that I'm supporting. And I hope that this rule goes through, and that we can see some improvements in the siting of net-metered solar. Thank you.

MR. MARREN: Thank you, Ms. Smith. Are there any other participants who would like to give a comment today? I don't see any other cameras turned on.

We had several callers, so I will turn to the callers. There is a caller number 1. You probably don't know which one you are, but if you're on the telephone right now and would like to speak, please state your name and we will take your comment now.

(No response)

MR. MARREN: I'm not hearing from any of the telephone participants right now, but I do see that Mr. Binder has turned on his camera and may wish

to give a public comment.

Mr. Binder, I don't mean to single you out, but I do know that you are a party in a pending proceeding before the commission, and I just will remind you that this rulemaking is for discussing the rule. And we can't discuss any of the facts of the case pending before the commission.

So please keep your comments focused on the rule and not any case you may be participating in. Thank you.

MR. BINDER: Just to support the changes for significant deforestation, I think that's very important, and I would also have a question about in the order that the PUC put out back in May indicating that these revisions would be sent to the Secretary of State, they talk about substantial -- that you got rid of major and minor amendments, and we talk about substantial changes. And under the definition for substantial change, they refer to having a potential for significant impact, but they don't define what significant impact is. Who decides whether an amendment has potential for a significant impact? Is that up to the applicant or will the PUC make that determination? And, you know, therefore notify abutters and such?

MR. MARREN: The PUC is responsible for determining whether an amendment is necessary and what constitutes a substantial change. The term of art "substantial change" has been in use in PUC cases for several decades actually in other contexts, and so while there is not a definition included in the rule's substantial change, there is a significant body of case law that demonstrates what facts give rise to substantial change and what facts may not.

So you know, that is one place you can look to for guidance on that.

MR. BINDER: If I may continue. The next question is in that same order. It says that commenters also raised concerns that the definition does not define -- of significant deforestation -- does not define how far in the past the commission may consider historical evidence of a forest on-site. Definition does not require an extensive review of historic land use. The commission's assessment of forest clearing is based on the conditions present at the time an application is being developed. So no history whatsoever. A landowner clears the land and then sells it to a solar developer, then there is no deforestation? Is that what I understand in the rules here?

MR. MARREN: I don't know if I can give you a definite answer to your question. I will note that state law Section 248 of Title 30 prohibits any person from beginning site preparation or construction of an electric generation facility without receiving a CPG.

So hypothetically speaking, if a person cleared their land with the intent of preparing it for a site -- for a solar array, that may violate state law.

MR. BINDER: I see. My experience, working as a land surveyor, is that many, many sites that I've gone to to survey them, either for sale or for subdivision, have been preceded by the landowner liquidating the forest on the property. That's the first thing when they run out of the money. And the next thing they put it on the market.

So something that's just been cleared a year or two earlier is now to be purchased by a solar developer and would not have any issue with deforestation. Is that my understanding?

MR. MARREN: Again, unfortunately, I don't know if I can give you a definite answer to that. This is sort of a fact specific kind of issue that you're raising here is whether someone is, you

know, beginning site preparation for the construction of an electric facility, or whether they are engaging in some other lawful activity. So I don't know if I can give you a yes or no definite answer based on the situation you described.

MR. BINDER: And my last comment is that I was disappointed that there is nothing in the new rules about slope. And I would just like to finish and make one comment.

Looking at the Pennsylvania rules for solar development, they make a statement that solar panel farm projects completed on slopes exceeding 15 percent can be permitted. However, that would be pushing the threshold of current constructability. And then they go on with quite a bit of rules about the engineering required and so forth to approach those limits.

I think given the slopes we have in Vermont, that should be something considered in any rule change. And that's my final comment. Thank you. My first name is Michael.

MR. MARREN: All right. Thank you. Are there any other participants who would like to give a public comment today? I'll put one more call out to the callers participating by telephone since I

know you can't see what's going on the screen right now. But this is your chance.

(No response)

MR. MARREN: Okay. Well if no one else has any other additional comments, thank you to everyone who participated today. We appreciate your comments and concerns.

As a reminder, the deadline for filing public comments in this matter is August 17, 2023. I'll turn to my teammates right now and ask is there anything else that you would like to cover?

MS. SCHILLING: Nothing here.

MR. MARREN: Okay. Then we are adjourned. Thank you.

(Whereupon, the proceeding was adjourned at 1:35 p.m.)

C E R T I F I C A T E

I, Kim U. Sears, do hereby certify that I recorded by stenographic means the Public Hearing re: Case No. 19-0855-RULE, via videoconference, on August 10, 2023, beginning at 1 p.m.

I further certify that the foregoing testimony was taken by me stenographically and thereafter reduced to typewriting and the foregoing 24 pages are a transcript of the stenograph notes taken by me of the evidence and the proceedings to the best of my ability.

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

Dated at Williston, Vermont, this 11th day of August, 2023.

Kim U. Sears

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August 22, 2023

Holly R. Anderson, Clerk
Vermont Public Utility Commission
112 State Street – 4th Floor
Montpelier, VT 05620-2701

Re: 19-0855-RULE – PUC Rule 5.100

Dear Ms. Anderson:

On June 26, 2023 the Vermont Public Utility Commission ("Commission") issued a Memorandum inviting comments on the Commission's filing of Rule 5.100 with the Secretary of State. The Vermont Agency of Natural Resources ("Agency") participated actively throughout the Commission's workshop and rulemaking process and supports the final proposed rule as filed.

We especially appreciate the Commission's efforts to disincentive significant forest clearing by excluding sites that require more than 3 acres of forest clearing from preferred site status. While the previous draft of the rule, which excluded sites with more than one acre of forest clearing from preferred site status, was more protective of the many values forests provide Vermonters, the final rule's 3-acre threshold will allow for sites that clear an area roughly equal to a 500kW PV array to qualify for preferred site status, while disqualifying other sites that require greater amounts of clearing. The vast majority of net metered plants currently permitted in Vermont involve less than 3 acres of forest clearing, so we see this threshold as one that will allow continued robust deployment of net metering.

The Agency also supports clarifications made in the rule to other preferred site categories.

Respectfully submitted,

Billy Coster
Director of Planning

Cc: Service List

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August 17, 2023

Holly Anderson, Clerk
Vermont Public Utility Commission
112 State Street, 4th Floor
Montpelier, VT 05602

Re: Case 19-0855-Rule
Proposed revisions to Vermont Public Utility Commission Rule 5.100

Dear Ms. Anderson:

AllEarth Renewables, Inc. ("AER") submits these comments in accordance with the schedule established by the Commission in its Memorandum of June 26, 2023. AER reaffirms its prior comments offered in this proceeding, most specifically those filed on May 27, 2022, June 24, 2022 and January 13, 2023, and offers the additional comments set forth below with respect to the proposed change to Rule 5.109(D), which in its proposed form would trigger the application of current siting and REC adjustors to an entire project when an amendment increases capacity "by more than 5% or 10kw, whichever is greater."

As noted in AER's January 13, 2023 comments, penalizing an existing component of a project is likely to discourage realization of the efficient land use and other benefits inherent in the expansion of existing net metering systems. At the August 10, 2023 Public Hearing in this matter, Renewable Energy Vermont ("REV") proposed that a single weighted average rate could be applied to the existing and expanded system. As noted by REV, this approach appears to be consistent with that advocated by the Department of Public Service, and is not a complicated mathematical exercise.[1]

AER submits that a blend of the Commission's approach and that put forth by REV offers the most pragmatic way to address the expansion rate question. An expansion falling within the greater of 5% or 10kW does not realistically warrant the administrative effort required of project owners, the Department and the Commission to calculate a specific project rate, as the Commission's proposed amendment to Rule 5.109(D) implicitly recognizes. A reasonable balance can be struck by applying the REV weighted rate approach only to amendments that increase project size above that level, at which point a project specific calculation can be made.

[1] Transcript of August 10, 2023 at 10-12 (comments of Jonathan Dowds).

Thank you for the Commission's consideration of these comments.

AllEarth Renewables, Inc.

By: ***/s/ David Mullett***
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Comments on Proposed Rule PUC 5.100 RULE PERTAINING TO CONSTRUCTION AND OPERATION OF NET-METERING SYSTEMS, Case 19-0855-RULE

Comments filed 8/16/2023 by Stephen Bushman in response to public comment period ending 8/17/2023

Thank you for the opportunity to file these comments on the important Rule 5.100 revisions

5.127 Determination of Applicable Rates and Adjustors

The following wording change is suggested for Subsection (A):

(A) Depending on the electric company service territory in which the net-metering system is located, the blended residential rate used to determine the monetized credit value of excess generation net-metering credits is the lowest of the following:

Rational: Only excess generation is monetized (credited) in accordance with section 5.126(A)(2)(a)(ii)

The following changes are suggested for Subsections (A)(1) & A(2) & A(3)

Subsection (A)(1) & A(2) & A(3): As shown in pending investigation case 23-1682-TF (VEC) there are questions concerning the correct method to recalculate blended residential rate, who needs to recalculate blended residential rate, and if the recalculated blended residential rate needs to be increased by the approved tariff increase. Subsections (A)(1) & (A)(3), as worded, do not require the blended residential rate to be recalculated for any rate case, while (A)(2) does for rate cases of more than 5% change. (A)(2) requires the last calendar data to be used, which could be out of sync with the utility's current net metering tariff rates. In addition, Subsections (A)(1) & (A)(2) & (A)(3), as worded, may not be in conformance with statutes that require all tariff rates to be reasonable, just, and equal.

It is suggested that a subsection (A)(4) be added to 5.127 that focuses on required changes to the existing blended residential rate for all classes of blended residential rate. All classes should be subject to the same blended residential rate recalculation criteria, percent changes in blended residential rates, and type and timing of case filing. It is suggested that any approved rate change be applied to the current blended residential rate found in the utility's current net metering tariff as approved by PUC. Subsection (4) could have two parts: (i) pertaining to tariff cases and (ii) pertaining to biennial updates. This would at least put all net metering rate payers on a more or less equal playing field.

Section 5.127, as revised, still leaves uncertainty how fixed costs within a utility's net metering tariff should be addressed. The revised language in (A)(2) clearly states that any change to the blended residential rate calculation pursuant to this section must be filed as a separate tariff case at the same time the electric company files proposed revisions to its general residential service rates. Net metering fixed costs are not part of the general residential service rates. They are unique to net metering and only apply to customers with net metering accounts. In

addition, revised Section 5.128 (H), which applies to biennial updates, clearly states that each biennial tariff update must be filed as a new tariff case and the tariff compliance filing may not include any other proposed changes to the utility's net-metering tariff, except for a proposed change to the utility's blended residential rate. There seems to be inconsistent interpretation of this section of the rule, as shown in several recent general rate tariff revision requests. Morrisville Water and Light recently included increases to net metering fixed costs at the same rate requested for general residential service, VEC only included a change to the blended residential rate with no change to fixed costs, and WEC initially had no changes to their net metering tariff. Only after the PSD told them they could increase the fixed costs by the same residential rate did they submit a revised tariff (later withdrawn). It's important to note that WEC in the past has always filed a new tariff case to revise the fixed costs in their net metering tariff.

It is suggested that subsection (A)(5) be added to 5.127 to address the issue of the determination of fixed costs rates in a utility's net metering tariff. It needs to be made clear in subsection (A)(5) that requested changes to fixed costs found in net metering tariffs (i.e. monthly account fee, one time set up fee, production meter installation fee) need to be filed as a separate tariff case. Several utilities in recent rate increase cases have filed revised Net Metering tariffs that recalculate blended residential rate in accordance with 5.127(A) but increase the net metering fixed costs by the approved rate change (MWL, WEC). This means the net metering recalculated blended residential rate may change very little or not at all while the net metering fixed charges could increase significantly. If the fixed costs found in the utility's approved Net Metering Tariff are increased by the general tariff rate change, this implies that the Net Metering fixed costs are used in part to calculate cost of service for all rate payers in the general rate case. In other words all ratepayers are then required to pay for the fixed costs associated with net metering through increased rates which appears to be a violation (or at the minimum non-compliance) with 30 VSA §8010(c)(1)(C), which requires "to the extent feasible, ensures that net metering does not shift costs included in each retail electricity provider's revenue requirement between net metering customers and other customers". Therefore the fixed costs in net metering tariffs need to be evaluated separately from the general rate case, since they are unique to only net metering account holders. The cost for the net metering fixed charges are typically based on wages, labor, and meter (equipment) costs, which are typically much less than the overall rate change request which focuses primarily on power supply, transmission, and distribution costs.

If the above cannot be addressed in this rule revision, it is requested that the PUC open an investigation into the proper procedure for a utility to change it's net metering fixed costs, similar to case 23-1682-TF which is investigating blended residential rates in tariff cases.

5.128 Biennial Update Proceedings

Subsection (A): Include blended residential rates required by 5.127(A)(1) and (2). Most utilities are required to submit this calculation by May 15 of each even-numbered year. This would insure blended residential rates are recalculated and included in each biennial update.

Subsection (G): Change "may" to "shall" in the first sentence.

Rational: A biennial update is required every two years starting in 2024. This change will ensure a biennial update is documented and completed by the Commission even if there are no changes.

5.103 Definitions

It is recommended that part (3) of "Blended Residential Rate" be deleted as follows

"Blended Residential Rate" means the lesser of either:

(1) For electric companies whose general residential service tariff does not include inclining block rates, the $/kWh charge set forth in that electric company's tariff for general residential service;

(2) For electric companies whose general residential service tariff does include inclining block rates, a blend of the electric company's general residential service inclining block rates that is determined by adding together all of the revenues to the company during the most recent calendar year from kWh sold under those block rates and dividing the sum by the total kWh sold by the company at those rates during the same year; or

~~(3) The weighted statewide average of all electric company blended residential retail rates, as determined by the Commission, whichever is lower.~~

Rational: Allowing electric companies to use a lower weighted statewide average (only one uses it) is bias and inequitable to those net metering rate payers subject to it, since their monetized excess credit can be used to offset a smaller percentage of their energy bill. Most net metering rate payers get full (or close to it) blended residential rates. This inequity will also make it harder for low and moderate income Vermonters to invest in net metering due to the higher energy bills and increased payback period it creates. This inequity is contrary to the requirements of the Affordable Heat Act recently passed.

In addition, adjustor rates have changed significantly since PUC 5.100 went into effect on January 1, 2017. Site adjustors have gone from positive $0.01/kWh in 2017 to $-0.02/kWh currently. REC adjustors (transfer) have gone from $0.03/kWh to 0.00/kWh currently. Many of the earlier net metering systems with positive adjustors are already 5 to 6 years into the ten year timeframe when the adjustors go to $0.00/kWh. Also the positive adjustors are not increased for inflation during the biennial rate increase process, therefore their value as a monetized credit decreases each time a utility increases their rates. Subsection(A)(3) is no longer needed.

Add a definition for "Customer Charge"

Rational: "Customer" is defined but not "Customer Charge". Customer charges, referenced in the definition of "Non-Bypassable Charges", are non-bypassable charges which cannot be offset by any net metering credits. Some utilities are using the loophole of no definition of Customer Charge to raise the minimum charge a customer must pay regardless of grid energy use. Without defining what constitutes a Customer Charge, utilities are free to raise this charge as often as they like with little if any regulatory controls. The existing Customer Charges range widely from relatively low to high depending on the service territory a ratepayer is in. This creates an inequity in rates and charges and could prevent low and moderate income ratepayers from installing or joining community solar because of the high minimum non-bypassable cost. This could have the unwanted negative impact of less electrification due to the higher minimum fixed cost. This inequity is contrary to the requirements of the Affordable Heat Act recently passed. A definition of "customer charge" would allow for stricter regulatory review and meaningful public comments.

5.134 Electric Company Tariffs

General Comment: This section should not be deleted but updated. New utilities are still being formed in Vermont (i.e. Global Foundries) and there's no reason to rule out other utilities being formed as the grid matures and sources of power evolve. Therefore it is recommended that the existing 5.134 be changed as follows:

5.134 Electric Company Tariffs

Tariffs. Pursuant to 30 V.S.A. § 225, if not already on file, an electric company must propose for Commission approval a tariff to implement a net-metering program in its service territory pursuant to this Rule within 60 days after the effective date of this Rule. New utilities formed in accordance with XXX XXXX XXXX) must propose for Commission approval a tariff to implement a net-metering program in its service territory pursuant to this Rule within 60 days after formation. In connection with filing such tariffs, an electric company may request additional time to implement any provision of this Rule. The Commission will grant reasonable requests where there is good cause shown.

August 17th, 2023

Ms. Holly Anderson, Clerk
Vermont Public Utility Commission
112 State Street, 4th Floor
Montpelier, VT 05602

Re: Comments on Proposed Rule 5.100 (Case No. 19-0855-RULE)

Dear Clerk Anderson,

After reviewing proposed Rule 5.100 issued by the Commission on May 17th, Green Mountain Solar is seriously concerned that several of the changes in the proposed Rule will needlessly limit net metering opportunities and reduce the benefits that this program provides to the state and to Vermont residents and businesses.

We share REV's concern that the proposed changes to the compensation structure for systems that are expanded by more the 5% of 10 kW unfairly penalizes early solar adopter and will discourage the expansion of solar net-metering at sites where the deployment of solar has already been demonstrated to be in the public interest. Electrification of our state is a key goal to fighting climate change. We consistently see our customer move toward electric vehicles and heat pumps, their electricity consumption will grow significantly. A household that installed an (at the time) average-sized 7 kW system in 2020, would face a 4 cent/kWh loss on the output of that system if it expanded that system to 18 kW to accommodate this increased load. This would be cost-prohibitive for most system owners. This also erodes the precedent that has largely been set where a customer can expand their system as long as it doesn't push into a new category, and receive their initial incentive for the remainder of the initial period. Given the Commission's further narrowing of the sites that are eligible for preferred site status, utilizing existing net-metering sites to their maximum potential should be a priority but these provisions do exactly the opposite.

Green Mountain Solar also shares the concerns raised by Renewable Energy Vermont (REV) that the changes to the preferred siting definition – and especially the proposed "significant forest clearing" provision – arbitrarily limit the ability of local and regional governments to designate preferred sites and are not supported by ecological or climate science. While forests do sequester and store carbon and provide habit for wildlife, both the climate and habitat value of forest varies widely from site to site. For example, a three-acre early successional parcel with many invasive species that is crossed by existing powerlines stores considerably less carbon and provides much lower habitat value to native species than an undisturbed, interior forest block of the same size. The public good for Vermonters is not served by prohibiting local governments from accounting for forest quality when determining whether or not to designate these types of sites as preferred sites.

Overall, we believe that these changes will limit the ability of local planning bodies to support renewable generation in their jurisdictions, unfairly disadvantage early adopters of solar power, and stifle business innovations that would benefit Vermont ratepayers while providing little public benefit.

Green Mountain Solar has worked hard to support our customer base as they work toward electrifying their homes and transitioning to renewable energy. These proposed rules would only stifle that investment and hurt many customers ability to make the transitions that our state needs to do it's part to fight climate change.

Sincerely,

Paul Lesure

President

Green Mountain Solar LLC

76 Ethan Allen Dr.

S. Burlington, VT 05403

Vermont Public Utility Commission
112 State Street
Montpelier, VT 05620

August 15, 2023

To the Commission,

We are writing to express our support for the proposed changes to the Net-Metering Rule, specifically limiting forest clearing for net-metered sites and improving the process for obtaining preferred site letters. Limiting forest clearing to three cumulative acres is particularly important, because Vermont forests perform critical ecosystem services including absorbing and sequestering carbon dioxide — a greenhouse gas. The Vermont Forest Carbon Inventory estimates that an average acre of Vermont forest stores 389 metric tons of carbon dioxide equivalents and sequesters an additional 1.3 metric tons each year (Kosiba 2021). Placing a limit on forest clearing will reduce the carbon footprint of large solar arrays and increase the amount of "carbon free" electricity generated. In addition, by keeping more forest intact this change to the Net-Metering Rule will help prevent erosion on steep slopes andpreserve Vermont's scenic vistas, tourism and recreation industries, and employment opportunities.

Secondly, we wish to thank you for hearing our concerns and requiring that Applicants provide adjacent landowners with 45-day advance notice prior to submitting an Application for a Certificate of Public Good (GPG) to the Commission. This change will make the preferred site letter process more transparent because stakeholders will have enough details about a project to determine how it might impact them. In addition, stakeholders will be aware that their local government will be reviewing a solar project and perhaps, signing a preferred site letter.

Sincerely,

Joy Kenseth
133 Upper Loveland Road
Norwich VT 05055

Daniel and Jennifer Goulet
185 Upper Loveland Road
Norwich VT 0505

207 Tiny Mountain RD]
Mount Holly, VT 05758
August 17th, 2023

Ms. Holly Anderson, Clerk
Vermont Public Utility Commission
112 State Street, 4th Floor

Montpelier, VT 05602

Re: Comments on Proposed Rule 5.100 (Case No. 19-0855-RULE)

Dear Clerk Anderson,

It appears that many of the changes you are proposing are designed to prevent Vermonters from using net metering to produce their own power and will result in the State failing to meet its goals for producing renewable energy.

Specifically, the restriction of cutting forests is just plain silly. The State does not limit the ability of landowners to cut their trees if they want to for much less noble purposes. If the trees are cut and used for lumber then the carbon will continue to be sequestered.

In addition, there is no valid reason to continue the provision preventing participants in a group solar project from joining a second project. Many early adopters in community solar projects have added heat pumps and/or electric vehicles and now consume much more electricity than they did several years ago when they joined these projects. The electric companies could easily modify their billing programs to enable residents to receive different reimbursement rates if they join a new project.

I hope you will change these provisions to enable more Vermonters to install more solar power.

Sincerely,

David Martin

NORWICH SOLAR
GENERATING A BRIGHTER ENERGY FUTURE

August 17th, 2023

Ms. Holly Anderson, Clerk
Vermont Public Utility Commission
112 State Street, 4th Floor
Montpelier, VT 05602

Re: Comments on Proposed Rule 5.100 (Case No. 19-0855-RULE)

Dear Clerk Anderson,

After reviewing proposed Rule 5.100 issued by the Commission on May 17th, Norwich Solar is seriously concerned that several of the changes in the proposed Rule will needlessly limit net metering opportunities and reduce the benefits that this program provides to the state and to Vermont residents and businesses.

Norwich Solar shares the concerns raised by Renewable Energy Vermont (REV) that the changes to the preferred siting definition – and especially the proposed "significant forest clearing" provision – arbitrarily limit the ability of local and regional governments to designate preferred sites and are not supported by ecological or climate science. While forests do sequester and store carbon and provide habit for wildlife, both the climate and habitat value of forest varies widely from site to site. For example, a three-acre early successional parcel with many invasive species that is crossed by existing powerlines stores considerably less carbon and provides much lower habitat value to native species than an undisturbed, interior forest block of the same size. The public good for Vermonters is not served by prohibiting local governments from accounting for forest quality when determining whether or not to designate these types of sites as preferred sites.

Additionally, we share REV's concern that the proposed changes to the compensation structure for systems that are expanded by more the 5% of 10 kW unfairly penalizes early solar adopter and will discourage the expansion of solar net-metering at sites where the deployment of solar has already been demonstrated to be in the public interest. As Vermonter's move toward electric vehicles and heat pumps, their electricity consumption will grow significantly. A household that installed an (at the time) average-sized 7 kW system in 2020, would face a 4 cent/kWh loss on the output of that system if it expanded that system to 18 kW to accommodate this increased load. This would be cost-prohibitive for most system owners. Larger, off-site systems would be even more disadvantaged. A 250 kW system could only add 12.5 kW before triggering the change in rates on the existing system. Given the Commission's further narrowing of the sites that are eligible for preferred site status, utilizing existing net-metering sites to their maximum potential should be a priority but these provisions do exactly the opposite.

Finally, the ability of net-metered systems to participate in wholesale markets as envisioned in FERC Order No. 2222 creates additional opportunities for net-metered systems to provide value to the system owner *and* to reduce overall systems costs for all Vermont utilities and their ratepayers. We echo REV in urging the Commission to be more specific about its concerns with

NORWICH SOLAR
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net-metering participation in wholesale markets and the process for gaining approval for doing so.

Overall, we believe that these changes will limit the ability of local planning bodies to support renewable generation in their jurisdictions, unfairly disadvantage early adopters of solar power, and stifle business innovations that would benefit Vermont ratepayers while providing little public benefit.

Our mission is to continue to advance the integration and deployment of affordable solar power for regional organizations – enabling them to improve their bottom line while reducing their carbon footprint. Our clients include municipalities, community services institutions, schools, businesses large and small, and community solar residential clients.

Sincerely,

DocuSigned by:
Jim Merriam
62DD8B1DFD80414...

Jim Merriam
Norwich Solar
Chief Executive Officer

August 17th, 2023

Ms. Holly Anderson, Clerk

Vermont Public Utilities Commission
112 State Street, 4th Floor
Montpelier, VT 05602

RE: 19-0855-RULE Proposed revisions to Vermont Public Utility Commission Rule 5.100

Dear Clerk Anderson,

Renewable Energy Vermont ("REV") submits these comments regarding the proposed changes to Rule 5.100 filed with the Secretary of State's Office on June 23rd, 2023. The net-metering program has been and will continue to be critical to the state's efforts to advance renewable energy development and meet its climate goals. As such, REV believes that any proposed change which impedes the rapid deployment of net-metered systems faces a high burden of proof to demonstrate that it is addressing an issue that is comparably vital to the public interest and that cannot be addressed in a less burdensome manner.

While REV believes that the draft rule includes many positive changes, such as simplifying the process for extending a Certificate of Public Good, several provisions are likely to slow the deployment of net-metered systems and do not provide other clear value for Vermonters. Overall, we believe that changes to preferred siting criteria, the treatment of system expansions, and a vague prohibition on participation in wholesale markets will limit the ability of local planning bodies to support renewable generation in their jurisdictions, unfairly disadvantage early adopters of solar power, and stifle business innovations that would benefit Vermont ratepayers while providing little public benefit.

1 Prohibition on Significant Forest Clearing

REV believes that the implementation of a prohibition on "significant forest clearing" on preferred sites in 5.103 is arbitrary and unjustified. While the Commission's decision to increase the threshold for significant forest clearing from one to three acres is appreciated, REV reiterates our prior concern that this acreage threshold approach does not align with meaningful climate or ecological impacts. Because this definition fails to account for the volume of biomass present on a site, forest age, species diversity, habitat connectivity, or other factors that would speak to its value as a source of carbon storage and sequestration or wildlife habitat it needlessly and arbitrarily limits the ability of local and regional planning entities to support renewable generation within their own jurisdictions.

As REV has acknowledged, forests play an important role in sequestering and storing carbon. However, given the heavy dependence of the ISO-New England grid on fossil fuels, and Vermont's interconnection with the market, solar is substantially more effective at reducing

atmospheric CO_2 concentration than forests. A 2021 analysis by Synapse Energy Economics has calculated that in New England converting an acre of forest to a solar array will result in 470 tons of CO_2 savings each year.[1] Other assessments point in the same direction.[2] REV is unaware of any scientifically grounded assessment that contests the fact that solar development is more beneficial than maintaining tree cover from a carbon perspective.

The specific carbon balance associated with a particular solar project depends upon a wide variety of factors that the Commission has opted to ignore by creating a simple, area-based threshold. These include how much standing biomass is on the site. By their very nature early successional forests store very little carbon as they contain very little woody biomass compared to mature forests. Clearing at this type of site will incur very little carbon debt and will begin paying atmospheric dividends virtually immediately. A portion of the carbon stored in more mature forests may continue to be stored if the cleared trees are used in wood products. And of course, the emissions that solar offsets depend on the composition of the electrical grid. Currently, the average marginal greenhouse emissions in ISO-New England exceed 700 lbs/MWh of CO_2 meaning that offset emissions far exceed forest sequestration rates.[3] None of these issues are addressed by the acreage threshold approach advanced by the Commission.

Similarly, the habitat value of a specific parcel depends on much more than whether or not there is 10% canopy cover and its connection to other treed areas in the immediate vicinity. Species diversity, the proliferation of invasive species, proximity to existing roads and powerlines, and many more characteristics all impact habitat quality, and none of the issues are addressed by the proposed rule.

Given the limited scale of forest clearing that has occurred to date as a result of net-metered projects – just over 200 total acres as of 2021 according to the Agency of Natural Resources – especially in relation to the clearing that occurs as a result of other forms of development, REV questions the need for this restriction at all. Rather REV echoes the 1/12/2023 Public Comment submitted but the Vermont Association of Planning and Development Agencies that limitations on "significant forest clearing" should be managed legislatively so that they are applied to all types of development equally rather than targeting net metering specifically.

Should the Commission continue to pursue this new restriction, REV urges the Commission to utilize a standard that is tied to climate and ecological science. As a starting point, REV suggests separating the climate and habitat concerns into separate provisions. For climate REV would suggest barring a site from preferred site status if it can be affirmatively demonstrated to result in an increase in atmospheric CO_2 over the project's expected lifespan. As the grid become cleaner,

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[1] Synapse Energy Economics (2021). "*Carbon Dioxide Emissions Tradeoffs: Forests or Solar Panels?*" https://www.synapse-energy.com/carbon-dioxide-emissions-tradeoffs-forests-or-solar-panels

[2] Eisenson, Matthew (2022) "*Solar Panels Reduce CO2 Emissions More per Acre than Trees*" State of the Planet: News from the Columbia Climate School.

[3] ISO New England (2023). *"2021 ISO New England Electric Generator Air Emissions Report"* https://www.iso-ne.com/static-assets/documents/2023/04/2021-air-emissions-report.pdf

this restriction would become tighter reflecting the more limited climate benefits that solar provides in a truly low-carbon environment. If the New England states succeed in dramatically decarbonizing the grid in the next decade, it may be that clearing even a single acre of mature trees would no longer provide a climate benefit. To address habitat concerns, REV would suggest limiting forest clearing in Highest Priority Forest Blocks. These blocks, identified in the Vermont Conservation Design, are precisely the blocks that have the highest habitat and habitat connectivity value for many crucial native species.[4]

2 The Effect of Amendments on Net-Metering Compensation

Section 5.108 proposes to limit the expansion of existing systems to 5% or 10 kW before triggering the application of the most recently adopted adjustors to the output of the existing system. This will make system expansions significantly more expensive at the same time we are asking Vermonters to increase their level of electrification which is inconsistent with the state's climate goals and the intent of the net-metering program to support self-generation.

At the residential level, Vermonters who move to electric vehicles and heat pumps, as encouraged by the state's climate policies, could see their electricity usage more than triple (See Table 1). This means that a household with what is currently an average-sized net-metering system, approximately 7 kW, would need to increase its system size by 14 kW to maintain the same level of self-generation. If the original system were installed in 2020 and transferred its RECs to the utility, it would receive a positive 2 cents/kWh in adjustor which would be reduced to -2 cents/kWh if the system were to be expanded. Effectively, this results in 4 cents/kWh of lost credits from the existing system and would make system expansion several thousand dollars more expensive than if the adjustors that were in place at the time the system was built were retained. This differential disadvantages early adopters of solar.

[4] Vermont Agency of Natural Resources (2016) "*BioFinder 2.0 Component Abstract.*" https://anrmaps.vermont.gov/websites/biofinder2016/Documents/ComponentAbstracts/InteriorForestComponentAbstract.PDF

Table 1. Residential Electricity Demand with High Electrification

Demand Source	Low[1] (kWh)	High[2] (kWh)
Baseline Demand	650	650
Two Electric Vehicles[3]	817	1,143
Two Cold Climate Heat Pumps[4]	386	386
Heat Pump Water Heater[5]	209	209
Total Monthly Usage	1,853	2,179
Total Annual Usage	22,232	26,152

1. Assumes fleet average EV efficiency of 0.35 kWh/mile
2. Assumes EV efficiency of a Ford F150 Lightning, 0.49 kWh/mile
3. Assumes 14,000 miles of travel per year per vehicle
4. Assume 193 kWh per Month as reported by Efficiency Vermont
5. Estimate of water heat usage from Green Mountain Power

In many instances, the disincentive to expand Category 3 systems would be even more severe as the pre-existing system would represent a larger percentage of the total capacity of the expanded system. For example, the pre-existing portion of a 250 kW system expanded to 500 kW would be 1/2 of the total capacity as opposed to 1/3 of the system size in the residential case described above. Here both the absolute and proportional loss in credit revenue would be higher than in the residential case. Given the current focus on reducing the sites that are eligible for preferred site status, the Commission should be doing everything in its power to maximize the utilization of existing preferred sites. Expanded systems will have a smaller total footprint than would be required to create a separate system with the same capacity as the system expansion. The expanded system will have only one interconnection route and will have a smaller vegetation management area than the combined management areas around two smaller systems. Disincentivizing these expansions will result in greater competition between urgently needed renewable energy generation and other valuable land uses.

The Commission's comments indicate the reason for rejecting the Public Service Department's proposal to compensate the existing system at the existing rate and the new system at the new rates was that it was administratively difficult for the utilities to apply two different adjustors to the same system. REV appreciates this practical barrier but urges the Commission to be more creative in finding a compensation mechanism that would avoid this preserve disincentive to expand existing systems. REV has suggested using a weighted average of the existing and current adjustors (see Table 2 for an illustration of what this would look like) which would allow utilities to apply a single – albeit unique – adjustor to the expanded system while achieving the same result as the Department's proposal. REV has reached out to the distribution utilities about the feasibility of the approach within their existing billing systems. To date – outside of the Vermont Electric Coop which indicated that this would also be difficult to support within their billing software – REV has not received a definitive answer to this question.

Table 2. Illustration of the adjustors applied to the output of the existing system using a weighted average

	Capacity (kW)	REC Adjustor (cents/kWh)	Siting Adjustor (cents/kWh)	Total Adjustor (cents/kWh)
Initial System (NM 2.2)	7	1	1	2
Added Capacity (NM 2.5)	14	0	-2	-2
Adjustor as Written		0	-2	-2
Weighted Average Adjustor		0.33	-1	-0.67

For larger systems, considering the system expansion to be a separate plant for the purposes of determining REC and siting adjustors would accomplish this same end with relatively little burden to the utilities given the comparatively small number of systems involved.

3 Prohibiting Wholesale Market Participation Chills Innovation and Disadvantages Vermont

Section 5.135 provides that "[n]o net-metering system may participate in a wholesale market unless the Commission finds that such participation will not harm the interests of Vermont ratepayers and will be in the public good." REV's interpretation of the Commission's language In the *Order Requesting Comments on the Draft Rule* from 12/2/2022 is that Commission seeks to protect against double compensation (i.e., double-counting for the same services), but the broad language of the proposed Rule goes much further to presume that net-metering systems have no right to wholesale markets to provide any service, even if it is a service that is not already being compensated through the net metering program.

While the Commission reserves the right to approve such participation but issue a vague and blanket prohibition, with no clearly defined criteria for grant approval, the proposed Rule would discourage innovation to take advantage of FERC Order No. 2222 that could create additional opportunities for net-metered systems to provide value to the system owner *and* to reduce overall systems costs for all Vermont utilities and their ratepayers. We urge the Commission to be more specific about its concerns with net-metering participation in wholesale markets and the process for gaining approval for doing so.

Thank you for the opportunity to comment.

Sincerely,

Jonathan Dowds
Deputy Director

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 19-0855-RULE

Proposed revisions to Vermont Public Utility Commission Rule 5.100	

Town of Stowe Electric Department Comments

On June 26, 2023, the Vermont Public Utility Commission ("Commission") filed a Memorandum in this docket setting a public hearing schedule and deadline for filing written comments.

The Town of Stowe Electric Department ("SED") respectfully reiterates its comments previously filed in this docket and by the other Vermont Distribution Utilities. SED supports the proposed revisions to Rule 5.100 that will streamline the review and reporting requirements for all net-metering projects. Particularly relevant to SED is residential scale net-metering solar projects less than 25kW in size, with or without co-located battery storage. SED favors a procedure that requires the Applicant and Installer to review the proposed project with the utility prior to filing a net-metering registration form with the utility and Commission. This will help municipal utilities respond to net-metering applications more accurately and efficiently.

SED encourages Applicants and Installers to jointly speak with utility staff before filing a net-metering registration form with the Commission. This will reduce costs and delays in analyzing the interconnection requirements for a proposed project and can clear up any miscommunication about group net-metering, the blended residential rate, REC and Category adjusters, and other billing questions.

SED requires the following information to complete a review of each project: a site visit with utility staff, a site plan, a one-line engineering drawing, a project description that includes additional electrification and battery storage technologies, and a description on how the applicant will operate co-located battery storage. Receiving this information before an Applicant files a net-metering registration form will reduce administrative costs and give Applicants a complete picture of the costs and steps required to install residential scale net-metering projects. This can also avoid future filings related to amendments from the time the application was filed to the time the system is built and interconnected.

SED staff thanks all the stakeholders involved and the Commission for working through the Rule 5.100 revisions. SED staff looks forward to a more cohesive and streamlined process for net-metering in Vermont.

Respectfully submitted on August 17, 2023,

By: Town of Stowe Electric Department
/s/ Michael Lazorchak
Town of Stowe Electric Department
PO Box 190
Stowe Vermont 05672
(802) 253-7215
mlazorchak@stoweelectric.com

This document is being filed electronically using ePUC.

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 19-0855-RULE

Proposed revisions to Vermont Public Utility Commission Rule 5.100	

Comments of Vermont Electric Cooperative, Inc.

Vermont Electric Cooperative, Inc. (VEC) has reviewed the Commission's June 5, 2023 Order and the final changes to Rule 5.100 and appreciates the many adaptations the Commission has made to the proposed Rule during the course of the rulemaking process. VEC offers two final comments on the final draft of the rule.

Section 5.108(C) and 5.109(D) – Expansions of Existing Systems

VEC supports the change that would apply current net-metering rates to the entire output of a net-metering system which expands its capacity more than 5 percent or 10 kW, whichever is greater. This will provide clarity, enable small-scale expansion without penalty, and minimize the cost-shift between customers who net-meter and those who do not. Net-metering continues to be a high-cost power resource for VEC, resulting in upward rate pressure. VEC estimated that for 2021, its members paid approximately $2.6 million dollars in above market costs, *i.e.* VEC could have procured the same renewable resources provided by net metering for $2.6 million less.

The exemption included in the rule for smaller expansions covers most of the residential expansions that VEC has seen to date. In applying the current rate to the output of larger expansion projects, VEC believes that the Commission has properly balanced supporting the transition to electrification with limiting electric rate increases.

VEC would like to respond to a comment by Renewable Energy Vermont at the public hearing held on August 10, which suggested that the Commission adopt a weighted average rate to an existing system that expands it capacity. This proposal would impose an administrative burden and further complicate an already complex net metering billing system. VEC has designed the billing system to operate based on the date that the application was filed. The billing system automatically assigns adjustors based on that date (and category and REC allocation). VEC would have to redesign the billing system to implement what would amount to a custom rate for every expanded system. VEC strongly supports the language in section 5.108(C) of the most-recent proposed rule.

Rule 5.127 – Blended Residential Rate

It has become apparent in a recent VEC tariff filing (Case 23-1682-TF), that both the current rule and the proposed rule as written do not achieve the apparent intent that the blended rate be revised to reflect the rate increases. Because the blended rate calculation looks back at the prior calendar year, filing a new blended rate calculation at the same time as a rate increase (or within 15 days after) will not reflect the new rate increase.

VEC suggests that the biennial update is sufficient to take into account rate increases that were implemented between updates. In fact, this is the purpose of the biennial update. VEC recommends that the Commission eliminate the requirement to update the blended rate when a utility files a rate increase.

Thank you for the opportunity to comment.

Dated at Essex, Vermont, this 17th day of August, 2023.

Respectfully submitted,
VERMONT ELECTRIC COOPERATIVE

By:

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42 Wescom Road
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VPPSA
Vermont Public Power Supply Authority

Putting the Public in Power.
www.vppsa.com

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August 17, 2023

Via ePUC

Ms. Holly Anderson, Clerk
Vermont Public Utility Commission
112 State Street, 4th Floor
Montpelier, VT 05620-2071

VPPSA Comments
Case No. 19-0855-RULE
Proposed revisions to Vermont Public Utility Commission Rule 5.100

On May 18, 2023, the Vermont Public Utility Commission ("Commission") submitted paperwork to the Interagency Committee on Administrative Rules to revise Rule 5.100, which governs regulations pertaining to construction and operation of net metering systems, with comments due August 17, 2023. The Vermont Public Power Supply Authority ("VPPSA") has participated in the Commission's informal rulemaking process and uses this opportunity to raise specific concerns around the proposed rule filed June 16, 2023 in ePUC.[1]

VPPSA, as an instrumentality of the State of Vermont, has a mission to support and advance the interests of its eleven (11) municipally owned electric utilities, including the customers and communities they serve.[2] In aggregate, VPPSA's member

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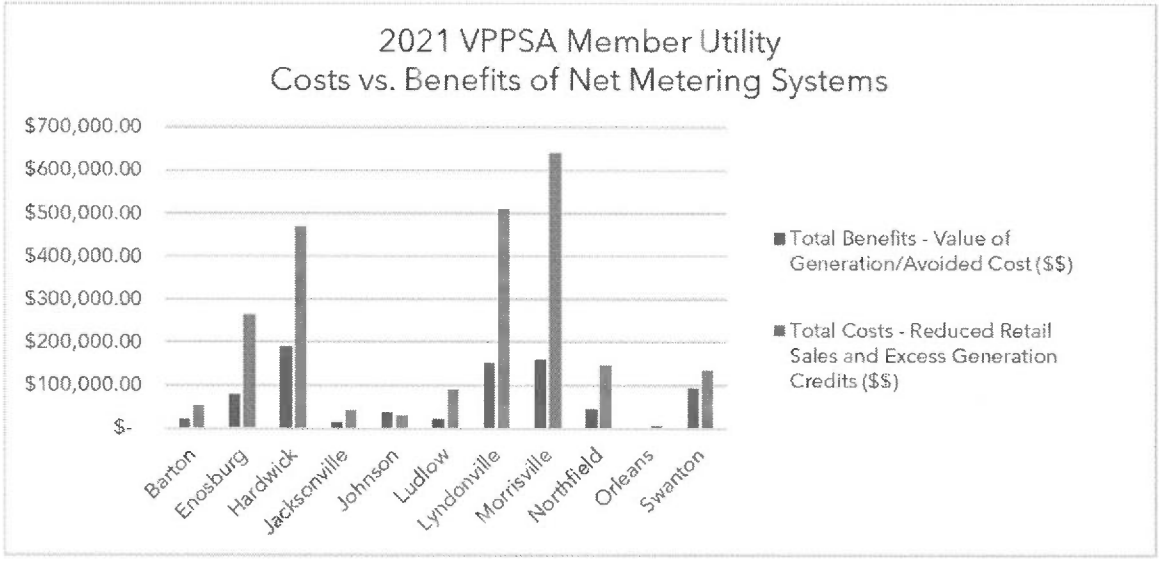
[1] See Proposed Rule Redline in Case No. 19-0855-RULE, filed June 26, 2023 via ePUC.
[2] VPPSA Member Utilities include Barton Village; Village of Enosburg Falls; Hardwick Electric Department; Village of Jacksonville; Village of Johnson; Ludlow Electric Light Department; Lyndonville Electric Department; Morrisville Water & Light; Northfield Electric Department; Village of Orleans; and Swanton Village.

utilities serve approximately 30,000 customers in over 50 communities across Vermont in some of the most economically underprivileged and rural areas in the state, including several federally recognized Disadvantaged Communities through the U.S. Council on Environmental Equity's Climate and Economic Justice Screening Tool (CEJST).[3] Changes to Rule 5.100 on net metering could have significant impacts not only on VPPSA member utilities, but also those customers that often lack the economic means to participate in net metering programs, ultimately creating ratepayer cost-shifting across customer classes. Figure 1: 2021 VPPSA Member Utility Net-Metering Cost Benefit Analysis illustrates the significant variability across member utilities from net-metering systems when valuing total generation and avoided costs vs. reduced retail sales and excess generation credits from net-metering participants.

Figure 1: 2021 VPPSA Member Utility Net-Metering Cost Benefit Analysis



[3] See Climate and Economic Justice Screening Tool published Nov. 22, 2022.

Before addressing some specific comments on the proposed revisions to Rule 5.100, VPPSA would like to raise some overall observations and concerns around the rapidly changing landscape as grid modernization and electrification exponentially grows in-step with the Renewable Energy Standard and Global Warming Solutions Act requirements. As noted in the Commission's May 17, 2023 Procedural Order Responding to Participant Comments, there are a number of interdependencies between Rule 5.100 governing Net Metering and Rule 5.500 on Interconnection Procedures, under which energy storage has also been included during the informal rulemaking process.[4] VPPSA finds these interdependencies to be incredibly nuanced and recommends the formal rulemaking proceeding allow ample opportunity for stakeholders to assess those impacts with full analysis. For one example, it appears that the definition of "Interconnection Facilities" under proposed Rules 5.100 and 5.500 are inconsistent. Additionally, within the proposed Rule 5.100 there also appears to be some level of inconsistency, particularly under 5.106(C)(1) Recipients Entitled to Advance Submission Requirements and 5.106(F)(1) Entities Entitled to Notice of the Application.

In addition to the Commission's rulemaking process, there are several regional and federal rulemaking proceedings underway that may have significant influence on the base assumptions that are guiding these rulemaking proceedings, particularly

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[4] See PUC Order Responding to Participant Comments in Case No. 19-0855-RULE filed May 17, 2023 via ePUC.

those by the Federal Energy Regulatory Commission (FERC) and the North American Reliability Corporation (NERC), as well as standards and procedures under the regional grid operator, ISO-New England. More details on these proceedings will be discussed in VPPSA's response under Rule 5.500 in Case No. 19-0856-RULE. VPPSA encourages the Commission to carefully consider how the rules and requirements in the broader energy market landscape may create undue burden, inconsistencies, or duplicative reporting or unnecessary financial implications for all stakeholders including customers, interconnecting utilities, developers, and regulators alike. VPPSA suggests it may be in the best interest of all stakeholders and regulators to allow those proceedings to be resolved prior to implementing final rules under 5.100 or 5.500.

As it relates to specific revisions proposed under Rule 5.100, VPPSA would like to present the following concerns while stressing that additional concerns may arise as the rulemaking proceedings evolve as noted above.

5.108 Amendments to Pending Registrations and Applications;

5.109 Substantial Changes to Approved Net-Metering Systems and Amendment of CPGs

The proposed rule revisions address Amendments to pending registrations, applications, or Certificates of Public Good for "substantial changes", however VPPSA does not see a standard definition of how the Commission would define "Substantial Changes". To prevent any unintended

misinterpretation and ensure consistent treatment of proposed amendments, VPPSA encourages the Commission to discuss with stakeholders what parameters would or should be established to define "Substantial Changes". Section 5.109(E) cross "material modification" as defined under Rule 5.500, however there is little definition to the Substantial, Non-Substantial, or Material modifications or changes within Rule 5.100.

5.125 Pre-Existing Net Metering Systems

Section 5.125(A)(3) establishes eligibility requirements around system amendment or capacity increases only after the effective date of the Rule. Due to concerns and ongoing rulemaking proceedings and standards examining the impacts of Inverter-Based Resources on the bulk power system and sub- or transmission level planning forecasts, VPPSA suggests the Commission consider aligning how these dates may or may not align with IEEE 1547 inverter setting standards for the necessary protection and controls to prevent voltage ride throughs or damage to the electric grid.

5.128 Biennial Update Proceedings

Section 5.128(D)(7) has been added to include "Any other information required by the Commission's form". VPPSA finds this language to be overly broad, undefined, and excessive. We encourage the Commission to more appropriately define or establish specific parameters to prevent unnecessary overreach.

5.135 Participation in Wholesale Markets

As previously raised by VPPSA in the informal rulemaking process[5], VPPSA once again suggests that the Commission more clearly define what criteria would be used to determine whether such participation would or would not harm the interests of Vermont ratepayer and/or be in the interests of the public good. These are overly broad characterizations and as stated in VPPSA's comments on May 27, 2022, there are still significant concerns on how this interpretation interplays with FERC Order 2222.

5.136 Locational Adjustor Fee

While on the surface, VPPSA is supportive of analyzing or implementing a Locational Adjustor Fee to assess system impact of increased net-metering, the proposed rule places an inequitable priority on transmission or sub-transmission constraints. The entire distribution, generation and transmission level impacts should be equally considered as it relates to system impact and costs. More concerning, however, is the proposed language that states "A tariff proposed under this section may apply to new electric generation facilities other than net metering systems." VPPSA raises that this language is exceptionally vague and creates significant concerns around how a proposed tariff for a net-metering

[5] See Case No. 19-0855-RULE, VPPSA Comments on Draft Rule 5.100 filed May 27, 2022 via ePUC.

qualified system could impact utility-owned, utility-scale or behind-the-meter generation or energy storage facilities.

In conclusion, VPPSA appreciates the opportunity to engage in this formal rulemaking process and stresses the significant impact any proposed changes may have on the ability to deliver safe, reliable, and affordable electricity to Vermonters, while still supporting renewable energy growth and sustainability for the human and natural environments. If the Commission has any questions or seeks further clarification on any of the positions raised, please don't hesitate to contact me.

Respectfully,

/s/
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Annotated Text

5.100 RULE PERTAINING TO CONSTRUCTION AND OPERATION OF NET-METERING SYSTEMS

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PART I: GENERAL PROVISIONS

5.101 Purpose and Scope

(A) This Rule governs the terms upon which any electric company offers net-metering service within its service territory. In addition, this Rule governs the application for and issuance, amendment, transfer, and revocation of a certificate of public good for net-metering systems under the provisions of 30 V.S.A §§ 248, 8002, and 8010.

(B) Except as modified by Section 5.125 (Pre-Existing Net-Metering Systems), this Rule applies to all net-metering systems in Vermont and applies to every person, firm, company, corporation, and municipality engaged in the site preparation, construction, ownership, or operation of any net-metering system that is subject to the jurisdiction of this Commission.

(C) No person may commence site preparation for or construction of a net-metering system or convert an existing plant into a net-metering system without first obtaining a CPG under this Rule.

(D) In the event that any portion of this Rule is found by a court of competent jurisdiction to be illegal or void, the remainder is unaffected and continues in full force and effect.

5.102 Computation of Time

(A) Computation. ~~In computing any period of time prescribed or allowed by this Rule, by order of the Commission, or by any applicable statute, the day from which the designated period of time begins to run is excluded from the computation. The last day of the period is included in the computation, unless it is a Saturday, a Sunday, or a state or federal legal holiday, or a day on which weather or other conditions have made the Commission's office and the Commission's electronic filing system unavailable, in which event the period runs until the end of the next day that is not one of the aforementioned days. Intermediate Saturdays, Sundays, and legal holidays are not counted when the period of time prescribed or allowed is less than 11 days.~~Under this Rule, time is

computed in accordance with Commission Rule 2.207.

(B) Enlargement. The Commission for cause shown may at any time in its discretion:

(1) Grant an extension of time if it is requested before the expiration of the period originally prescribed, or

(2) Upon request made after the expiration of the specified period, grant an extension where the failure to act was the result of excusable neglect or other good cause.

5.103 Definitions

For the purposes of this Rule, the following definitions apply:

"Account" means a unique identifier assigned by the electric company to a customer for billing purposes. A customer account may include one or more meters.

"Adjoining Landowner" means a person who owns land in fee simple that:

(1) Shares a property boundary with the tract of land on which a net-metering system is located; or

(2) Is adjacent to that tract of land and the two properties are separated only by a river, stream, railroad line, or public highway.

"Adjustor" means a positive or negative charge applied to production kWh based on factors related to site selection (Site Adjustor) and retention of tradeable renewable energy credits (REC Adjustor).

"Amendment" means ~~one or more of the following changes to the physical plans or design of a net-metering system. An amendment is either "major" or "minor":~~

~~(1) The following changes constitute a "major" amendment:~~

~~(a) increasing the nameplate capacity of the net-metering system by more than 5% or reducing the nameplate capacity of the net-metering system by more than 60%;~~

~~(b) moving the limits of disturbance by more than 50 feet;~~

~~(c) changing the fuel source of the net-metering system; or~~

~~(d) any other change that the Commission, in its discretion, determines is likely to have a significant impact under one or more of the criteria of Section 248 applicable to the net-metering system.~~

~~(2) The following changes constitute a "minor" amendment:~~

~~(a) proposing additional aesthetic mitigation; or~~

~~(b) any other change to the physical plans or design of the system that is not a major amendment~~ a request for approval of a modification to a proposal that is either under review or has been approved by the Commission. The term amendment also includes requests to change the terms or conditions of a CPG issued by the Commission.

"Applicant" means the entity seeking authorization to construct and operate a net-metering system.

"Billing Meter" means an electric meter that measures either the consumption of electricity by a customer or the net of electric consumption by the customer and production by the net metering system.

"Blended Residential Rate" means the lesser of either:

(1) For electric companies whose general residential service tariff does not include inclining block rates, the $/kWh charge set forth in that electric company's tariff for general residential service;

(2) For electric companies whose general residential service tariff does include inclining block rates, a blend of the electric company's general residential service inclining block rates that is determined by adding together all of the revenues to the company during the most recent calendar year from kWh sold under those block rates and dividing the sum by the total kWh sold by the company at those rates during the same year; or

(3) The weighted statewide average of all electric company blended residential retail rates, as determined by the Commission, whichever is lower.

~~"Commission" means the Public Utility Commission of the State of Vermont and the employees thereof.~~

"Capacity" means the rated electrical nameplate for a plant, except that, in the case of a solar energy plant, the term means the aggregate AC nameplate capacity of all inverters used to convert the plant's output to AC power. The capacity of an inverter is not changed when it is derated.

"Category I Net-Metering System" means a net-metering system that is not a hydroelectric facility and that has a capacity of 15 kW or less.

"Category II Net-Metering System" means a net-metering system that is not a hydroelectric facility that has a capacity of more than 15 kW and less than or equal to 150 kW, and that is sited on a preferred site.

"Category III Net-Metering System" means a net-metering system that is not a hydroelectric facility, that has a capacity of greater than 150 kW and less than or equal to 500 kW, and that is sited on a preferred site.

"Category IV Net-Metering System" means a net-metering system that is not a hydroelectric facility, that has a capacity of greater than 15 kW and less than or equal to 150 kW, and that is not located on a preferred site.

"Certificate Holder" means one who holds a CPG. The certificate holder must have legal control of the net-metering system.

"Certificate of Public Good" or "CPG" means a certificate of public good issued by the Commission pursuant to 30 V.S.A. § 8010.

"Commission" means the Public Utility Commission of the State of Vermont and the employees thereof.

"Commissioned" or "Commissioning" means the first time a plant is put into operation following the initial construction of the plant.

"Conditional Waiver of a Criterion of 30 V.S.A. § 248" means the Commission waiver of the requirements for the presentation of evidence under the criterion, a specific review of the project by the Commission under the criterion, and the development of specific findings of facts for the criterion, unless the Commission finds that the application raises a significant issue under that criterion.

"Customer" means a retail electric consumer.

"Department" means the Vermont Department of Public Service.

"Earth disturbance" means construction activities including clearing, grading, and excavating, but does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

"Electric Company" means the utility serving the net-metering customer or the utility that would serve an applicant seeking authorization to construct and operate a net-metering system, as the context indicates.

"Excess Generation" means the following: for customers who elect to wire net-metering systems such that they offset consumption on the billing meter, excess generation is the number of kWh by which production exceeds consumption. For customers who elect to wire net-metering systems such that they do not offset consumption on any customer's billing meter, all recorded production is considered excess generation.

"File" means the submission of documents, exhibits, plans, information, or other materials to the Commission through the Commission's electronic filing system, by delivery to the Commission's offices, or by delivery to the Commission during the course of a hearing.

"Group Net-Metering System" means a net-metering system serving more than one customer, or a single customer with multiple electric meters, located within the service area of the same retail electricity provider. Various buildings owned by municipalities, including water and wastewater districts, fire districts, villages, school districts, and towns, may constitute a group net-metering system. A union or district school facility ~~shall~~ may be considered in the same group net-metering system with buildings of its member ~~municipalities~~ schools that are located within the service area of the same retail electricity provider ~~that serves the facility~~.

"Host Landowner" means the owner of the property on which the net-metering system is or will be located.

"kW" means kilowatt or kilowatts (AC).

"kWh" means kilowatt hours.

"Inclining Block Rate" means a rate structure where an electric company charges a higher rate for each incremental block of electricity consumption.

"Interconnection Facilities" means all facilities and equipment between the generation resource and the point of interconnection, including any modifications, additions, or upgrades that are necessary to physically and electrically interconnect the generation resource to the interconnecting utility's distribution or transmission system. Interconnection facilities are sole-use facilities and do not include system upgrades.

"Project Limits ~~of Disturbance~~" means the boundary within which all construction, materials storage, ~~grading~~earth disturbance, vegetation clearing, planting, management, landscaping, and any other activities related to site preparation, construction, operation, maintenance, and decommissioning take place as a result of the net-metering system, including

~~areas disturbed due to~~ the creation or modification of access roads~~,~~ and utility lines~~, and the clearing or management of vegetation~~.

"Net-Metering" means ~~the process of~~ measuring the difference between the electricity supplied to a customer and the electricity fed back by ~~a~~the customer's net-metering system(s) during the customer's billing period:

(1) using a single, non-demand meter or such other meter that would otherwise be applicable to the customer's usage but for the use of net metering; or

(2) if the system serves more than one customer, using multiple meters. The calculation shall be made by converting all meters to a non-demand, non-time-of-day meter, and equalizing them to the tariffed kWh rate.

"Net-Metering System" means a plant for generation of electricity that:

(1) is of no more than 500 kW capacity;

(2) operates in parallel with facilities of the electric distribution system;

(3) is intended primarily to offset the customer's own electricity requirements and does not primarily supply electricity to electric vehicle supply equipment, as defined in 30 V.S.A. § 201, for the resale of electricity to the public by the kWh or for other retail sales to the public, including those based in whole or in part on a flat fee per charging session or a time-based fee for occupying a parking space while using electric vehicle supply equipment; and

(4) either ~~(i)~~ employs a renewable energy source~~;~~ or ~~(ii)~~ is a qualified micro-combined heat and power system of 20 kW or less that meets the definition of combined heat and power facility in subsection 8015(b)(2) of Title 30 and uses any fuel source that meets air quality standards.

"Non-Bypassable Charges" means those charges on the electric bill defined in an electric company's tariffs that apply to a customer regardless of whether they net-meter or not. Non-bypassable charges may not be offset using current or previous net-metering credits. A customer is liable for payment of these charges regardless of whether the customer has a credit balance resulting from net-metering. The customer charge, energy efficiency charge, energy assistance program charge, any on-bill financing payment, and any equipment rental charge are non-bypassable charges.

"Party" means any person who has obtained party status under Section 5.117 of this Rule.

"Plant" means an independent technical facility that generates electricity from renewable energy. A group of facilities, such as wind turbines, will be considered one plant if the group is part of the same project and uses common equipment and infrastructure, such as roads, control facilities, and connections to the electric grid. Common ownership, control, proximity in time of construction, and proximity of facilities to each other will be relevant to determining whether a group of facilities is part of the same project.

"Pre-Existing Net-Metering System" means a net-metering system for which a completed CPG application was filed with the Commission prior to January 1, 2017, and whose completed application was either filed at a time when net-metering was being offered by the electric company pursuant to 30 V.S.A. § 219a (h)(1)(A) as the statute existed on December 31, 2016, or qualified under state law as a system that did not count towards the capacity limit on net-metering contained in that statute.

"Preferred Site" means one of the following, provided that the site does not require significant forest clearing:

(1) A new or existing constructed impervious surface or structure whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity~~;~~.

(2) A parking lot canopy over a ~~paved~~ parking lot, provided that the location remains in use as a parking lot~~;~~.

(3) A tract previously developed for a use other than siting a plant on which a structure or constructed impervious surface was lawfully in existence and use ~~prior to July 1 of~~at any time during the year preceding the ~~year in which~~date an application for a certificate of public good under this Rule is filed. To qualify under this subdivision (3), more than half of the ~~limits of disturbance of a proposed net-metering system~~energy generation component of the plant must ~~include~~be located within the footprint of either the existing structure or impervious surface ~~and~~. The project limits may not include any headwaters, streams, shorelines, floodways, rare and irreplaceable natural areas, necessary wildlife habitat, wetlands, endangered species, productive ~~forestlands~~forest soils, or primary agricultural soils, all of which

are as defined in 10 V.S.A. chapter 151. For purposes of this subsection, the energy generation component of the plant does not include interconnection facilities~~;~~.

(4) Land certified by the Secretary of Natural Resources to be a brownfield site as defined under 10 V.S.A. § 6642, provided any request to the Secretary of Natural Resources for such certification includes a report from a diligent and appropriate investigation, as required by 10 V.S.A. chapter 159~~;~~.

(5) A sanitary landfill as defined in 10 V.S.A. § 6602 and contiguous land, structures, appurtenances, and improvements on the land used for treating, storing, or disposing of solid waste, provided that the Secretary of Natural Resources certifies that the land constitutes such a landfill and ~~is suitable for the development of the plant~~contiguous land, structures, appurtenances, or improvements, and that the landfill is actively maintained under the authority of a post-closure certification, administrative order, or assurance of discontinuance, or in custodial care as recognized by the Agency of Natural Resources. To qualify under this subdivision (5), some portion of the plant must be located on the landfill cap~~;~~.

(6) ~~The disturbed portion of a lawful~~A gravel pit, quarry, or similar site for the extraction of a mineral resource, provided that ~~all activities pertaining to site reclamation required by applicable law or permit condition are completed prior to the installation of the plant;~~:

(a) more than half of the energy generation component of the plant is located within the disturbed or previously disturbed portion of the extraction site. For purposes of this subsection, the energy generation component of the plant does not include interconnection facilities; and

~~(a)~~(b) all state and local permit conditions related to reclamation of the site are satisfied before the operation of the plant.

~~(6)~~(7) A specific location ~~designated in a duly adopted municipal plan under 24 V.S.A. chapter 117 for the siting of a renewable energy plant or specific type or size of renewable energy plant, provided that the plant meets the siting criteria recommended in the plan for the location; or a specific location that is identified in~~

~~a joint letter of support from the municipal legislative body and municipal and regional planning commissions in the community where the net-metering system will be located~~ determined by the governing municipal legislative body and the municipal and regional planning commissions as suitable for the development of a net-metering system consistent with applicable policies in their respective plans. The specific location must be identified in a letter or letters from the municipal legislative body and the municipal or regional planning commissions based on their evaluation after having received the 45-day notice for the project. Such letters in no way limit the ability of municipalities and regional planning commissions to participate in the Commission's review of the net-metering system proposed to be constructed on the location identified in the letter.

~~(7)~~(8) A site listed on the National Priorities List (NPL) established under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. chapter 103, if the U.S. Environmental Protection Agency or the Agency of Natural Resources confirms that the site is listed on the NPL, and ~~further~~ provided that the applicant demonstrates as part of its CPG application that:

(a) development of the plant on the site will not compromise or interfere with remedial action on the site; and

(b) the site is suitable for development of the plant.

~~(8)~~(9) On the same parcel as, or directly adjacent to, a customer that has been allocated more than 50 percent of the net-metering system's electrical output. The allocation to the host customer may not be less than 50 percent during each of the first 10 years of the net-metering system's operation.

"Production Meter" means an electric meter that measures the amount of kWh produced by a net-metering system.

"Significant Forest Clearing" means clearing more than three acres of forest. For purposes of this Rule, the word forest means land that has at least 10 percent canopy cover by live trees of any size and associated naturally occurring vegetation or has had at least 10 percent canopy cover of live trees and associated naturally occurring vegetation in the past and has stumps, snags, or other evidence indicating that it has not been converted to a non-forest

use at the time of a CPG application filing. To qualify as forest, an area must be at least one acre in size and 120 feet wide. In determining whether an area is at least one acre in size or 120 feet wide, any portion of a group or contiguous area of trees that extends beyond the project or parcel boundaries must be counted. Canopy cover must be measured from the outermost edge of tree crowns across a group or contiguous area of trees. The three-acre limit on significant forest clearing is cumulative and includes each discrete area of any forest proposed for clearing. Clearing of individual trees that are not part of a forest will not count toward the three-acre limit on significant forest clearing.

"Substantial Change" means a change to a proposed or approved net-metering system that has the potential for significant impact with respect to any of the criteria of Section 248(b) or on the general good of the State under Section 248(a).

"Time-of-Use Meter" means an electric meter that measures the consumption of electricity during defined periods of the billing cycle.

"TOU" means time-of-use.

"Tradeable Renewable Energy Credit or REC" means all of the environmental attributes associated with a single unit of energy generated by a renewable energy source where:

(1) Those attributes are transferred or recorded separately from that unit of energy;

(2) The party claiming ownership of the tradeable renewable energy credits has acquired the exclusive legal ownership of all, and not less than all, the environmental attributes associated with that unit of energy; and

(3) Exclusive legal ownership can be verified through an auditable contract path or pursuant to the system established or authorized by the Commission, or any program for tracking and verifying the ownership of environmental attributes of energy that is legally recognized in any state and approved by the Commission.

PART II: REGISTRATIONS AND APPLICATIONS FOR CPGS

5.104 Eligibility

To be eligible to apply for a net-metering CPG under this Rule, an applicant must propose one of the following:

(A) A category I net-metering system;

(B) A category II net-metering system;

(C) A category III net-metering system;

(D) A category IV net-metering system; or

(E) A hydroelectric system with a capacity of 500 kW or less.

5.105 Registration of Hydroelectric Facilities, Ground-Mounted Photovoltaic Facilities of up to 15 kW in Capacity, ~~and~~ Roof-Mounted Photovoltaic Net-Metering Systems of Any Capacity Up to 500 kW, and Mixed Ground- and Roof-Mounted Systems of up to 500 kW Where the Ground-Mounted Portion Does Not Exceed 15 kW

(A) Applicability. The registration procedure is applicable only to hydroelectric facilities, ground-mounted photovoltaic systems of up to 15 kW ~~and~~, photovoltaic net-metering systems that are mounted on a roof, and mixed ground- and roof-mounted systems of up to 500 kW where the ground-mounted portion of the system does not exceed 15 kW.

(B) Form and Content. A net-metering system under this subsection must be registered with the Commission in accordance with the filing procedures and registration form prescribed by the Commission and must contain all of the information required by the instructions for completing that form.

(C) Timeframes. Unless ~~a letter raising interconnection issues is timely filed with the~~ otherwise directed by the Commission ~~by the interconnecting utility~~, a CPG will be deemed issued by the Commission without further proceedings, findings of fact, or conclusions of law, and the applicant may commence construction of the system ~~according to the following timeframes:~~

~~(1) in the case of a net-metering system with a capacity of 15 kW or less,~~on the ~~eleventh business~~15th day following the filing of the form~~; and~~.

~~(2) in the case of a net-metering system with a capacity of greater than 15 kW, the thirty-first day following the filing of the form.~~

(D) Service. Upon filing the net-metering registration form with the Commission, the ~~applicant must also cause notice of the form to be sent to the electric company and to the Department via the~~ Commission's electronic filing system will send notice of the registration to the electric company, the Department, and the Agency of Natural Resources.

(E) Interconnection. ~~If the electric company believes that the interconnection of the net-metering system raises concerns, the electric company must convey these concerns in writing to the applicant and the Commission within the timeframes in (C), above. The electric company's filing must include a recommendation as to how the interconnection issues could be resolved by the applicant. The company must also convey a copy of the letter to the installer of the system named on the form. If an objection to the interconnection has been timely filed by the interconnecting electric company, the applicant may not commence construction of the project until the interconnection issues have been resolved. Disputes between the applicant and the electric company will be resolved using the dispute resolution procedures contained in Commission Rule 5.500, which governs interconnection requests.~~ All CPGs deemed issued under this Rule are conditioned on the CPG holder complying with all electric company interconnection requirements. Interconnection approval must be obtained from the electric company pursuant to Rule 5.500.

(1) For systems up to 15 kW, a registration form filed under this Rule constitutes a Rule 5.500 interconnection application. The review of the interconnection application by the electric company is governed by Rule 5.500.

~~(1)~~(2) For systems greater than 15 kW, the applicant must obtain interconnection approval from the electric company under Rule 5.500 before submitting a registration form under this Rule.

5.106 Applications for Ground-Mounted Photovoltaic Net-Metering Systems Greater Than 15 kW and up to and Including 500 kW and for Facilities Using Other Technologies up to and Including 500 kW

(A) Applicability. This application procedure is applicable to ground-mounted photovoltaic net-metering systems that are greater than 15 kW and up to 500 kW in capacity and mixed ground- and roof-mounted systems of up to 500 kW where the ground-mounted portion of the system exceeds 15 kW. This application procedure is also applicable to net-metering systems ~~of 50 kW or less~~ that use ~~other~~ eligible technologies other than photovoltaic systems. This application procedure does not apply to hydroelectric facilities or roof-mounted photovoltaic net-metering systems with no ground-mounted system.

(B) Form and Content. An application for a CPG under this subsection must be filed with the Commission in accordance with the Commission's current filing procedures, using the application form prescribed by the Commission, and must contain all of the information required by this Rule and the instructions for that form. The Commission will develop forms for:

(1) Photovoltaic systems where the capacity of the ground-mounted portion of the system is greater than 15 kW, up to and including 50 kW;

(2) Net-metering systems using a technology other than photovoltaics up to and including 50 kW; and

~~(1)~~(3) Net-metering systems with a capacity of greater than 50 kW up to and including 500 kW.

(C) Advance Submission Requirements. The applicant must provide notice of the application as follows:

(1) Recipients Entitled to Advance Submission. The applicant must provide the following persons with an advance submission, at least 45 days in advance of filing the application with the Commission:

(a) the municipal legislative bodies and municipal and regional planning commissions in the communities where the project will be located;

(b) all adjoining landowners;

(c) the host landowner;

(d) the Department of Public Service;

(e) the Agency of Natural Resources;

(f) the Natural Resources Board, if the proposed net-metering system is located on a ~~parcel subject to an Act 250 Land Use Permit~~ resource extraction site;

(g) the Division for Historic Preservation;

(h) the Agency of Agriculture Food and Markets; ~~and~~

(i) the electric company; and

~~(i)~~(j) the Commission.

(2) Method of Service of Advance Submission. The applicant must ~~cause~~provide the advance submission to ~~be served to the entities listed in (1)(a) through (c), above,~~ the municipal legislative body, municipal planning commission, adjoining landowners, and the host landowner by ~~certified~~ first-class mail, personal delivery, or any other means authorized by the persons entitled to service. Adjoining landowners must be identified using the host town's certified grand list as it existed no more than 60 days before the date of the advance submission or online through

the Vermont Center for Geographic Information database, municipality-specific databases, the Vermont Department of Taxes grand lists, or electronic versions of grand lists maintained by municipalities. An applicant must verify with the relevant municipality that the online database provides accurate and current information regarding parcel ownership within that municipality. Documentation of verification must be signed and attested to by an applicant. ~~The applicant must cause~~ Service of the advance submission ~~to be transmitted to~~ on the ~~entities listed in (1)(d) through (i), above, using~~state agencies, electric company, and regional planning commission will occur through ePUC, the Commission's electronic filing system~~, unless the applicant is making a paper filing in accordance with the Commission's rules, in which case service must be by certified mail. With permission from the intended recipient, the applicant may serve a copy of the advance submission via electronic mail~~.

(3) Contents of Advance Submission. The advance submission must state that the applicant intends to file a Section 8010 application with the Commission, must identify the location of the project site ~~and the number of any Act 250 Land Use Permit applicable to the host parcel~~, and must provide a description of and site plan for the proposed project, including any aesthetic mitigation plan, in sufficient detail to afford the recipient reasonable notice of the nature of the project so that the recipient is able to make an informed judgment as to any potential impact the construction or operation of the project may have on any interest of the recipient that is within the Commission's jurisdiction to address. The submission must provide contact information and state that the recipient may file inquiries or comments with the applicant about the project and that the recipient will also have an opportunity to file comments with the Commission once the application is filed.

(4) Timing of Advance Submission and Application. If, within 180 days of the date of the advance submission, the applicant has not filed a complete application for the project that fully complies with the filing requirements of this Rule, the submission will be treated as withdrawn without further

action required by the Commission.

(D) Filing Requirements. Applications ~~for net-metering systems that are greater than 15 kW and up to and including 50 kW and that are not roof-mounted photovoltaic systems~~ must contain the following information. Failure to provide any required information will result in the application being deemed incomplete:

(1) Applicant name. The application must include the legal name (and the "doing business as" name, if different), contact information, Vermont business registration number (if applicable), and a description of the company or person making the application. For example:

XYZ Corporation (d/b/a ABC Solar)
Headquarters at 123 Maple Lane, Anytown, VT 05600
Service Agent: Jane Doe, Esq.
VT Business ID#: 12345

(2) Host landowner. The application must include the name and address of the legal owner of the land ~~upon~~ which the proposed net-metering system would be built~~, and the number of any Act 250 Land Use Permitapplicable to the host parcel~~.

(3) Adjoining landowners. The application must include the names and addresses of all adjoining landowners. ~~This information must be obtained from the most recent version of the town's grand list.~~ Adjoining landowners must be identified using the host town's certified grand list as it existed no more than 60 days before the date of the advance submission or online through the Vermont Center for Geographic Information database, municipality-specific databases, the Vermont Department of Taxes grand lists, or electronic versions of grand lists maintained by municipalities. An applicant must verify with the relevant municipality that the online database provides accurate and current information regarding parcel ownership within that municipality. Documentation of verification must be signed and attested to by an applicant.

(4) Certification that advance submission requirements have been met. The applicant must certify that it has complied with the advance submission requirements listed above.

(5) Site plans. The applicant must provide a site plan for each project. A site

plan must include:

(a) Proposed facility location ~~and~~, any project features, and project limits;

(b) Approximate property boundaries and setback distances from those boundaries to the corner of the closest project-related structure, approximate distances to any nearby residences, and dimensions of all proposed improvements;

(c) Proposed utilities, including approximate distance from source of power, sizes of service available and required, and approximate locations of any proposed utility or communication lines;

(d) ~~A description~~Locations, specific descriptions, and the total acreage of any areas where vegetation is to be cleared or altered, proposed earth disturbance, ~~and~~ a description of any proposed direct or indirect alterations to or impacts on wetlands or other natural resources protected under 30 V.S.A. § 248(b)(5), including the project limits ~~of disturbance and the total acreage of any disturbed area~~, and the total acreage of forest clearing;

(e) Detailed plans for any drainage of surface and/or sub-surface water and plans to control erosion and sedimentation both during construction and as a permanent measure;

(f) Locations and specific descriptions of proposed screening, aesthetic mitigation, landscaping, groundcover, fencing, exterior lighting, and signs;

(g) Plans of any proposed access driveway, roadway, or parking area at the project site, including grading, drainage, and traveled width, as well as a cross-section of the access drive indicating the width, depth of gravel, paving, or surface materials; and

~~(g)~~ The latitude and longitude coordinates for the proposed project~~; and~~

(h) ~~The approved site plan from any Act 250 Land Use Permit applicable to the host parcel~~.

(6) Wetland delineation. The applicant must provide either a wetland

delineation prepared by a qualified consultant, or a letter from the district wetland ecologist or a qualified consultant stating that no delineation is necessary because the net-metering system will not be proximate to any significant wetlands. The wetland delineation must have been completed within the five years before the date of the application.

~~(6)~~ Response to comments received in response to 45-day advance submission. The applicant must file a document summarizing the comments and recommendations received in response to the 45-day notice. The document must respond to the issues raised in those comments and recommendations and must state what steps the applicant has taken to address those issues or why the applicant is unable to do so.

~~(6) Statement of Consistency with Act 250 Land Use Permit. If the host parcel is subject to an Act 250 Land Use Permit, the applicant must file a document describing whether the construction of the proposed net-metering system will interfere with the satisfaction of any condition contained in the Act 250 Land Use Permit. If the construction will interfere with the satisfaction of any Act 250 Land Use Permit condition, the applicant must explain what steps it will take to address such issues or why the applicant is unable to do so.~~

(8) Preferred-Site Documentation.

(a) Brownfields. If a project will be located on a brownfield and an applicant claims preferred-site status under subsection (4) or (7) of the definition of "preferred site," the applicant must provide a site investigation report, as required by the Agency of Natural Resources' Investigation and Remediation of Contaminated Properties Rule, or a letter from the Secretary of Natural Resources stating that a site investigation report is not necessary.

(b) Resource extraction sites. If a project will be located on a resource extraction site and an applicant claims preferred-site status under subsection (6) or (7) of the definition of "preferred site," the applicant must provide:

(i) Evidence depicting what is or was the disturbed portion of

the site, which may include plans for the extraction site, aerial photographs, topographic surveys, and information about vegetative communities; and

(ii) If the extraction site has state or local permits with reclamation requirements, copies of such permits and documentation from the permitting agency stating that all permit reclamation requirements have been or will be satisfied before operation of the plant.

(9) Proof of interconnection approval. The applicant must receive approval to interconnect the proposed net-metering system to the interconnecting utility's distribution system before filing an application. Interconnection applications and disputes about interconnection requirements are governed by Rule 5.500.

(10) A statement of whether the proposed net-metering system will be in a flood hazard area or river corridor and whether the proposal will comply with the Agency of Natural Resources' Flood Hazard Area and River Corridor Rule.

(11) Adjacent facilities. The applicant must identify any known (e.g., visible from the project site, or developed by the same applicant, developer, installer, or an affiliated entity) existing or planned generation facilities on the same or an adjacent parcel as the proposed net-metering system. The applicant must:

(a) State the distance between the facilities;

(b) Identify the owner(s) of the facilities and explain their relationship, if any;

(c) Describe the timing of the construction of the facilities;

(d) Identify and describe any infrastructure shared by the facilities; and

(e) Provide a site plan showing the two facilities.

(12) Systems greater than 50 kW must provide the following:

(a) Required evidence, project narrative, proposed findings, and proposed CPG. The applicant must provide evidence

demonstrating that the proposed net-metering system will meet the criteria applicable to the system under Section 5.111 of this Rule. A witness sponsoring evidence must file a notarized affidavit stating that the information provided is accurate to the best of the witness's knowledge. All evidence must be sponsored by a witness. The witness must further attest to having personal knowledge to be able to testify as to the validity of the information contained in the evidence. The applicant must include a brief project narrative describing the project in plain terms. The applicant must file proposed findings of fact and a proposed CPG with the application.

(b) The presence and total acreage of primary agricultural soils as defined in 10 V.S.A. § 6001 on each tract to be physically disturbed in connection with the construction and operation of the net-metering system, the amount of those soils to be disturbed, and any other proposed impacts to those soils.

(c) For each proposed structure, the applicant must provide elevation drawings. The elevation drawings must be to appropriate scales but no smaller than 1"/20'.

(i) The applicant must include two elevation drawings of the proposed structures drawn at right angles to each other, showing the ground profile to at least 100 feet beyond the edge of any proposed clearing, and showing any guy wires or supports. The elevation drawing must show height of the structure above grade at the base, and describe the proposed finish of the structure.

(ii) The elevation drawing must indicate the relative height of the facility to the tops of surrounding trees as they presently exist.

(d) Local and regional plans. The applicant must provide copies of the relevant sections of any town plan and regional plan in effect in the community in which the proposed facility will be located. The

applicant must describe how the project complies with or is inconsistent with the land conservation measures in those plans.

(e) Decommissioning plan. All applications for net-metering systems with capacities equal to or greater than 150 kW must include a decommissioning plan that provides for the removal and safe disposal of project components and the restoration of any primary agricultural soils, if such soils are present within the net-metering system's project limits.

(E) Review for Administrative Completeness. Commission staff will review all filed applications to determine whether they are administratively complete enough to process. Applicants should receive an e-mail message with the results of this review within ~~5 business~~7 days of the date the Commission received the application; however, the expiration of this time period without the receipt of an e-mail message does not constitute a determination that the application is administratively complete enough to process. If the application is found to be complete, the applicant must provide copies of the application to the persons set forth in Sections 5.106(F), below. If the application is found to be incomplete, the applicant will be informed of the deficiencies and will be given an opportunity to cure them. A determination that an application is administratively complete enough to process is not a legal determination regarding the sufficiency of the information included in the application.

(F) Service of ~~Copies~~ Notice of Applications. Within 2 ~~business~~ days after the application is determined to be administratively complete, the applicant must serve ~~copies~~ notice of the application in accordance with this section.

(1) Entities Entitled to ~~Copies~~ Notice of the Application:

(a) the municipal legislative bodies and the municipal and regional planning commissions where the net-metering system will be located;

(b) the host landowner;

(c) all adjoining landowners;

(d) the Department of Public Service;

(e) the Agency of Natural Resources;

(f) the Natural Resources Board, if the proposed net-metering systems is located on a ~~parcel subject to an Act 250 Land Use~~

~~Permit~~resource extraction site;

(g) the Division for Historic Preservation;

(h) the Agency of Agriculture Food and Markets; and

(i) the electric company.

(2) Method of Service.

~~(a) The applicant must provide a copy of the application to the entities named in (1)(a) through (c), above, by certified mail.~~

~~The applicant must cause copies of the application to be transmitted to the entities listed under (1)(d) through (i), above, using the Commission's electronic filing system, or if the applicant is making a paper filing, then using certified mail.~~Notice to state agencies, the electric company, and regional planning commissions will occur through ePUC. The applicant must provide notice to any affected municipal legislative body and planning commission, host landowner, and adjoining landowners by first-class mail, personal delivery, or any other means authorized by the person entitled to service. This notice must include, at a minimum, the case number, a reference and link to the advance submission required under Rule 5.106(C), a general description of the proposed net-metering system and its location, a statement that a complete application has been filed with the Commission and that the case has been opened, and information and a link that will allow the recipient to access the complete application electronically. The notice must also include instructions on how a recipient can contact the applicant to obtain a hard copy of the complete project plans and petition if the recipient is not able to access them electronically. If a hard copy is requested by the recipient, the applicant must serve it by first-class mail or its equivalent within 4 days of the request.

(G) Effect of Failure to Provide Timely Service. The Commission will grant reasonable extensions of time to the entities listed under (F)(1), above, to make a responsive filing when the applicant fails to cause timely service of ~~copies~~ notice of an application.

~~(H) Interconnection. If the electric company finds that the interconnection of the net-~~

~~metering system will have an adverse effect on system stability or reliability, the electric company shall convey these concerns in writing to the applicant and the Commission by no later than the thirty-first day following the Commission's determination that the application is complete. The electric company's filing must include a recommendation as to how the interconnection issues could be resolved by the applicant. If a concern is raised, a CPG will not issue until the electric company files a letter stating that the concern has been addressed or the Commission finds that the proposed net-metering system may be safely interconnected with the company's distribution grid without having an adverse impact on system stability and reliability. The letter must also describe all improvements to the grid necessary to interconnect the net-metering system. Any dispute between an applicant and the electric company shall be resolved using the dispute resolution procedures contained in Rule 5.500.~~

5.107 ~~Applications for Net-Metering Systems Greater Than 50 kW That Are Not Roof-Mounted Photovoltaic Systems or Hydroelectric Facilities~~[DELETED]

~~(A) Applicability. This application procedure is applicable to net-metering systems greater than 50 kW that are not photovoltaic systems mounted on a roof or hydroelectric facilities.~~

~~(B) Advance Notice Requirements. The applicant must provide notice of the application as follows:~~

~~(0) Recipients Entitled to Advance Submission. The applicant must provide the following persons with an advance submission, at least 45 days in advance of filing the application with the Commission:~~

~~( ) the municipal legislative bodies and municipal and regional planning commissions in the communities where the project will be located;~~

~~( ) all adjoining landowners;~~

~~( ) the host landowner;~~

~~( ) the Department of Public Service;~~

~~( ) the Agency of Natural Resources~~

~~( ) the Natural Resources Commission, if the proposed net-metering system is located on a parcel subject to an Act 250 Land Use~~

~~Permit;~~

~~( ) the Division for Historic Preservation;~~

~~( ) the Agency of Agriculture Food and Markets; and~~

~~( ) the electric company.~~

~~(0) Method of Service of Advance Submission. The applicant must cause the advance submission to be served to the entities listed in (1)(a) through (c), above, by certified mail. The applicant must cause the advance submission to be transmitted to the entities listed in (1)(d) through (i), above, using the Commission's electronic filing system, unless the applicant is making a paper filing in accordance with the Commission's rules, in which case service must be by certified mail. With permission from the intended recipient, the applicant may serve a copy of the advance submission via electronic mail.~~

~~(0) Contents of Advance Submission. The notice must state that the applicant intends to file a Section 8010 application with the Commission, must identify the location of the project site and the number of any Act 250 Land Use Permit applicable to the host parcel, and must provide a description and site plan of the proposed project in sufficient detail to afford the recipient reasonable notice of the nature of the project so that the recipient is able to make an informed judgment as to any potential impact the construction or operation of the project may have on any interest of the recipient that is within the Commission's jurisdiction to address. The submission must provide contact information and state that the recipient may file inquiries or comments with the applicant about the project and that the recipient will also have an opportunity to file comments with the Commission once the application is filed.~~

~~(0) Timing of Advance Submission and Application. If, within 180 days of the date of the advance submission, the applicant has not filed a complete application for the project that fully complies with the filing requirements of this Rule, the submission will be treated as withdrawn without further action required by the Commission.~~

~~(A) Filing Requirements. Applications for net-metering systems subject to this~~

~~Section 5.107 must contain the following information. Failure to provide any required information will result in the application being deemed incomplete:~~

~~(0) Applicant name. The application must include the legal name (and the "doing business as" name, if different), contact information, Vermont business registration number (if applicable), and a description of the company or person making the application. For example:~~

~~XYZ Corporation (d/b/a ABC Solar)~~
~~Headquarters at 123 Maple Lane, Anytown, VT 05600~~
~~Service Agent: Jane Doe, Esq.~~
~~VT Business ID#: 12345~~

~~(0) Host landowner. The application must include the name and address of the legal owner of the land upon which the proposed net-metering system would be built and the number of any Act 250 Land Use Permit applicable to the host parcel.~~

~~(0) Adjoining landowners. The application must include the names and addresses of all adjoining landowners. This information must be obtained from the most recent version of the town's grand list.~~

~~(0) Certification that advance submission requirements have been met. The applicant must certify that it has complied with the advance submission requirements listed above.~~

~~(0) Site plans. The applicant must provide a site plan for each project. A site plan must include:~~

~~( ) Proposed facility location and any project features;~~

~~( ) Approximate property boundaries and setback distances from those boundaries to the corner of the nearest project-related structure, approximate distances to any nearby residences, and dimensions of all proposed improvements;~~

~~( ) Proposed utilities, including approximate distance from source of power, sizes of service available and required, and approximate locations of any proposed utility or communication lines;~~

~~( ) A description of any areas where vegetation is to be cleared or altered and a description of any proposed direct or indirect alterations to or impacts on wetlands or other natural resources~~

~~protected under 30 V.S.A. § 248(b)(5), including the limits of disturbance, and the total acreage of any disturbed area;~~

~~( ) Detailed plans for any drainage of surface and/or sub-surface water and plans to control erosion and sedimentation both during construction and as a permanent measure;~~

~~( ) Locations and specific descriptions of proposed screening, landscaping, groundcover, fencing, exteriorlighting, and signs;~~

~~( ) Plans of any proposed access driveway, roadway, or parking area at the project site, including grading, drainage, and traveled width, as well as a cross-section of the access drive indicating the width, depth of gravel, paving, or surface materials;~~

~~( ) The latitude and longitude coordinates for the proposed project;~~

~~( ) The presence and total acreage of primary agricultural soils asdefined in 10 V.S.A. § 6001 on each tract to be physically disturbed in connection with the construction and operation of the net-metering system, the amount of those soils to be disturbed, andany other proposed impacts to those soils; and~~

~~( ) The approved site plan from any Act 250 Land Use Permit applicable to the host parcel.~~

~~(0) Elevation drawings.~~

~~( ) For each proposed structure, the applicant must provide elevation drawings.~~

~~( ) The elevation drawings must be to appropriate scales but no smaller than 1"/20'.~~

~~( ) The applicant must include two elevation drawings of the proposed structures drawn at right angles to each other, showing the ground profile to at least 100 feet beyond the edge of any proposed clearing, and showing any guy wires or supports. The elevation drawing must show height of the structure above grade at the base, and describe the proposed finish of the structure.~~

~~( ) The elevation drawing must indicate the relative height of the facility to the tops of surrounding trees as they presently exist.~~

~~(a) Each plan sheet must be clearly labeled with the project title, date, revision date(s), scale, and name of the person or firm that prepared the plan.~~

~~(1) Testimony, exhibits, proposed findings, and proposed CPG. The applicant must address each of the applicable Section 248 criteria through testimony and exhibits. The testimony and exhibits must contain sufficient facts to support a positive finding by the Commission under each of the applicable Section 248 criteria. To the extent that the proposal will result in an adverse impact affecting any of these criteria, the applicant must describe what measures, if any, will be taken to minimize any such impact.~~

~~Any witness sponsoring an exhibit or testimony must file a notarized affidavit stating that the information provided is accurate to the best of the witness's knowledge. All exhibits must be sponsored by a witness. The witness must further attest to having personal knowledge to be able to testify as to the validity of the information contained in the exhibit or testimony.~~

~~The applicant must file proposed findings of fact and a proposed CPG with the application.~~

~~(1) Local and regional plans. The applicant must provide copies of the relevant sections of any town plan and regional plan in effect in the community in which the proposed facility will be located. The applicant must include testimony describing describe how the project complies with or is inconsistent with the land conservation measures in those plans.~~

~~(1) Wetland delineation. The applicant must provide either a wetland delineation prepared by a qualified consultant, or a letter from the district wetland ecologist or a qualified consultant stating that no delineation is necessary because the net-metering system will not be proximate to any significant wetlands.~~

~~(1) Interconnection.~~

~~(a) For net-metering systems with a capacity greater than 150 kW, the applicant must file as part of the application a letter from the~~

~~electric company stating that the proposed net-metering system may be safely interconnected with the company's distribution grid without having an adverse impact on system stability or reliability. The letter must also describe all improvements to the grid necessary to interconnect the net-metering system.~~

~~(a) For systems with a capacity less than or equal to 150 kW, no letter from the electric company is required as part of the application. However, if the electric company finds that the interconnection of the net-metering system will have an adverse effect on system stability or reliability, the electric company shall convey these concerns in writing to the applicant and the Commission no later than the thirty-first day following the Commission's determination that the application is complete. The electric company's filing must include a recommendation as to how the interconnection issues could be resolved by the applicant. If a concern is raised, a CPG will not issue until the electric company files a letter stating that the concern has been addressed or the Commission finds that the proposed net-metering system may be safely interconnected with the company's distribution grid without having an adverse impact on system stability and reliability. The letter must also describe all improvements to the grid necessary to interconnect the net-metering system. Any dispute between an applicant and the electric company shall be resolved using the dispute resolution procedures contained in Rule 5.500.~~

~~(1) Responses to comments received in response to 45-day advance submission. The applicant must file a document summarizing the comments and recommendations received in response to the 45-day notice. The document must respond to the issues raised in those comments and recommendations and must state what steps the applicant has taken to address those issues or why the applicant is unable to do so.~~

~~(1) Decommissioning plan. All applications for net-metering systems with capacities greater than 150 kW must include a decommissioning plan that provides for the removal and safe disposal of project components and the~~

~~restoration of any primary agricultural soils, if such soils are present within the net-metering system's limits of disturbance.~~

~~( ) Statement of consistency with Act 250 Land Use Permit. If the host parcel is subject to an Act 250 Land Use Permit, the applicant must file a document describing whether the construction of the proposed net-metering system will interfere with the satisfaction of any condition contained in the Act 250 Land Use Permit. If the construction will interfere with the satisfaction of any Act 250 Land Use Permit condition, the applicant must explain what steps it will take to address such issues or why the applicant is unable to do so.~~

~~(B) Review for Administrative Completeness. Commission staff will review all filed applications to determine whether they are administratively complete enough to process. Applicants should receive an e-mail message with the results of this review within 5 business days of the date the Commission received the application; however, the expiration of this time period without the receipt of an e-mail message does not constitute a determination that the application is administratively complete enough to process. If the application is found to be complete, the applicant must provide copies of the application to the persons as set forth in Section 5.107(E), below. If the application is found to be incomplete, the applicant will be informed of the deficiencies and will be given an opportunity to cure them. A determination that an application is administratively complete enough to process is not a legal determination regarding the sufficiency of the information included on the application.~~

~~(B) Service of Copies of Applications and Notices. Within 2 business 4 calendar days after the application is determined to be administratively complete, the applicant must serve copies of the application or provide notice of the application in accordance with this section.~~

~~(0) Entities Entitled to Copies of the Application:~~

~~( ) the municipal legislative bodies and the municipal and regional planning commissions where the net-metering system will be located;~~

~~( ) the Department of Public Service;~~

~~( ) the Agency of Natural Resources;~~

~~( ) the Natural Resources Board, if the proposed net-metering system~~

~~is located on a parcel subject to an Act 250 Land Use Permit;~~

~~the Division for Historic Preservation;~~

~~(a) the Agency of Agriculture Food and Markets; and~~

~~(a) the electric company.~~

~~(a) the host landowner; and~~

~~(a) all adjoining landowners.~~

~~(1) Method of Service.~~

~~(a) The applicant must provide a copy of the application to the entities listed in (1)(a), (h), and (i), above, by certified mail.~~

~~(a) The applicant must cause copies of the application to be transmitted to the entities named in (1)(b) through (g), above, using the Commission's electronic filing system, or if the applicant is making a paper filing, using certified mail.~~

~~(a) The applicant must cause notices under (1)(h) and (i), above, to be served by certified mail.~~

~~(1) Effect of Failure to Provide Timely Service. The Commission will grant reasonable extensions of time to the entities listed in (E)(1) and (2), above, to file comments when the applicant fails to cause timely service of copies of an application or a notice.~~

~~5.109~~5.108 Amendments to Pending Registrations and Applications

(A) ~~Minor Amendment.~~ An applicant may amend a pending Section 5.105 registration by filing an amended registration form in the pending registration case. The applicant must pay the modification fee set forth in 30 V.S.A. § 248c(d). The filing of an amended registration form will trigger a new 14-day review period and a CPG will be deemed issued on the 15th day after the filing, unless otherwise ordered by the Commission.

~~(A)~~(B) An applicant may amend a pending Section 5.106 application by filing a motion in the pending application case. The applicant must pay the modification fee set forth in 30 V.S.A. § 248c(d). Applicants must provide notice of all ~~minor amendments~~ substantial changes to all persons and entities who were entitled to receive a copy of the original application. The ~~notice~~motion must ~~provide~~ include sufficient information, including an amended site plan, so that the Commission can understand the nature of the

proposed change and its impact, if any, ~~on~~under any of the Section 248 criteria. ~~The Commission may request additional information from the applicant; regarding a proposed minor amendment at any time during the review of a net-metering system. Any comments or objections to a proposed minor amendment must be filed within 10 business days of the date the minor amendment was filed with the Commission.~~ In response to a motion to amend, the Commission may, in its discretion:

(1) ~~Major Amendment. An applicant seeking a major amendment must withdraw its application or registration and refile the amended document in accordance with the applicable procedures for that type of net-metering system.~~ request additional information from the applicant;

(2) request comments from interested persons; and

(3) undertake any other process necessary to ensure the adequate review of the proposed amendment.

(C) Effect of amendment on applicable REC and siting adjustors. Except as provided below, the REC and siting adjustors applicable to an amended net-metering system, if any, will be based on the date that the first, complete application or registration was filed with the Commission and not on the date that the amendment request was filed. An amendment or series of amendments that increase the capacity of a net-metering system by more than 5% or 15 kW, whichever is greater, will trigger the application of the most recently adopted siting and REC adjustors to the entire output of the amended net-metering system.

~~(B)~~(D) Any amendment that is a material modification, as that term is defined in Rule 5.500, must be approved by the interconnecting utility before the amendment motion is filed with the Commission.

5.109 ~~Amendments~~Substantial Changes to Approved Net-Metering Systems and Amendment of CPGs

~~(A) Minor Amendment. For ground-mounted systems, certificate holders must provide notice of all minor amendments to the Commission, the Department of Public Service, the Agency of Natural Resources, the Natural Resources Board if the host parcel is subject to an Act 250 Land Use Permit, and any party to the proceeding in which the net-metering system was granted a CPG. For roof-mounted systems, certificate holders must provide notice of all minor amendments to the Commission, the Department of Public Service, the Natural Resources Board if the host parcel is subject to an Act 250 Land Use~~

~~Permit, and any party to the proceeding in which the net-metering system was granted a CPG. The notice must provide sufficient information so that the Commission can understand the nature of the proposed amendment and its impact, if any, on any of the Section 248 criteria. The certificate holder may implement the proposed minor amendments without further action by the Commission unless a written objection is filed with the Commission within 10 business days after the minor amendment notice. If an objection is filed by any of the persons specified in this subsection, the certificate holder may not implement the proposed minor amendment until the objection has been withdrawn or resolved by the Commission.~~

~~(B) Major Amendment. The procedure for obtaining authorization to implement a major amendment is the same as the application procedure for the category of net-metering system applicable to the amended net-metering system.~~

Commission approval is required for any substantial change to the plans of a net-metering system that has been issued or deemed issued a certificate of public good. An amended CPG, necessitated by changes substantial or non-substantial, may be obtained in the following manner:

(A) If the amended system meets the eligibility criteria to register for a CPG under Section 5.105, then the CPG holder may obtain an amended CPG by filing a revised registration form with the Commission. The registration must be filed as a new case in ePUC and will receive a new case number. The CPG holder requesting an amendment must submit the fee due for modifications under 30 V.S.A. § 248c(d)(3)(B).

(B) Amendment of CPGs issued pursuant to Rule 5.106. If the approved net-metering system has not been commissioned at the time the change is proposed, a request for an amendment to the CPG may be filed in the same case in which the CPG was issued. If the case in which the CPG was issued has been closed, the CPG holder must contact the Clerk of the Commission before filing. If the approved net-metering system has been commissioned, then the request for an amendment must be filed in a new case. The CPG holder requesting an amendment must submit the fee due for modifications under 30 V.S.A. § 248c(d)(3)(B).

(1) The CPG holder must provide notice of substantial changes to all parties to the original CPG case and the entities entitled to notice of a new application, including any newly affected adjoining landowners. Notice does not need to be given to previous adjoining landowners who have transferred their interests since the time of the project's approval. New case procedures, including the provision of a 45-day advance submission, do not apply. The request must include evidence addressing each of the applicable Section 248 criteria under which

the change has the potential to have a significant impact.

(2) The CPG holder must provide notice of requests for amendments to CPGs that are the result of non-substantial changes to the parties to the original CPG case. New case procedures, including the provision of a 45-day advance submission, do not apply. The request must include sufficient information for the Commission to determine that the proposed changes do not have the potential for significant impact under the applicable Section 248 criteria.

(C) ~~Maintenance and Repair.~~ The maintenance and repair of net-metering systems and the replacement of equipment with like equipment do not require ~~prior~~advance notice or Commission approval.

(D) Effect of amendment on applicable REC and siting adjustors. Except as provided below, the REC and siting adjustors applicable to an amended net-metering system, if any, will be based on the date that the first, complete application or registration was filed with the Commission and not on the date that the amendment request was filed. An amendment or series of amendments that increase the capacity of a net-metering system by more than 5% or 15 kW, whichever is greater, will trigger the application of the most recently adopted siting and REC adjustors to the entire output of the amended net-metering system.

(E) Any amendment that is a material modification, as that term is defined in Rule 5.500, must be approved by the interconnecting utility before the amendment is proposed to the Commission.

5.110 Transfer and Abandonment of CPGs

(A) ~~Transfer With Change in Ownership of Host Property.~~ A CPG for a net-metering system is deemed to be automatically transferred when the property hosting a net-metering system is sold or legal title is otherwise conveyed to a new owner. The new owner may continue operating the net-metering system provided that~~:~~ the new owner provides written notice of the transfer to the electric company.

~~(A)~~(B) A CPG for a net-metering system that is transferred independently of a change in ownership of the property hosting the net-metering system may be transferred provided that:

(1) the original certificate holder is in compliance with all terms and conditions of the CPG;

(2) the new ~~owner agrees to operate and maintain the net-metering system according to~~ certificate holder complies with all terms and conditions of the CPG and complies with this Rule 5.100; and

(3) within 30 days after acquiring ownership of the system, the new owner of

a ground-mounted system completes and files an official transfer form with the Commission, the Department of Public Service, the Agency of Natural Resources, and the electric company, or within 30 days after acquiring ownership of the system, the new owner of a roof-mounted system completes and files an official transfer form with the Commission, the Department of Public Service, and the electric company.

~~Transfer Separate from Change in Ownership of Host Property. CPG holders seeking to transfer a net-metering CPG separately from a change in ownership of the property hosting the net-metering system must obtain Commission approval prior to transferring a CPG. To obtain Commission approval of a proposed transfer, the current CPG holder and proposed CPG holder must complete and file a form developed for this purpose.~~

(C) Abandonment. Non-use of a CPG for a period of one year following the date the CPG is issued will result in the revocation of the CPG without further action by the Commission. For the purpose of this section, for a CPG to be considered used, the net-metering system must be commissioned. ~~An~~ A CPG holder may obtain an automatic one-year extension of time by providing written notice to the Commission and the electric company. Such notice must be (1) filed in the case in which the CPG was issued or deemed issued, unless the case is closed, in which case the filer should contact the Clerk, and (2) filed before the one-year anniversary of CPG issuance; otherwise the CPG will be deemed revoked. Further extensions will only be granted upon written request and for good cause shown before expiration of the CPG. ~~Prior to construction, a certificate~~A CPG holder may abandon a CPG ~~at any time upon~~ before construction by providing written notice ~~thereof~~ to the Commission, the Department, the Agency of Natural Resources, and the electric company.

5.111 Substantive Criteria of 30 V.S.A. § 248(b) Applicable to Net-Metering CPG Registrations and Applications

Pursuant to 30 V.S.A. § 8010, which provides that the Commission may waive the requirements of 30 V.S.A. § 248(b) that are not applicable to net-metering systems, the Commission will review registrations and applications for net-metering systems for compliance with the following statutory criteria. ~~(~~All other criteria are conditionally waived.~~)~~

(A) For state-jurisdictional hydroelectric net-metering systems and for net-metering systems that are located on a new or existing structure whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity: 30 V.S.A. § 248(b)(3) ~~(stability and reliability)~~.

(B) For net-metering systems that are not located on a new or existing structure whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity and that elect to *transfer* the tradeable renewable energy credits to the electric company: 30 V.S.A. §§ 248(b)(1) ~~(orderly development)~~; (b)(3) ~~(stability and reliability)~~; (b)(5)~~, (aesthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and public health and safety)~~, except that the applicant does not need to address the effect of the net-metering system on municipal services, educational services, transportation, water conservation, sufficiency of water, existing water supply, or greenhouse gases; (b)(8) ~~(outstanding resource waters)~~; and Section 248(s) ~~(setbacks)~~.

(C) For net-metering systems that are not located on a new or existing structure whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity and that elect to *retain* the tradeable renewable energy credits generated by the net-metering system: 30 V.S.A. §§ 248(b)(1) ~~(orderly development)~~; (b)(2) ~~(need)~~; (b)(3) ~~(stability and reliability)~~; (b)(5), ~~(aesthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and public health and safety);~~except that the applicant does not need to address the effect of the net-metering system on municipal services, educational services, transportation, water conservation, sufficiency of water, existing water supply, or greenhouse gases; (b)(8) ~~(outstanding resource waters)~~; and Section 248(s) ~~(setbacks)~~.

5.112 Aesthetic Evaluation of Net-Metering Projects

(A) Quechee Test. In determining whether a net-metering system satisfies the aesthetics criterion contained in 30 V.S.A. § 248(b)(5), the Commission applies the so-called "Quechee test" as described in the case *In Re Halnon*, 174 Vt. 515(2002) (mem.), set forth below:

(1) Step one: Determine whether the project would have an adverse impact on

aesthetics and the scenic and natural beauty of an area because it would not be in harmony with its surroundings. If the answer is no, then the project satisfies the aesthetics criterion. If yes, move on to step two.

(2) Step two: The adverse impact will be found to be undue if any one of the three following questions is answered affirmatively:

(a) Would the project violate a clear, written community standard intended to preserve the aesthetics or scenic, natural beauty of the area?

(b) Would the project offend the sensibilities of the average person?

(c) Have the applicants failed to take generally available mitigating steps that a reasonable person would take to improve the harmony of the proposed project with its surroundings?

(B) Adverse Aesthetic Impact. In order to determine that a project would have an adverse impact on aesthetics and the scenic and natural beauty under subsection (A)(1), above, the Commission must find that a project would be out of character with its surroundings. Specific factors used in making this evaluation include the nature of the project's surroundings, the compatibility of the project's design with those surroundings, the suitability of the project's colors and materials with the immediate environment, the visibility of the project, and the impact of the project on open space.

(C) Clear, Written Community Standard. In order to find that a project would violate a clear, written community standard, the Commission must find that the Project is inconsistent with a provision of the applicable town or regional plan that:

(1) Designates specific scenic resources in the area where the project is proposed. Statements of general applicability do not qualify as clear, written community standards. For example, the general statement that "agricultural fields shall be preserved" would not qualify because the statement does not designate specific resources as scenic. The statement "the agricultural fields to the west of Maple Road are scenic resources that must be preserved" would qualify because it designates specific resources as scenic.

(2) Provides specific guidance for project design. For example, the statement "only dwellings, forestry, and agriculture are permitted within the Maple Road scenic protection area" would be a clear standard because it states

with specificity what type of development is permitted. The statement "all development in the Maple Road scenic protection area must maintain the rural character of the area" would not be a clear standard because it does not state with specificity what type of development is permitted.

(D) Offend the Sensibilities of the Average Person. A project will be found to offend the sensibilities of the average person if the project would be so out of character with its surroundings or so significantly diminish the scenic qualities of the area as to be offensive or shocking to the average person. In determining whether a project would offend the sensibilities of an average person, the Commission will consider the perspective of an average person viewing the project from both adjoining residences and from public vantage points.

(E) Generally Available Mitigating Steps. In determining whether an applicant has taken generally available mitigating steps, the Commission may consider the following:

(1) what steps, such as screening, the applicant is proposing to take;

(2) whether the applicant has adequately considered other available options for siting the project in a manner that would reduce its aesthetic impact;

(3) whether the applicant has adequately explained why any additional mitigating steps would not be reasonable; and

(4) whether mitigation would frustrate the purpose of the Project.

5.113 Setbacks

Applicants seeking authorization to construct a ground-mounted net-metering system must comply with the following minimum setback requirements:

(1) From a state or municipal highway, measured from the edge of the traveled way:

(a) 100 feet for a solar facility with a plant capacity exceeding 150 kW; and

(b) 40 feet for a solar facility with a plant capacity less than or equal to 150 kW but greater than 15 kW.

(2) From each property boundary that is not a state or municipal highway:

(a) 50 feet for a solar facility with a plant capacity exceeding 150 kW; and

(b) 25 feet for a solar facility with a plant capacity less than or equal to 150 kW but greater than 15 kW.

(3) This subsection does not require a setback for a solar facility with a plant capacity equal to or less than 15 kW.

(4) In the case of a net-metering wind turbine, the facility must be set back from all property boundaries and public rights-of-way by a distance equal to at least twice the height of the turbine, as measured from the tip of the blade.

(5) On review of an application, the Commission may either require a larger setback than this subsection requires, or approve an agreement to a smaller setback among the applicant, the municipal legislative body, and each owner of property adjoining the smaller setback.

PART III: PARTICIPATING IN THE REVIEW OF APPLICATIONS FOR CPGS

Part III describes the procedures ~~applicable to~~ available to the public and parties during the review of net-metering applications filed pursuant to Sections 5.106 ~~and 5.107~~. Part III does not apply to the review of net-metering registrations filed pursuant to Section 5.105.

5.114 Obtaining Information About a Net-Metering CPG Application

Interested persons may obtain information about a net-metering CPG application by visiting ~~the web portal for the Commission's electronic filing system~~ePUC at https://epuc.vermont.gov or by contacting the Clerk of the Commission.

5.115 Rules and Processes Applicable to the Review of Net-Metering CPG Applications

The purpose of this Rule is to simplify the process of participating in the review of applications for net-metering CPGs. In keeping with this purpose, the process for reviewing CPG applications is described in Sections 5.116 through 5.124, below. ~~The following provisions of the Commission's general rules of practice, Commission Rule 2.200 (Procedures Generally Applicable), do not apply in the review of a net-metering application or a hearing thereon: Commission Rules 2.202 (initiation of proceedings), 2.204(A) (G) (filing and service requirements), 2.205 (notice), 2.207 (time), 2.213 (prefiled testimony), 2.214 (A)(discovery), and 2.216(A) (C) (evidence).~~ Any procedure not described in this Rule is governed by the provisions of Rule 2.200. Where there is a conflict between the procedures described in this Rule and any other Commission rule, the provisions of this Rule govern.

5.116 Submission of Public Comments

When a net-metering application is filed with the Commission, the public may file comments addressing whether the application should be approved. Public comments that do not include a notice of intervention, a motion to intervene, or a request for hearing may be filed using ePUC, by email to puc.clerk@vermont.gov, or in paper. All public comments concerning an application must be filed with the Commission, with a copy sent to the applicant unless the comment was filed in ePUC, within 30 days from the date of notification by the Commission that the application is administratively complete. These public comments will be viewable on the Commission's electronic filing system. The applicant may file a written response to all timely

filed public comments with the Commission within ~~15~~14 ~~calendar~~ days of the close of the 30-day public comment period, unless otherwise directed by the Commission.

5.117 Party Status in Net-Metering CPG Proceedings

(A) When a person wishes to participate in the review of a CPG application as a party, which is a prerequisite to filing an appeal of a final Commission decision, such person must obtain party status from the Commission.

(B) The following persons must obtain party status as follows:

(1) The Vermont Department of Public Service, and the Agency of Natural Resources are parties in any proceeding under this Rule.
~~The Natural Resources Board is a party in any proceeding for which it is entitled to receive notice of an application under this Rule.~~

(2) The following persons will ~~be granted~~obtain party status ~~by~~from the Commission only after filing a notice of intervention. All notices of intervention must be filed using ePUC unless the filing is accompanied by a request for a waiver under Commission Rule 2.107 to allow for paper filings. If a notice of intervention is filed in paper along with a request for a waiver of the requirement to use ePUC, the filer must mail copies of the entire filing to all parties in the case. Filers can obtain a list of names and addresses of the parties in the case by contacting Commission administrative staff at 802-828-2358 or puc.clerk@vermont.gov. The Commission will provide a form for such purpose:

(a) the electric company;

(b) the legislative body and the planning commission of the municipality in which a facility is located, pursuant to 30 V.S.A. § 248(a)(4)(F);

(c) the regional planning commission of the region in which a facility is located;

(d) the regional planning commission of an adjacent region if the distance between the net-metering system's nearest component and the boundary of that adjacent region is less than or equal to 500 feet

or 10 times the height of the facility's tallest component, whichever is greater;

(e) the legislative body and planning commission of an adjacent municipality if the distance between the net-metering system's nearest component and the boundary of that adjacent municipality is less than or equal to 500 feet or 10 times the height of the facility's tallest component, whichever is greater;

(f) adjoining landowners;

(g) the Vermont Agency of Agriculture Food and Markets; ~~and~~

(h) the Vermont Division of Historic Preservation; and

~~(h)~~(i) the Natural Resources Board.

(C) Any other person seeking to participate in a net-metering proceeding as a party must file a motion to intervene either in accordance with Commission Rule 2.209 or by filing a form developed by the Commission for use under this Rule. All motions to intervene must be filed using ePUC unless the filing is accompanied by a request for a waiver under Commission Rule 2.107 to allow for paper filings. If a motion to intervene is filed in paper along with a request for a waiver of the requirement to use ePUC, the filer must mail copies of the entire filing to all parties in the case. Filers can obtain a list of names and addresses of the parties in the case by contacting Commission administrative staff at 802-828-2358 or puc.clerk@vermont.gov.

(D) Any person who obtains party status acquires all of the legal rights and obligations of a party in a Commission proceeding. The filing of public comments on an application and the consideration of such public comments by the Commission do not confer party status. Party status is conferred only upon the filing of a notice of intervention by the persons listed in (B)(3), above, or upon issuance of an order from the Commission granting a duly filed motion to intervene.

5.118 Requests for Hearing

The review of net-metering CPG applications is based upon the information contained in the application filed by the applicant. If a party wishes to offer contrary evidence or to challenge the accuracy of information contained in an application, then the party must request a hearing to present such evidence and argument. A party must file a request for hearing within 30 days from the date of notification by the Commission that the application is administratively complete. The

request must identify the proposed issues to be resolved through the hearing. Unless the party has already been granted party status by the Commission, a request for a hearing must be accompanied by a notice of intervention or motion to intervene, pursuant to Section 5.117 of this Rule.

5.119 Circumstances When the Commission Will ~~Conduct a~~Grant a Request for Hearing

(A) The Commission will grant a request for a hearing only if such request is filed by a party. Such a request may be included with a notice of intervention or motion to intervene. A hearing requested by a party will be granted provided that the request raises:

(1) one or more substantive issues under the applicable Section 248 criteria; or

(2) a substantive issue that is within the Commission's jurisdiction to resolve.

(B) Requests must be supported by more than general or speculative statements. For example, it is not sufficient to state that an application "violates Section 248(b)(5)." Instead, a party should state with specificity why the project raises a substantive issue under the Section 248 criteria. For example: "The application raises an issue under the aesthetics criterion under Section 248(b)(5) because the applicant has not proposed adequate mitigation to screen the western portion of the project from Maple Street."

5.120 ~~Prehearing~~Scheduling Conferences and Status Conferences

In cases where the Commission has determined that a hearing will be held, on reasonable notice the Commission will conduct a ~~prehearing~~scheduling conference prior to the hearing. The Commission may also conduct additional status conferences as necessary. ~~Upon request of a party and in the discretion of the Commission, such conferences may be conducted telephonically~~. The following topics may be addressed at a ~~prehearing~~scheduling or status conference:

(a) clarifying the issues to be addressed at the hearing and, if possible, narrowing them;

(b) identifying evidence, documents, witnesses, stipulations, and other offers of proof to be presented at a hearing;

(c) promoting the expeditious, informal, and nonadversarial resolution of issues and the settlement of differences;

(d) requiring the timely exchange of information concerning the application;

(e) setting a schedule for the prefiling of testimony and exhibits; and

(f) such other matters as the Commission deems appropriate.

5.121 ~~Discovery~~[DELETED]

~~Each party may serve interrogatories, requests for documents, and requests to admit on any other party. The cumulative number of such discovery requests may not exceed 20. For purposes of this limit, each subpart of a discovery request will be counted as a separate request. Any additional discovery may be obtained only upon request of a party and upon order of the Commission where the Commission finds that the requested discovery would not be unduly burdensome or expensive, taking into account such factors as the needs of the case, limitations on the parties' resources, and the importance of the issue in the case. Any discovery dispute must be submitted to the Commission in writing for resolution.~~

5.122 Procedure for Hearings

(A) Notice. Prior to any hearing conducted under this Rule, each party will receive a notice stating the time, place, and nature of the hearing. The notice will include a short and plain statement of the matters at issue in the hearing and a statement of the statutes and rules involved in the case.

(B) Order of Witnesses, Marking of Exhibits. At the hearing the Commission will establish the order in which the parties will present their witnesses and evidence. At that time all exhibits and any other documents to be entered into the record must be marked for identification (for example, Exhibit Applicant-1).

(C) Pre-Filed Testimony and Exhibits. Each party must pre-file a copy of all testimony and exhibits with the Commission. Copies of such filings must be provided to the applicant and other parties at the time of filing. At the discretion of the Commission, parties may present live direct or rebuttal testimony.

(D) Cross-Examination. At the hearing, each party will be afforded a reasonable opportunity to ask questions of other parties' witnesses.

(E) Evidence. The Rules of Evidence, as modified by 3 V.S.A. § 810, apply in hearings under this Rule.

(F) Transcript. Any hearing will be transcribed and a transcript will be made

available to the public by the Commission.

(G) Briefs, Proposed Findings of Fact. At the conclusion of the hearing, the parties will state whether they wish to file proposed findings of fact or legal briefs. A schedule for making such filings will be established, if necessary.

5.123 Decisions

After the conclusion of the hearing and after the submission of any briefs and proposed findings of fact, the Commission will issue a written decision in the case. In a case where a majority of the Commission members have not heard the case or read the record, a proposal for decision will be provided to the parties for comment and opportunity for oral argument prior to the issuance of a final decision.

5.124 Appeals of Commission Decisions

Information about how to appeal a Commission decision to the Vermont Supreme Court will be provided with any final order from the Commission.

PART IV: THE NET-METERING PROGRAM

5.125 Pre-Existing Net-Metering Systems

(A) Eligibility. A pre-existing net-metering system must:

(1) have a complete CPG application filed with the Commission prior to January 1, 2017; ~~and~~

(2) the complete CPG application must have been filed at a time when the electric company was accepting net-metering systems pursuant to 30 V.S.A. § 219a(h)(1)(A) as the statute existed on December 31, 2016, orqualified under state law as a system that did not count towards the capacity limit on net-metering contained in that statute~~.~~; and

~~(2)~~(3) not have been amended to increase its capacity by more than 5% or 10 kW, whichever is greater, after the effective date of this Rule.

(B) ~~Rules Applicable to the Review of CPG Applications for Pre-Existing Net-Metering Systems. Any complete CPG application filed prior to January 1, 2017, shall be reviewed pursuant to the version of Rule 5.100 that was in effect at the time the complete application was filed.~~[DELETED]

(C) Applicable Rates for Pre-Existing Net-Metering Systems. Customers using pre-existing net-metering systems shall, for a period of 10 years from the date of the net-metering system's commissioning, be credited for generation according to the rates and incentives provided for in 30 V.S.A. § 219a, as the statute existed on December 31, 2016, and the Commission's rules implementing that statute. If the customer's system was commissioned before the electric company's first rate schedule to comply with Section 219a(h)(1)(K) took effect, then the 10-year period shall run from the effective date of the electric company's first rate schedule implementing the incentive. At the end of the applicable 10-year period, customers using pre-existing net-metering systems shall be credited for excess generation as provided in Section 5.126 of this Rule or its successor.

(D) Non-Bypassable Charges. For a period of 10 years from the date that a pre-existing net-metering system was commissioned, a customer using that net-metering system may apply any accrued net-metering credits to any charge irrespective of whether that charge is a non-bypassable charge.

(E) Adjustors Not Applicable to Pre-Existing Net-Metering Systems. Pre-existing net-metering systems are not subject to any siting adjustors or REC adjustors established under this Rule.

(F) Tradeable Renewable Energy Credits. Any tradeable renewable energy credits created by pre-existing net-metering systems will continue to be either retained by the customer or transferred to the electric company per the election made by the applicant at the time of application for its CPG. For CPG applications filed prior to the time when such election was available, tradeable renewable energy credits are retained by the customer.

(G) Existing Groups Using Pre-Existing Net-Metering Systems. Notwithstanding Sections 5.129(C) through (E), an existing group or customer may have more than 500 kW of pre-existing net-metering systems attributed to the group or customer if these net-metering arrangements were requested prior to January 1, 2017.

(H) Provisions of This Rule Applicable to Pre-Existing Net-Metering Systems. Pre-existing net-metering systems are subject only to the following provisions of this Rule.

(1) 5.109 (Amendments to Approved Net-Metering Systems);

(2) 5.110 (Transfers and Abandonment);

(3) 5.126 (Energy Measurement), except as modified by (C), above, and except that a customer is not required to install a production meter at a pre-existing system pursuant to 5.126(A)(1);

(4) 5.129 (Billing Standards and Procedures);

(5) 5.131 (Interconnection Requirements);

(6) 5.132 (Disconnection of Net-Metering Systems);

(7) 5.135 (Participation in Wholesale Markets);

~~(6)~~(8) 5.137 (Energy Storage Facility Electrically Connected to a Net-Metering System); and

~~(7)~~(9) ~~5.134~~5.138 (Compliance Proceedings).

(I) All other net-metering systems are subject to all provisions of this Rule.

5.126 Energy Measurement for Net-Metering Systems

(A) Electric energy measurement for net-metering systems must be performed in the following manner:

(1) At its own expense, the applicant must install a production meter to measure the electricity produced by the net-metering system.

(2) Individual Net-Metering System Billing: For customers who elect to wire net-metering systems such that they offset consumption on the billing meter, the billing meter establishes billing determinants for the customer's bill based on the rate schedule for the customer.

(a) At the end of the billing period, the electric company must net electricity produced with electricity consumed.

(i) If electricity consumed by the customer exceeds the electricity produced by the net-metering system, the customer must be billed the difference, net of any credit accumulated in the preceding 12 months. Credits may not be applied to non-bypassable charges as identified in a utility's tariff.

(ii) If the electricity produced by the net-metering system exceeds the electricity consumed, the excess generation must be monetized at the applicable blended residential rate. The monetized credit applies to all charges on the bill not identified as non-bypassable charges in a utility's tariff.

(iii) For the first 10 years after the system is commissioned, any zero or positive siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter and applied to the bill as a credit. For example, the $0.01/kWh siting adjustor for net-metering systems 15 kW or less will result in such systems receiving a bill credit of $0.01/kWh multiplied by all kWh on the production meter.

(iv) Any negative siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter and applied to the bill as an additional

charge. For example, the -$0.03/kWh REC adjustor for net-metering systems that retain their RECs will result in such systems receiving a bill charge of $0.03/kWh multiplied by all kWh on the production meter.

(v) If credits remain after being applied to all charges not identified in an electric company's tariff as non-bypassable charges, such credits must be tracked, applied, or carried forward on customer bills, as described in Section 5.129.

(3) Group Net-Metering System Billing for Systems Not Directly Interconnected: For customers who elect to wire group net-metering systems such that they offset consumption on the billing meter, the billing meter establishes the billing determinants for the customer's bill based on the rate schedule for the customer.

(a) At the end of the billing period, the electric company must net electricity produced with electricity consumed on the generation account.

(i) If electricity consumed by the customer exceeds the electricity produced by the net-metering system, the customer must be billed the difference, net of any credit accumulated in the preceding 12 months. Credits may not be applied to non-bypassable charges as identified in a utility's tariff.

(ii) If the electricity produced by the net-metering system exceeds the electricity consumed, the excess generation must be allocated to group members and monetized at the applicable blended residential rate. The monetized credit applies to all charges on the bill not identified as non-bypassable charges in a utility's tariff.

(iii) For the first 10 years after the system is commissioned, any zero or positive siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the

production meter, allocated to the group members and applied to the bills as credits. For example, the $0.01/kWh siting adjustor for net-metering systems 15 kW or less will result in such systems receiving a bill credit of $0.01/kWh multiplied by all allocated kWh from the production meter.

(iv) Any negative siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter, allocated to the group members, and applied to the bills as additional charges. For example, the negative $0.03/kWh REC adjustor for net-metering systems that retain their RECs will result in such systems receiving a bill charge of $0.03/kWh multiplied by all allocated kWh from the production meter.

(v) If credits remain on group members' bills after being applied to all charges on the bills not identified as non-bypassable charges in an electric company's tariff, such credits must be tracked, applied, or carried forward on group member bills, as described in Section 5.129.

(4) Group Net-Metering System Billing for Systems Directly Interconnected: For customers who elect to wire group net-metering systems such that the generation is directly connected to the utility grid and does not also offset any customer's billing meter, the electricity produced by the net-metering system, all of which is excess generation as defined in this Rule, must be allocated to the group members and monetized at the applicable blended residential rate before netting. The monetized credit applies to all charges on the bill not identified as non-bypassable charges.

(a) For the first 10 years after the system is commissioned, any zero or positive siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter, allocated to the group members, and applied to the bills as credits. For example, the $0.01/kWh siting adjustor for net-metering

systems 15 kW or less will result in such systems receiving a bill credit of $0.01/kWh multiplied by all allocated kWh from the production meter.

(b) Any negative siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter, allocated to the group members, and applied to the bills as additional charges. For example, the negative $0.03/kWh REC adjustor for net-metering systems that retain their RECs will result in such systems receiving a bill charge of $0.03/kWh multiplied by all allocated kWh from the production meter.

(c) If credits remain on group members' bills after being applied to all charges on the bills not identified as non-bypassable charges in an electric company's tariff, such credits must be tracked, applied, or carried forward on group member bills, as described in Section 5.129.

(B) As part of a tariff filed for Commission approval pursuant to this Rule, an electric company may propose alternative methods of energy measurement for group net-metering systems if the application of Section (A), above, would cause unreasonable administrative burdens for the electric company. Such alternatives may not displace any of the applicable adjustors, credits, or charges provided inthis Rule.

5.127 Determination of Applicable Rates and Adjustors

(A) Depending on the electric company service territory in which the net-metering system is located, the blended residential rate used to determine the value of ~~net-metering~~ credits <u>for excess generation</u> is the lowest of the following:

(1) For electric companies whose general residential service tariff does not include inclining block rates, the $/kWh charge set forth in that utility's tariff for general residential service;

(2) For electric companies whose general residential service tariff includes inclining block rates, a blend of those rates determined by adding together all of the revenues to the company during the most recent calendar year

from kWh sold under those block rates and dividing the sum by the total kWh sold by the company at those rates during the same year. Each electric company whose general residential service tariff includes inclining block rates must perform this calculation ~~(1)~~ by ~~May 15~~ February 1 of each even- numbered year ~~and (2) within 15 days of the effective date of a new tariff for general residential service that includes a change in rates of more than 5%. To the extent the calculation shows that there has been a change from the rate then in effect, the electric company must file by that same date a revision to its net-metering tariff to reflect the change~~. Any change to the blended residential rate calculated pursuant to this subsection ~~may~~ must be included in a tariff compliance filing made pursuant to Section 5.128(H) of this Rule; or

(3) The weighted average of the blended residential rates for all Vermont electric companies. The average is weighted by the annual retail sales of the electric companies.

(B) The REC adjustors are determined as follows:

(1) At the time an application for authorization to construct the net-metering system is filed with the Commission, the applicant must elect whether to retain ownership of any RECs generated by the system or whether to transfer such RECs to the electric company. This election is irrevocable. The electric company must retire all RECs transferred to it by a net-metering customer.

(2) The REC adjustor for a net-metering system must be calculated in dollars per kWh ($/kWh) at the time the Commission issues the net-metering system a CPG. A zero or positive REC adjustor applies for a period of 10 years from the date the system is commissioned; a negative REC adjustor applies in perpetuity. Except for systems that register pursuant to Section 5.105 of this Rule, both the amount and the term of the REC adjustor will be stated in the net-metering system's CPG.

~~(3) Initial~~The value of the REC adjustors ~~at the time this Rule becomes effective (January 1, 2017) are as follows:~~are those set in the most recent

biennial update order issued by the Commission pursuant to Section 5.128.

~~(4) REC Adjustor (Transfer) = 3 cents per kilowatt hour;~~

~~REC Adjustor (Retention) = negative 3 cents per kilowatt hour.~~

~~(6)~~(3) Hydroelectric facilities net-metering under this rule are not subject to a REC adjustor.

(C) The siting adjustors are determined as follows:

(1) In order to provide incentives for the appropriate and beneficial siting of net-metering systems, each net-metering system may receive the highest-value siting adjustor for which it meets the applicable criteria. The net-metering system's siting adjustor must be expressed in dollars per kWh ($/kWh) at the time the Commission issues the net-metering system a CPG. A zero or positive siting adjustor applies for a period of 10 years from the date the system is commissioned; a negative siting adjustor applies in perpetuity. Except for systems that register pursuant to Section 5.105 of this Rule, both the amount and the term of the siting adjustor must be stated in the net-metering system's CPG.

(2) The ~~initial~~value of the siting adjustors ~~at the time this Rule becomes effective (January 1, 2017) are as follows:~~ for Category I through IV facilities and hydroelectric facilities are those set in the most recent biennial update order issued by the Commission pursuant to Section 5.128.

~~(a) Category I = 1 cent per kilowatt hour;~~

~~(b) Category II = 1 cent per kilowatt hour;~~

~~(c) Category III = negative 1 cent per kilowatt hour;~~

~~(d) Category IV = negative 3 cents per kilowatt hour;~~

~~(e) Hydroelectric facilities = 0 cents per kilowatt hour.~~

5.128 Biennial Update Proceedings

(A) The Commission must conduct a biennial update in ~~2018~~ 2024 and every two years thereafter to update the following:

(1) REC adjustors;

(2) siting adjustors;

(3) the electric companies' blended residential rates and the statewide blended residential rate; and

(4) the eligibility criteria applicable to Categories I, II, III, and IV net-metering systems.

(B) In updating the REC adjustors, the Commission must consider:

(1) the pace of renewable energy deployment necessary to be consistent with the Renewable Energy Standard program, the Comprehensive Energy Plan, and any other relevant State program;

(2) the total amount of renewable energy capacity commissioned in Vermont in the most recent two years;

(3) the disposition of RECs generated by net-metering systems commissioned in the past two years; and

(4) any other information deemed appropriate by the Commission.

(C) In updating the siting adjustors, the Commission must consider:

(1) the number and capacity of net-metering systems receiving CPGs in the most recent two years;

(2) the extent to which the current siting adjustors are affecting siting decisions;

(3) whether changes to the qualifying criteria of the categories are necessary;

(4) the overall pace of net-metering deployment; and

(5) any other information deemed appropriate by the Commission.

(D) On or before ~~February~~ March 1 of each even-numbered year, each electric company must file ~~with the Commission and the Department of Public Service~~ in the biennial update investigation case a form developed by the Commission in consultation with the Department and the electric companies. The form will collect the following information regarding the state of the electric company's net-metering program:

(1) the number of net-metering systems interconnected with the electric company's distribution system during the past two years;

(2) the capacity of each system;

(3) the fuel source of each system;

(4) the REC disposition of each system;

(5) the siting adjustor applicable to each system;~~ and~~

(6) ~~any other information the electric company believes to be relevant to the biennial update~~the electric company's updated blended residential rate and supporting calculations;

(7) any other information the electric company believes to be relevant to the biennial update; and

~~(6)~~(8) any other information relevant to the biennial update required by the Commission's form.

(E) By no later than ~~March~~April 1 of each even-numbered year, the Department of Public Service and the Agency of Natural Resources may file ~~with the Commission~~in the biennial update investigation case any proposed updates to the items specified in Section 5.128(A)(1)-(4) and reasons therefor.

(F) Any person may file comments on the filings under (D) and (E), above, by ~~March~~April 15.

(G) By ~~May~~June 1 of each even-numbered year, the Commission may by order update the items specified in Section 5.128(A)(1)-(4), as necessary. Adjustors must be determined to ensure that net-metering deployment occurs at a reasonable pace and in furtherance of State energy goals.

(H) Electric companies must file no later than ~~May~~June 15 revisions to their net-metering tariffs that incorporate the new values set forth by the Commission in its biennial update order. Each tariff must be filed as a new tariff case in ePUC. Such tariffs must have an effective date of ~~July~~August 1. This tariff compliance filing may not include any other proposed changes to the utility's net-metering tariff, except for ~~a proposed change to the utility's blended residential rate calculated pursuant to Section 5.127(A) of this Rule~~ any revisions to the items in Rule 5.128(A)(1)-(4) ordered in the Commission's biennial update order.

(I) Notwithstanding the above, the Commission may conduct an update sooner than biennially at its own discretion or upon petition by the Department.

5.129 Billing Standards and Procedures

(A) Customer Billing Requirements. The bill of a net-metering customer must include the following:

(1) the dollar amount of any credits carried forward from the previous months;

(2) the dollar amount of credits that have expired in the current month;

(3) the dollar amount of credits generated in the current month;

(4) the dollar amount of credits remaining; and

(5) the total kWh generated by the net-metering system in the current month.

(B) Accumulated Bill Credits. Any accumulated bill credit must be used within 12 months from the month it is earned, or it reverts to the electric company without any compensation to the net-metering customer. Bill credits may not be transferred independently of a transfer of ownership of a net-metering system.

(C) Membership in Multiple Net-Metering Groups. Individual customer accounts may be enrolled in only one net-metering group at a time. Customers with multiple accounts may enroll each account in a separate net-metering group.

(D) 500 kW Customer Limit. The cumulative capacity of net-metering systems allocated to a single customer may not exceed 500 kW, except as provided in Rule 5.129(F), below. For example, a customer who has two accounts cannot have each account allocated more than 50 percent of the output from two 500 kW net-metering systems because the cumulative capacity of the allocated share of those net-metering systems would exceed 500 kW.

(E) Multiple Net-Metering Systems in a Group. Groups may~~, subject to Commission approval,~~ have more than one net-metering system attributed to a group and may increase the capacity of existing generation attributed to the group. However, the cumulative capacity of net-metering systems attributed to a group may not exceed 500 kW, except as provided in Rule 5.129(F), below.

(F) Cumulative Capacity of School Net-Metering Systems. The cumulative capacity of net-metering systems allocated to a single customer:

(1) that is a public school, as defined in 16 V.S.A. § 11(7); an independent school, as defined in 16 V.S.A. § 11(8); a supervisory union, as defined in 16 V.S.A. § 11(23); or a school district, as defined in 16 V.S.A. § 11(10),

must not exceed 1 MW.

(2) that is a school district, as defined in 16 V.S.A. § 11(10), or a supervisory union, as defined in 16 V.S.A. § 11(23), created as a result of school district consolidation under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended, must not exceed the greater of:

(a) the cumulative capacity of the net-metering systems that the school districts were participating in, or had agreed to participate in, prior to consolidation; or

(b) 1 MW.

~~(F)~~(G) Group Member Allocations. Where the customer has, at its own expense, provided a separate meter for measuring production, the kWh produced by a net-metering system may be allocated to the accounts of a single customer or the accounts of group members. Where there is no separate production meter, only the excess generation may be allocated to accounts belonging to a single customer or to the accounts of members of a group.

5.130 Group System Requirements

(A) In addition to any other requirements in 30 V.S.A. §§ 248 and 8010, and in any applicable Commission rules, before a group system may be formed and served by an electric company, the group must file the following information with the electric company:

(1) The meters to be included in the group system, which must be located within the same electric company service territory;

(2) A process for adding and removing meters in the group and an allocation of any credits among the members of the group. This allocation arrangement may be changed only on written notice to the electric company by the person designated under 5.130(A)(3), and any such change may only apply on a prospective basis;

(3) The name and contact information for a designated person who is responsible for all communications from the group system to the serving electric company, except for communications related to billing, payment, and disconnection; and

(4) A binding process for resolving any disputes among the members of a group relating to the net-metering system. This dispute resolution process may not in any way require the involvement of the electric company, the Commission, or the Department. This process does not apply to disputes between the electric company and individual group members regarding billing, payment, or disconnection.

(B) The electric company must implement appropriate changes to a net-metering group within 30 days after receiving written notification of such changes from the person designated under subsection 5.130(A)(3). Written notification of a change in the person designated under subsection 5.130(A)(3) is effective upon receipt by the electric company. The electric company is not liable for the consequences from actions based on such notification.

(C) For each group member's customer account, the electric company must bill that group member directly and send directly to that group member all communications related to billing, payment, and disconnection of that group member's customer account. Any volumetric charges for any account so billed must be based on the individual meter for the account.

5.131 Interconnection Requirements

The interconnection of all net-metering systems is governed by Commission Rule 5.500. The applicant bears the costs of all equipment necessary to interconnect the net-metering system to the distribution grid and any distribution system upgrades necessary to ensure system stability and reliability.

5.132 Disconnection of a Net-Metering System

The following procedures govern the disconnection of a net-metering system from the electrical system. These procedures apply to net-metering systems only and do not supplant Commission Rules 3.300 and 3.400 relating to company disconnection in general. A customer who initiates a permanent disconnection of a net-metering system must notify the electric company. The electric company must notify the Commission and the Department of the disconnection.

(A) In the event the electric company must perform an emergency disconnection of a net-metering system, the electric company must notify the customer within 24 hours after the disconnection. For the purpose of this section, the term "emergency" means a situation in which

continued interconnection of the net- metering system is imminently likely to result in significant disruption of service or endanger life or property.

(B) If the emergency is not caused by the operation of the net-metering system, the company must reconnect the net-metering system upon cessation of the emergency.

(C) If the emergency is caused by the operation of the net-metering system, the electric company must communicate the nature of the problem to the customer within 5 days, and attempt to resolve the problem. If the problem has not been resolved within 30 days of an emergency disconnection, the electric company must file a disconnection petition with the Commission.

(D) Non-emergency disconnections must follow the same procedure as emergency disconnections in subsection B above, except that the electric company must give written notice of the disconnection no earlier than 10 days and no later than ~~3 working~~5 days prior to the first date on which the disconnection of the net--metering system is scheduled to occur. Such notice must communicate to the customer the reason for disconnection and the expected duration of the disconnection. With written consent from the customer, an electric company may arrange to provide the customer with notice of non-emergency disconnections on terms other than those set forth in this Rule, provided that the electric company first informs the customer of the provisions of this Rule and that the customer may contact the Consumer Affairs and Public Information Division of the Vermont Department of Public Service. For group systems, such consent may be obtained from the person designated under Section 5.130(A)(3).

(E) A customer who is involuntarily disconnected may file a written complaint with the Commission at any time following disconnection. The customer must provide a copy of the complaint to the electric company and the Department of Public Service. Within 30 days of the date the complaint is filed, the Commission may hold a hearing to investigate the complaint. In the event of the filing of such a complaint, the electric company must carry the burden of proof to demonstrate the reasonableness of disconnection.

5.133 Electric Company Requirements

(A) Generally. Electric companies:

(1) Must make net-metering available to any customer or group on a first-come, first-served basis as determined by the order in which customers file

a complete interconnection application;

(2) Must track credits by the month and year created and apply them on a first-created, first-used basis;

(3) May charge a reasonable fee for establishment, special meter reading, accounting, account correction, and account maintenance for a net-metering system;

(4) May, prior to interconnection, charge a reasonable fee to cover the cost of electric company distribution system improvements necessary to safely and reliably serve the net-metering customer;

(5) May require a customer to install advanced metering infrastructure prior to serving the net-metering customer;

(6) May require that all meters included within a group system be read on the same billing cycle; and

(7) May require energy efficiency audits for customers seeking to install and operate a net-metering system if they are:

(a) a residential customer with historic energy consumption of 750 kWh or more per month; or

(b) a commercial or industrial customer.

(B) Each electric company with net-metering customers must maintain current records of the number, individual capacity, cumulative capacity, and disconnections of net-metering generation installed within its service territory.

5.134 Electric Company Tariffs

Tariffs. ~~Pursuant to 30 V.S.A. § 225, an electric company must propose for Commission approval a tariff to implement a net-metering program in its service territory pursuant to this Rule within 60 days after the effective date of this Rule. In connection with filing such tariffs, an electric company may request additional time to implement any provision of this Rule. The Commission will grant reasonable requests where there is good cause shown.~~ Each electric company must review its net-metering tariff and, pursuant to 30 V.S.A. § 225, file any revisions necessary to ensure consistency with this Rule.

5.135 Participation in Wholesale Markets

No net-metering system may participate in a wholesale market unless the Commission finds that such participation will not harm the interests of Vermont ratepayers and will be in the public good.

5.136 Locational Adjustor Fee

An electric company may propose for Commission approval a tariff assessing a locational adjustor fee on new net-metering systems located in constrained or limited-headroom areas of the grid. The fee will be assessed on a per-kilowatt basis and collected before a net-metering system is energized. The amount of the fee must reflect the incremental economic harm caused by constructing additional generation in the area or the incremental cost to ratepayers of expanding the available grid capacity in the area. The electric company tariff must describe the physical boundaries of the constrained area or limited headroom area; existing and forecasted load and generation within the area; the capacity of the distribution, sub-transmission, or transmission system within the area; any other affected distribution utility, or VELCO, that is potentially affected by the addition of generation to the area, particularly in cases where it is the sub-transmission or transmission system that is facing a constraint; and any other factors relevant to the determination of whether a locational adjustor is just and reasonable. The tariff must also provide a method for allocating any fees collected among other electric companies affected by the constraint. A tariff proposed under this section may apply to new electric generation facilities other than net-metering systems.

5.137 Energy Storage Facility Electrically Connected to a Net-Metering System

(A) An energy storage facility that is electrically connected to a net-metering system must be configured such that the customer cannot receive net-metering compensation for electricity drawn from a source other than the net-metering system.

(B) No electric company may allow an energy storage facility to be interconnected in a manner that allows electricity generated by any source other than a net-metering system to receive net-metering compensation.

PART V: COMPLIANCE PROCEEDINGS

~~5.135~~5.138 Compliance Proceedings

(A) In response to a complaint filed by any member of the public or on its own motion, the Commission may open a compliance proceeding or refer matters concerning whether an approved net-metering system is complying with the terms of its CPG or any applicable law within the Commission's jurisdiction to the Department of Public Service for investigation and to make a recommendation as to whether the Commission should open a compliance proceeding or take any other steps necessary to ensure that the net-metering system continues to serve the public good.

(B) ~~After considering the Department's recommendation t~~The Commission may take any or all of the following steps to ensure that a net-metering system is constructed and operated in compliance with the terms and conditions of the CPG issued for that net-metering system and any related Commission order:

(1) Direct the certificate holder to provide the Commission with an affidavit under oath or affirmation attesting that the person, company, or corporation or any facility or plant thereof is in compliance with the terms and conditions of the CPG pursuant to 30 V.S.A. § 30(g);

(2) Direct the certificate holder to provide additional information;

(3) Dismiss the complaint;

(4) After notice and opportunity for hearing, amend or revoke any CPG for a net-metering system, impose a penalty under 30 V.S.A. § 30, or order remedial activities for any of the following causes:

(a) The CPG or order approving the CPG was issued based on material information that was false or misleading;

(b) The system was not installed, or is not being operated, in accordance with the National Electrical Code or applicable interconnection standards;

(c) The net-metering system was not installed or is not being operated

in accordance with the plans and evidence submitted in support of the application or registration form or with the findings contained in the order approving the net-metering system;

(d) The holder of the CPG has failed to comply with one or more of the CPG conditions, the order approving a CPG for the net-metering system, or this Rule; or

(e) Other good cause as determined by the Commission in its discretion.

(C) If, assuming the allegations in the complaint are true, the Commission determines that there is no probability of a violation of any CPG condition, Commission order, or any applicable law, the Commission will dismiss the complaint and inform the complainant and CPG holder of such dismissal.

History: Effective March 1, 2001; revised July, 2003; revised November 1, 2007; revised April 15, 2009; revised January 27, 2014; revised July 1, 2017.

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5.100 RULE PERTAINING TO CONSTRUCTION AND OPERATION OF NET-METERING SYSTEMS

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PART I: GENERAL PROVISIONS

5.101 Purpose and Scope

(A) This Rule governs the terms upon which any electric company offers net-metering service within its service territory. In addition, this Rule governs the application for and issuance, amendment, transfer, and revocation of a certificate of public good for net-metering systems under the provisions of 30 V.S.A §§ 248, 8002, and 8010.

(B) Except as modified by Section 5.125 (Pre-Existing Net-Metering Systems), this Rule applies to all net-metering systems in Vermont and applies to every person, firm, company, corporation, and municipality engaged in the site preparation, construction, ownership, or operation of any net-metering system that is subject to the jurisdiction of this Commission.

(C) No person may commence site preparation for or construction of a net-metering system or convert an existing plant into a net-metering system without first obtaining a CPG under this Rule.

(D) In the event that any portion of this Rule is found by a court of competent jurisdiction to be illegal or void, the remainder is unaffected and continues in full force and effect.

5.102 Computation of Time

(A) Computation. Under this Rule, time is computed in accordance with Commission Rule 2.207.

(B) Enlargement. The Commission for cause shown may at any time in its discretion:

(1) Grant an extension of time if it is requested before the expiration of the period originally prescribed, or

(2) Upon request made after the expiration of the specified period, grant an extension where the failure to act was the result of excusable neglect or other good cause.

5.103 Definitions

For the purposes of this Rule, the following definitions apply:

"Account" means a unique identifier assigned by the electric company to a customer for billing purposes. A customer account may include one or more meters.

"Adjoining Landowner" means a person who owns land in fee simple that:

(1) Shares a property boundary with the tract of land on which a net-metering system is located; or

(2) Is adjacent to that tract of land and the two properties are separated only by a river, stream, railroad line, or public highway.

"Adjustor" means a positive or negative charge applied to production kWh based on factors related to site selection (Site Adjustor) and retention of tradeable renewable energy credits (REC Adjustor).

"Amendment" means a request for approval of a modification to a proposal that is either under review or has been approved by the Commission. The term amendment also includes requests to change the terms or conditions of a CPG issued by the Commission.

"Applicant" means the entity seeking authorization to construct and operate a net-metering system.

"Billing Meter" means an electric meter that measures either the consumption of electricity by a customer or the net of electric consumption by the customer and production by the net metering system.

"Blended Residential Rate" means the lesser of either:

(1) For electric companies whose general residential service tariff does not include inclining block rates, the $/kWh charge set forth in that electric company's tariff for general residential service;

(2) For electric companies whose general residential service tariff does include inclining block rates, a blend of the electric company's general residential service inclining block rates that is determined by adding together all of the revenues to the company during the most recent calendar year from kWh sold under those block rates and dividing the sum by the total kWh sold by the company at those rates during the same year; or

(3) The weighted statewide average of all electric company blended residential retail rates, as determined by the Commission, whichever is lower.

"Capacity" means the rated electrical nameplate for a plant, except that, in the case of a solar energy plant, the term means the aggregate AC nameplate capacity of all inverters used to convert the plant's output to AC power. The capacity of an inverter is not changed when it is derated.

"Category I Net-Metering System" means a net-metering system that is not a hydroelectric facility and that has a capacity of 15 kW or less.

"Category II Net-Metering System" means a net-metering system that is not a hydroelectric facility that has a capacity of more than 15 kW and less than or equal to 150 kW, and that is sited on a preferred site.

"Category III Net-Metering System" means a net-metering system that is not a hydroelectric facility, that has a capacity of greater than 150 kW and less than or equal to 500 kW, and that is sited on a preferred site.

"Category IV Net-Metering System" means a net-metering system that is not a hydroelectric facility, that has a capacity of greater than 15 kW and less than or equal to 150 kW, and that is not located on a preferred site.

"Certificate Holder" means one who holds a CPG. The certificate holder must have legal control of the net-metering system.

"Certificate of Public Good" or "CPG" means a certificate of public good issued by the Commission pursuant to 30 V.S.A. § 8010.

"Commission" means the Public Utility Commission of the State of Vermont and the employees thereof.

"Commissioned" or "Commissioning" means the first time a plant is put into operation following the initial construction of the plant.

"Conditional Waiver of a Criterion of 30 V.S.A. § 248" means the Commission waiver of the requirements for the presentation of evidence under the criterion, a specific review of the project by the Commission under the criterion, and the development of specific findings of facts for the criterion, unless the Commission finds that the application raises a significant issue under that criterion.

"Customer" means a retail electric consumer.

"Department" means the Vermont Department of Public Service.

"Earth disturbance" means construction activities including clearing, grading, and excavating, but does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

"Electric Company" means the utility serving the net-metering customer or the utility that would serve an applicant seeking authorization to construct and operate a net-metering system, as the context indicates.

"Excess Generation" means the following: for customers who elect to wire net-metering systems such that they offset consumption on the billing meter, excess generation is the number of kWh by which production exceeds consumption. For customers who elect to wire net-metering systems such that they do not offset consumption on any customer's billing meter, all recorded production is considered excess generation.

"File" means the submission of documents, exhibits, plans, information, or other materials to the Commission through the Commission's electronic filing system, by delivery to the Commission's offices, or by delivery to the Commission during the course of a hearing.

"Group Net-Metering System" means a net-metering system serving more than one customer, or a single customer with multiple electric meters, located within the service area of the same retail electricity provider. Various buildings owned by municipalities, including water and wastewater districts, fire districts, villages, school districts, and towns, may constitute a group net-metering system. A union or district school facility may be considered in the same group net-metering system with buildings of its member schools that are located within the service area of the same retail electricity provider.

"Host Landowner" means the owner of the property on which the net-metering system is or will be located.

"kW" means kilowatt or kilowatts (AC).

"kWh" means kilowatt hours.

"Inclining Block Rate" means a rate structure where an electric company charges a higher rate for each incremental block of electricity consumption.

"Interconnection Facilities" means all facilities and equipment between the generation resource and the point of interconnection, including any modifications, additions, or upgrades that

are necessary to physically and electrically interconnect the generation resource to the interconnecting utility's distribution or transmission system. Interconnection facilities are sole-use facilities and do not include system upgrades.

"Project Limits" means the boundary within which all construction, materials storage, earth disturbance, vegetation clearing, planting, management, landscaping, and any other activities related to site preparation, construction, operation, maintenance, and decommissioning take place as a result of the net-metering system, including the creation or modification of access roads and utility lines.

"Net-Metering" means measuring the difference between the electricitysupplied to a customer and the electricity fed back by the customer's net-metering system(s) during the customer's billing period:

(1) using a single, non-demand meter or such other meter that would otherwise be applicable to the customer's usage but for the use of net metering; or

(2) if the system serves more than one customer, using multiple meters. The calculation shall be made by converting all meters to a non-demand, non-time-of-day meter, and equalizing them to the tariffed kWh rate.

"Net-Metering System" means a plant for generation of electricity that:

(1) is of no more than 500 kW capacity;

(2) operates in parallel with facilities of the electric distribution system;

(3) is intended primarily to offset the customer's own electricity requirements and does not primarily supply electricity to electric vehicle supply equipment, as defined in 30 V.S.A. § 201, for the resale of electricity to the public by the kWh or for other retail sales to the public, including those based in whole or in part on a flat fee per charging session or a time-based fee for occupying a parking space while using electric vehicle supply equipment; and

(4) either employs a renewable energy source or is a qualified micro-combinedheat and power system of 20 kW or less that meets the definition of combined heat and power facility in subsection 8015(b)(2) of Title 30 and uses any fuel source that meets air quality standards.

"Non-Bypassable Charges" means those charges on the electric bill defined in an electric

company's tariffs that apply to a customer regardless of whether they net-meter or not. Non-bypassable charges may not be offset using current or previous net-metering credits. A customer is liable for payment of these charges regardless of whether the customer has a credit balance resulting from net-metering. The customer charge, energy efficiency charge, energy assistance program charge, any on-bill financing payment, and any equipment rental charge are non-bypassable charges.

"Party" means any person who has obtained party status under Section 5.117 of this Rule.

"Plant" means an independent technical facility that generates electricity from renewable energy. A group of facilities, such as wind turbines, will be considered one plant if the group is part of the same project and uses common equipment and infrastructure, such as roads, control facilities, and connections to the electric grid. Common ownership, control, proximity in time of construction, and proximity of facilities to each other will be relevant to determining whether a group of facilities is part of the same project.

"Pre-Existing Net-Metering System" means a net-metering system for which a completed CPG application was filed with the Commission prior to January 1, 2017, and whose completed application was either filed at a time when net-metering was being offered by the electric company pursuant to 30 V.S.A. § 219a (h)(1)(A) as the statute existed on December 31, 2016, or qualified under state law as a system that did not count towards the capacity limit on net-metering contained in that statute.

"Preferred Site" means one of the following, provided that the site does not require significant forest clearing:

(1) A new or existing constructed impervious surface or structure whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity.

(2) A parking lot canopy over a parking lot, provided that the location remains in use as a parking lot.

(3) A tract previously developed for a use other than siting a plant on which a structure or constructed impervious surface was lawfully in existence and use at any time during the year preceding the date an application for a certificate of public good under this Rule is filed. To qualify under this subdivision (3), more than half of the

energy generation component of the plant must be located within the footprint of either the existing structure or impervious surface. The project limits may not include any headwaters, streams, shorelines, floodways, rare and irreplaceable natural areas, necessary wildlife habitat, wetlands, endangered species, productive forest soils, or primary agricultural soils, all of which are as defined in 10 V.S.A. chapter 151. For purposes of this subsection, the energy generation component of the plant does not include interconnection facilities.

(4) Land certified by the Secretary of Natural Resources to be a brownfield site as defined under 10 V.S.A. § 6642, provided any request to the Secretary of Natural Resources for such certification includes a report from a diligent and appropriate investigation, as required by 10 V.S.A. chapter 159.

(5) A sanitary landfill as defined in 10 V.S.A. § 6602 and contiguous land, structures, appurtenances, and improvements on the land used for treating, storing, or disposing of solid waste, provided that the Secretary of Natural Resources certifies that the land constitutes such a landfill and contiguous land, structures, appurtenances, or improvements, and that the landfill is actively maintained under the authority of a post-closure certification, administrative order, or assurance of discontinuance, or in custodial care as recognized by the Agency of Natural Resources. To qualify under this subdivision (5), some portion of the plant must be located on the landfill cap.

(6) A gravel pit, quarry, or similar site for the extraction of a mineral resource, provided that:

(a) more than half of the energy generation component of the plant is located within the disturbed or previously disturbed portion of the extraction site. For purposes of this subsection, the energy generation component of the plant does not include interconnection facilities; and

(b) all state and local permit conditions related to reclamation of the site are satisfied before the operation of the plant.

(7) A specific location determined by the governing municipal legislative body and the municipal and regional planning commissions as suitable for the development of a

net-metering system consistent with applicable policies in their respective plans. The specific location must be identified in a letter or letters from the municipal legislative body and the municipal or regional planning commissions based on their evaluation after having received the 45-day notice for the project. Such letters in no way limit the ability of municipalities and regional planning commissions to participate in the Commission's review of the net-metering system proposed to be constructed on the location identified in the letter.

(8) A site listed on the National Priorities List (NPL) established under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. chapter 103, if the U.S. Environmental Protection Agency or the Agency of Natural Resources confirms that the site is listed on the NPL, and provided that the applicant demonstrates as part of its CPG application that:

(a) development of the plant on the site will not compromise or interfere with remedial action on the site; and

(b) the site is suitable for development of the plant.

(9) On the same parcel as, or directly adjacent to, a customer that has been allocated more than 50 percent of the net-metering system's electrical output. The allocation to the host customer may not be less than 50 percent during each of the first 10 years of the net-metering system's operation.

"Production Meter" means an electric meter that measures the amount of kWh produced by a net-metering system.

"Significant Forest Clearing" means clearing more than three acres of forest. For purposes of this Rule, the word forest means land that has at least 10 percent canopy cover by live trees of any size and associated naturally occurring vegetation or has had at least 10 percent canopy cover of live trees and associated naturally occurring vegetation in the past and has stumps, snags, or other evidence indicating that it has not been converted to a non-forest use at the time of a CPG application filing. To qualify as forest, an area must be at least one acre in size and 120 feet wide. In determining whether an area is at least one acre in size or 120 feet wide, any portion of a group or contiguous area of trees that extends beyond the project or parcel boundaries must be counted. Canopy cover must be measured from the outermost edge of tree crowns across a group or contiguous area of trees. The three-acre limit on significant

forest clearing is cumulative and includes each discrete area of any forest proposed for clearing. Clearing of individual trees that are not part of a forest will not count toward the three-acre limit on significant forest clearing.

"Substantial Change" means a change to a proposed or approved net-metering system that has the potential for significant impact with respect to any of the criteria of Section 248(b) or on the general good of the State under Section 248(a).

"Time-of-Use Meter" means an electric meter that measures the consumption of electricity during defined periods of the billing cycle.

"TOU" means time-of-use.

"Tradeable Renewable Energy Credit or REC" means all of the environmental attributes associated with a single unit of energy generated by a renewable energy source where:

(1) Those attributes are transferred or recorded separately from that unit of energy;

(2) The party claiming ownership of the tradeable renewable energy credits has acquired the exclusive legal ownership of all, and not less than all, the environmental attributes associated with that unit of energy; and

(3) Exclusive legal ownership can be verified through an auditable contract path or pursuant to the system established or authorized by the Commission, or any program for tracking and verifying the ownership of environmental attributes of energy that is legally recognized in any state and approved by the Commission.

PART II: REGISTRATIONS AND APPLICATIONS FOR CPGS

5.104 Eligibility

To be eligible to apply for a net-metering CPG under this Rule, an applicant must propose one of the following:

(A) A category I net-metering system;

(B) A category II net-metering system;

(C) A category III net-metering system;

(D) A category IV net-metering system; or

(E) A hydroelectric system with a capacity of 500 kW or less.

5.105 Registration of Hydroelectric Facilities, Ground-Mounted Photovoltaic Facilities of up to 15 kW in Capacity, Roof-Mounted Photovoltaic Net-Metering Systems of Any Capacity Up to 500 kW, and Mixed Ground- and Roof-Mounted Systems of up to 500 kW Where the Ground-Mounted Portion Does Not Exceed 15 kW

(A) Applicability. The registration procedure is applicable only to hydroelectric facilities, ground-mounted photovoltaic systems of up to 15 kW, photovoltaic net-metering systems that are mounted on a roof, and mixed ground- and roof-mounted systems of up to 500 kW where the ground-mounted portion of the system does not exceed 15 kW.

(B) Form and Content. A net-metering system under this subsection must be registered with the Commission in accordance with the filing procedures and registration form prescribed by the Commission and must contain all of the information required by the instructions for completing that form.

(C) Timeframes. Unless otherwise directed by the Commission, a CPG will be deemed issued by the Commission without further proceedings, findings of fact, or conclusions of law, and the applicant may commence construction of the system on the 15th day following the filing of the form.

(D) Service. Upon filing the net-metering registration form with the Commission, the Commission's electronic filing system will send notice of the registration to the electric company, the Department, and the Agency of Natural Resources.

(E) Interconnection. All CPGs deemed issued under this Rule are conditioned on the CPG holder complying with all electric company interconnection requirements. Interconnection approval must be obtained from the electric company pursuant to Rule 5.500.

(1) For systems up to 15 kW, a registration form filed under this Rule constitutes a Rule 5.500 interconnection application. The review of the

interconnection application by the electric company is governed by Rule 5.500.

(2) For systems greater than 15 kW, the applicant must obtain interconnection approval from the electric company under Rule 5.500 before submitting a registration form under this Rule.

5.106 Applications for Ground-Mounted Photovoltaic Net-Metering Systems Greater Than 15 kW and up to and Including 500 kW and for Facilities Using Other Technologies up to and Including 500 kW

(A) Applicability. This application procedure is applicable to ground-mounted photovoltaic net-metering systems that are greater than 15 kW and up to 500 kW in capacity and mixed ground- and roof-mounted systems of up to 500 kW where the ground-mounted portion of the system exceeds 15 kW. This application procedure is also applicable to net-metering systems that use eligible technologies other than photovoltaic systems. This application procedure does not apply to hydroelectric facilities or roof-mounted photovoltaic net-metering systems with no ground-mounted system.

(B) Form and Content. An application for a CPG under this subsection must be filed with the Commission in accordance with the Commission's current filing procedures, using the application form prescribed by the Commission, and must contain all of the information required by this Rule and the instructions for that form. The Commission will develop forms for:

(1) Photovoltaic systems where the capacity of the ground-mounted portion of the system is greater than 15 kW, up to and including 50 kW;

(2) Net-metering systems using a technology other than photovoltaics up to and including 50 kW; and

(3) Net-metering systems with a capacity of greater than 50 kW up to and including 500 kW.

(C) Advance Submission Requirements. The applicant must provide notice of the application as follows:

(1) Recipients Entitled to Advance Submission. The applicant must provide the following persons with an advance submission, at least 45 days in advance of filing the application with the Commission:

(a) the municipal legislative bodies and municipal and regional planning commissions in the communities where the project will be located;

(b) all adjoining landowners;

(c) the host landowner;

(d) the Department of Public Service;

(e) the Agency of Natural Resources;

(f) the Natural Resources Board, if the proposed net-metering system is located on a resource extraction site;

(g) the Division for Historic Preservation;

(h) the Agency of Agriculture Food and Markets;

(i) the electric company; and

(j) the Commission.

(2) Method of Service of Advance Submission. The applicant must provide the advance submission to the municipal legislative body, municipal planning commission, adjoining landowners, and the host landowner by first-class mail, personal delivery, or any other means authorized by the persons entitled to service. Adjoining landowners must be identified using the host town's certified grand list as it existed no more than 60 days before the date of the advance submission or online through the Vermont Center for Geographic Information database, municipality-specific databases, the Vermont Department of Taxes grand lists, or electronic versions of grand lists maintained by municipalities. An applicant must verify with the relevant municipality that the online database provides accurate and current information regarding parcel ownership within that municipality. Documentation of verification must be signed and attested to by an applicant. Service of the advance submission on the state agencies, electric company, and regional planning commission will occur through ePUC, the Commission's electronic filing system.

(3) Contents of Advance Submission. The advance submission must state that the applicant intends to file a Section 8010 application with the Commission, must identify the location of the project site, and must provide a description of and site plan for the proposed project, including any aesthetic mitigation plan, in sufficient detail to afford the recipient reasonable notice of the nature of the project so that the recipient is able to make an informed judgment as to any potential impact the construction or

operation of the project may have on any interest of the recipient that is within the Commission's jurisdiction to address. The submission must provide contact information and state that the recipient may file inquiries or comments with the applicant about the project and that the recipient will also have an opportunity to file comments with the Commission once the application is filed.

(4) Timing of Advance Submission and Application. If, within 180 days of the date of the advance submission, the applicant has not filed a complete application for the project that fully complies with the filing requirements of this Rule, the submission will be treated as withdrawn without further action required by the Commission.

(D) Filing Requirements. Applications must contain the following information. Failure to provide any required information will result in the application being deemed incomplete:

(1) Applicant name. The application must include the legal name (and the "doing business as" name, if different), contact information, Vermont business registration number (if applicable), and a description of the company or person making the application. For example:

XYZ Corporation (d/b/a ABC Solar)
Headquarters at 123 Maple Lane, Anytown, VT 05600
Service Agent: Jane Doe, Esq.
VT Business ID#: 12345

(2) Host landowner. The application must include the name and address of the legal owner of the land on which the proposed net-metering system would be built.

(3) Adjoining landowners. The application must include the names and addresses of all adjoining landowners. Adjoining landowners must be identified using the host town's certified grand list as it existed no more than 60 days before the date of the advance submission or online through the Vermont Center for Geographic Information database, municipality-specific databases, the Vermont Department of Taxes grand lists, or electronic versions of grand lists maintained by municipalities. An applicant must verify with the relevant municipality that the online

database provides accurate and current information regarding parcel ownership within that municipality. Documentation of verification must be signed and attested to by an applicant.

(4) Certification that advance submission requirements have been met. The applicant must certify that it has complied with the advance submission requirements listed above.

(5) Site plans. The applicant must provide a site plan for each project. A site plan must include:

(a) Proposed facility location, any project features, and project limits;

(b) Approximate property boundaries and setback distances from those boundaries to the corner of the closest project-related structure, approximate distances to any nearby residences, and dimensions of all proposed improvements;

(c) Proposed utilities, including approximate distance from source of power, sizes of service available and required, and approximate locations of any proposed utility or communication lines;

(d) Locations, specific descriptions, and the total acreage of any areas where vegetation is to be cleared or altered, proposed earth disturbance, a description of any proposed direct or indirect alterations to or impacts on wetlands or other natural resources protected under 30 V.S.A. § 248(b)(5), including the project limits, and the total acreage of forest clearing;

(e) Detailed plans for any drainage of surface and/or sub-surface water and plans to control erosion and sedimentation both during construction and as a permanent measure;

(f) Locations and specific descriptions of proposed screening, aesthetic mitigation, landscaping, groundcover, fencing, exterior lighting, and signs;

(g) Plans of any proposed access driveway, roadway, or parking area at the project site, including grading, drainage, and traveled width, as well as a cross-section of the access drive indicating the width, depth of gravel, paving, or surface materials; and

(h) The latitude and longitude coordinates for the proposed project.

(6) Wetland delineation. The applicant must provide either a wetland delineation prepared by a qualified consultant, or a letter from the district wetland ecologist or a qualified consultant stating that no delineation is necessary because the net-metering system will not be proximate to any significant wetlands. The wetland delineation must have been completed within the five years before the date of the application.

(8) Response to comments received in response to 45-day advance submission. The applicant must file a document summarizing the comments and recommendations received in response to the 45-day notice. The document must respond to the issues raised in those comments and recommendations and must state what steps the applicanthas taken to address those issues or why the applicant is unable to do so.Preferred-Site Documentation.

(a) Brownfields. If a project will be located on a brownfield and an applicant claims preferred-site status under subsection (4) or (7) of the definition of "preferred site," the applicant must provide a site investigation report, as required by the Agency of Natural Resources' Investigation and Remediation of Contaminated Properties Rule, or a letter from the Secretary of Natural Resources stating that a site investigation report is not necessary.

(b) Resource extraction sites. If a project will be located on a resource extraction site and an applicant claims preferred-site status under subsection (6) or (7) of the definition of "preferred site," the applicant must provide:

(i) Evidence depicting what is or was the disturbed portion of the site, which may include plans for the extraction site, aerial photographs, topographic surveys, and information about vegetative communities; and

(ii) If the extraction site has state or local permits with reclamation requirements, copies of such permits and documentation from the permitting agency stating that all permit reclamation requirements have been or will be satisfied before operation of the plant.

(9) Proof of interconnection approval. The applicant must receive approval to interconnect the proposed net-metering system to the interconnecting

utility's distribution system before filing an application. Interconnection applications and disputes about interconnection requirements are governed by Rule 5.500.

(10) A statement of whether the proposed net-metering system will be in a flood hazard area or river corridor and whether the proposal will comply with the Agency of Natural Resources' Flood Hazard Area and River Corridor Rule.

(11) Adjacent facilities. The applicant must identify any known (e.g., visible from the project site, or developed by the same applicant, developer, installer, or an affiliated entity) existing or planned generation facilities on the same or an adjacent parcel as the proposed net-metering system. The applicant must:

(a) State the distance between the facilities;

(b) Identify the owner(s) of the facilities and explain their relationship, if any;

(c) Describe the timing of the construction of the facilities;

(d) Identify and describe any infrastructure shared by the facilities; and

(e) Provide a site plan showing the two facilities.

(12) Systems greater than 50 kW must provide the following:

(a) Required evidence, project narrative, proposed findings, and proposed CPG. The applicant must provide evidence demonstrating that the proposed net-metering system will meet the criteria applicable to the system under Section 5.111 of this Rule. A witness sponsoring evidence must file a notarized affidavit stating that the information provided is accurate to the best of the witness's knowledge. All evidence must be sponsored by a witness. The witness must further attest to having personal knowledge to be able to testify as to the validity of the information contained in the evidence. The applicant must include a brief project narrative describing the project in plain terms. The applicant must file proposed findings of fact and a proposed CPG

with the application.

(b) The presence and total acreage of primary agricultural soils as defined in 10 V.S.A. § 6001 on each tract to be physically disturbed in connection with the construction and operation of the net-metering system, the amount of those soils to be disturbed, and any other proposed impacts to those soils.

(c) For each proposed structure, the applicant must provide elevation drawings. The elevation drawings must be to appropriate scales but no smaller than 1"/20'.

(i) The applicant must include two elevation drawings of the proposed structures drawn at right angles to each other, showing the ground profile to at least 100 feet beyond the edge of any proposed clearing, and showing any guy wires or supports. The elevation drawing must show height of the structure above grade at the base, and describe the proposed finish of the structure.

(ii) The elevation drawing must indicate the relative height of the facility to the tops of surrounding trees as they presently exist.

(d) Local and regional plans. The applicant must provide copies of the relevant sections of any town plan and regional plan in effect in the community in which the proposed facility will be located. The applicant must describe how the project complies with or is inconsistent with the land conservation measures in those plans.

(e) Decommissioning plan. All applications for net-metering systems with capacities equal to or greater than 150 kW must include a decommissioning plan that provides for the removal and safe disposal of project components and the restoration of any primary agricultural soils, if such soils are present within the net-metering system's project limits.

(E) Review for Administrative Completeness. Commission staff will review all filed

applications to determine whether they are administratively complete enough to process. Applicants should receive an e-mail message with the results of this review within 7 days of the date the Commission received the application; however, the expiration of this time period without the receipt of an e-mail message does not constitute a determination that the application is administratively complete enough to process. If the application is found to be complete, the applicant must provide copies of the application to the persons set forth in Sections 5.106(F), below. If the application is found to be incomplete, the applicant will be informed of the deficiencies and will be given an opportunity to cure them. A determination that an application is administratively complete enough to process is not a legal determination regarding the sufficiency of the information included in the application.

(F) Service of Notice of Applications. Within 2 days after the application is determined to be administratively complete, the applicant must serve notice of the application in accordance with this section.

(1) Entities Entitled to Notice of the Application:

(a) the municipal legislative bodies and the municipal and regional planning commissions where the net-metering system will be located;

(b) the host landowner;

(c) all adjoining landowners;

(d) the Department of Public Service;

(e) the Agency of Natural Resources;

(f) the Natural Resources Board, if the proposed net-metering systems is located on a resource extraction site;

(g) the Division for Historic Preservation;

(h) the Agency of Agriculture Food and Markets; and

(i) the electric company.

(2) Method of Service.

Notice to state agencies, the electric company, and regional planning commissions will occur through ePUC. The applicant must provide notice to any affected municipal legislative body and planning commission, host landowner, and adjoining landowners by first-class mail, personal delivery, or any other means authorized by the person entitled to service. This notice must

include, at a minimum, the case number, a reference and link to the advance submission required under Rule 5.106(C), a general description of the proposed net-metering system and its location, a statement that a complete application has been filed with the Commission and that the case has been opened, and information and a link that will allow the recipient to access the complete application electronically. The notice must also include instructions on how a recipient can contact the applicant to obtain a hard copy of the complete project plans and petition if the recipient is not able to access them electronically. If a hard copy is requested by the recipient, the applicant must serve it by first-class mail or its equivalent within 4 days of the request.

(G) Effect of Failure to Provide Timely Service. The Commission will grant reasonable extensions of time to the entities listed under (F)(1), above, to make a responsive filing when the applicant fails to cause timely service of notice of an application.

5.107 [DELETED]

5.108 Amendments to Pending Registrations and Applications

(A) An applicant may amend a pending Section 5.105 registration by filing an amended registration form in the pending registration case. The applicant must pay the modification fee set forth in 30 V.S.A. § 248c(d). The filing of an amended registration form will trigger a new 14-day review period and a CPG will be deemed issued on the 15th day after the filing, unless otherwise ordered by the Commission.

(B) An applicant may amend a pending Section 5.106 application by filing a motion in the pending application case. The applicant must pay the modification fee set forth in 30 V.S.A. § 248c(d). Applicants must provide notice of all substantial changes to all persons and entities who were entitled to receive a copy of the original application. The motion must include sufficient information, including an amended site plan, so that the Commission can understand the nature of the proposed change and its impact, if any, under any of the Section 248 criteria. In response to a motion to amend, the Commission may, in its discretion:

(1) request additional information from the applicant;

(2) request comments from interested persons; and

(3) undertake any other process necessary to ensure the adequate review of the proposed amendment.

(C) Effect of amendment on applicable REC and siting adjustors. Except as provided below, the REC and siting adjustors applicable to an amended net-metering system, if any, will be based on the date that the first, complete application or registration was filed with the Commission and not on the date that the amendment request was filed. An amendment or series of amendments that increase the capacity of a net-metering system by more than 5% or 15 kW, whichever is greater, will trigger the application of the most recently adopted siting and REC adjustors to the entire output of the amended net-metering system.

(D) Any amendment that is a material modification, as that term is defined in Rule 5.500, must be approved by the interconnecting utility before the amendment motion is filed with the Commission.

5.109 Substantial Changes to Approved Net-Metering Systems and Amendment of CPGs

Commission approval is required for any substantial change to the plans of a net-metering system that has been issued or deemed issued a certificate of public good. An amended CPG, necessitated by changes substantial or non-substantial, may be obtained in the following manner:

(A) If the amended system meets the eligibility criteria to register for a CPG under Section 5.105, then the CPG holder may obtain an amended CPG by filing a revised registration form with the Commission. The registration must be filed as a new case in ePUC and will receive a new case number. The CPG holder requesting an amendment must submit the fee due for modifications under 30 V.S.A. § 248c(d)(3)(B).

(B) Amendment of CPGs issued pursuant to Rule 5.106. If the approved net-metering system has not been commissioned at the time the change is proposed, a request for an amendment to the CPG may be filed in the same case in which the CPG was issued. If the case in which the CPG was issued has been closed, the CPG holder must contact the Clerk of the Commission before filing. If the approved net-metering system has been commissioned, then the request for an amendment must be filed in a new case. The CPG holder requesting an amendment must submit the fee due for modifications under 30 V.S.A. § 248c(d)(3)(B).

(1) The CPG holder must provide notice of substantial changes to all parties to the original CPG case and the entities entitled to notice of a new application, including any newly

affected adjoining landowners. Notice does not need to be given to previous adjoining landowners who have transferred their interests since the time of the project's approval. New case procedures, including the provision of a 45-day advance submission, do not apply. The request must include evidence addressing each of the applicable Section 248 criteria under which the change has the potential to have a significant impact.

(2) The CPG holder must provide notice of requests for amendments to CPGs that are the result of non-substantial changes to the parties to the original CPG case. New case procedures, including the provision of a 45-day advance submission, do not apply. The request must include sufficient information for the Commission to determine that the proposed changes do not have the potential for significant impact under the applicable Section 248 criteria.

(C) The maintenance and repair of net-metering systems and the replacement of equipment with like equipment do not require advance notice or Commission approval.

(D) Effect of amendment on applicable REC and siting adjustors. Except as provided below, the REC and siting adjustors applicable to an amended net-metering system, if any, will be based on the date that the first, complete application or registration was filed with the Commission and not on the date that the amendment request was filed. An amendment or series of amendments that increase the capacity of a net-metering system by more than 5% or 15 kW, whichever is greater, will trigger the application of the most recently adopted siting and REC adjustors to the entire output of the amended net-metering system.

(E) Any amendment that is a material modification, as that term is defined in Rule 5.500, must be approved by the interconnecting utility before the amendment is proposed to the Commission.

5.110 Transfer and Abandonment of CPGs

(A) A CPG for a net-meteringsystem is deemed to be automatically transferred when the property hosting a net-metering system is sold or legal title is otherwise conveyed to a new owner. The new owner may continue operating the net-metering system provided that the new owner provides written notice of the transfer to the electric company.

(B) A CPG for a net-metering system that is transferred independently of a change in ownership of the property hosting the net-metering system may be transferred provided that:

(1) the original certificate holder is in compliance with all terms and conditions of the CPG;

(2) the new certificate holder complies with all terms and conditions of the CPG and complies with this Rule 5.100; and

(3) within 30 days after acquiring ownership of the system, the new owner of a ground-mounted system completes and files an official transfer form with the Commission, the Department of Public Service, the Agency of Natural Resources, and the electric company, or within 30 days after acquiring ownership of the system, the new owner of a roof-mounted system completes and files an official transfer form with the Commission, the Department of Public Service, and the electric company.

(C) Abandonment. Non-use of a CPG for a period of one year following the date the CPG is issued will result in the revocation of the CPG without further action by the Commission. For the purpose of this section, for a CPG to be considered used, the net-metering system must be commissioned. A CPG holder may obtain an automatic one-year extension of time by providing written notice to the Commission and the electric company. Such notice must be (1) filed in the case in which the CPG was issued or deemed issued, unless the case is closed, in which case the filer should contact the Clerk, and (2) filed before the one-year anniversary of CPG issuance; otherwise the CPG will be deemed revoked. Further extensions will only be granted upon written request and for good cause shown before expiration of the CPG. A CPG holder may abandon a CPG before construction by providing written notice to the Commission, the Department, the Agency of Natural Resources, and the electric company.

5.111 Substantive Criteria of 30 V.S.A. § 248(b) Applicable to Net-Metering CPG Registrations and Applications

Pursuant to 30 V.S.A. § 8010, which provides that the Commission may waive the requirements of 30 V.S.A. § 248(b) that are not applicable to net-metering systems, the Commission will review registrations and applications for net-metering systems for compliance with the following statutory criteria. All other criteria are conditionally waived.

(A) For state-jurisdictional hydroelectric net-metering systems and for net-metering systems that are located on a new or existing structure whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity: 30 V.S.A. § 248(b)(3).

(B) For net-metering systems that are not located on a new or existing structure whose

primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity and that elect to *transfer* the tradeable renewable energy credits to the electric company: 30 V.S.A. §§ 248(b)(1); (b)(3); (b)(5), except that the applicant does not need to address the effect of the net-metering system on municipal services, educational services, transportation, water conservation, sufficiency of water, existing water supply, or greenhouse gases; (b)(8); and Section 248(s).

(C) For net-metering systems that are not located on a new or existing structure whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity and that elect to *retain* the tradeable renewable energy credits generated by the net-metering system: 30 V.S.A. §§ 248(b)(1); (b)(2); (b)(3); (b)(5), except that the applicant does not need to address the effect of the net-metering system on municipal services, educational services, transportation, water conservation, sufficiency of water, existing water supply, or greenhouse gases; (b)(8); and Section 248(s).

5.112 Aesthetic Evaluation of Net-Metering Projects

(A) Quechee Test. In determining whether a net-metering system satisfies the aesthetics criterion contained in 30 V.S.A. § 248(b)(5), the Commission applies the so-called "Quechee test" as described in the case *In Re Halnon*, 174 Vt. 515(2002) (mem.), set forth below:

(1) Step one: Determine whether the project would have an adverse impact on aesthetics and the scenic and natural beauty of an area because it would not be in harmony with its surroundings. If the answer is no, then the project satisfies the aesthetics criterion. If yes, move on to step two.

(2) Step two: The adverse impact will be found to be undue if any one of the three following questions is answered affirmatively:

(a) Would the project violate a clear, written community standard intended to preserve the aesthetics or scenic, natural beauty of the area?

(b) Would the project offend the sensibilities of the average person?

(c) Have the applicants failed to take generally available mitigating steps that a reasonable person would take to improve the harmony

of the proposed project with its surroundings?

(B) Adverse Aesthetic Impact. In order to determine that a project would have an adverse impact on aesthetics and the scenic and natural beauty under subsection (A)(1), above, the Commission must find that a project would be out of character with its surroundings. Specific factors used in making this evaluation include the nature of the project's surroundings, the compatibility of the project's design with those surroundings, the suitability of the project's colors and materials with the immediate environment, the visibility of the project, and the impact of the project on open space.

(C) Clear, Written Community Standard. In order to find that a project would violate a clear, written community standard, the Commission must find that the Project is inconsistent with a provision of the applicable town or regional plan that:

(1) Designates specific scenic resources in the area where the project is proposed. Statements of general applicability do not qualify as clear, written community standards. For example, the general statement that "agricultural fields shall be preserved" would not qualify because the statement does not designate specific resources as scenic. The statement "the agricultural fields to the west of Maple Road are scenic resources that must be preserved" would qualify because it designates specific resources as scenic.

(2) Provides specific guidance for project design. For example, the statement "only dwellings, forestry, and agriculture are permitted within the Maple Road scenic protection area" would be a clear standard because it states with specificity what type of development is permitted. The statement "all development in the Maple Road scenic protection area must maintain the rural character of the area" would not be a clear standard because it does not state with specificity what type of development is permitted.

(D) Offend the Sensibilities of the Average Person. A project will be found to offend the sensibilities of the average person if the project would be so out of character with its surroundings or so significantly diminish the scenic qualities of the area as to be offensive or shocking to the average person. In determining whether a project would offend the sensibilities of an average person, the Commission will consider the perspective of an average person viewing the project from both adjoining residences and from public vantage points.

(E) Generally Available Mitigating Steps. In determining whether an applicant has

taken generally available mitigating steps, the Commission may consider the following:

(1) what steps, such as screening, the applicant is proposing to take;

(2) whether the applicant has adequately considered other available options for siting the project in a manner that would reduce its aesthetic impact;

(3) whether the applicant has adequately explained why any additional mitigating steps would not be reasonable; and

(4) whether mitigation would frustrate the purpose of the Project.

5.113 Setbacks

Applicants seeking authorization to construct a ground-mounted net-metering system must comply with the following minimum setback requirements:

(1) From a state or municipal highway, measured from the edge of the traveled way:

(a) 100 feet for a solar facility with a plant capacity exceeding 150 kW; and

(b) 40 feet for a solar facility with a plant capacity less than or equal to 150 kW but greater than 15 kW.

(2) From each property boundary that is not a state or municipal highway:

(a) 50 feet for a solar facility with a plant capacity exceeding 150 kW; and

(b) 25 feet for a solar facility with a plant capacity less than or equal to 150 kW but greater than 15 kW.

(3) This subsection does not require a setback for a solar facility with a plant capacity equal to or less than 15 kW.

(4) In the case of a net-metering wind turbine, the facility must be set back from all property boundaries and public rights-of-way by a distance equal to at least twice the height of the turbine, as measured from the tip of the blade.

(5) On review of an application, the Commission may either require a larger setback than this subsection requires, or approve an agreement to a smaller setback among the applicant, the municipal legislative body, and each owner of property adjoining the smaller setback.

PART III: PARTICIPATING IN THE REVIEW OF APPLICATIONS FOR CPGS

Part III describes the procedures available to the public and parties during the review of net-metering applications filed pursuant to Section 5.106. Part III does not apply to the review of net-metering registrations filed pursuant to Section 5.105.

5.114 Obtaining Information About a Net-Metering CPG Application

Interested persons may obtain information about a net-metering CPG application by visiting ePUC at https://epuc.vermont.gov or by contacting the Clerk of the Commission.

5.115 Rules and Processes Applicable to the Review of Net-Metering CPG Applications

The purpose of this Rule is to simplify the process of participating in the review of applications for net-metering CPGs. In keeping with this purpose, the process for reviewing CPG applications is described in Sections 5.116 through 5.124, below. Any procedure not described in this Rule is governed by the provisions of Rule 2.200. Where there is a conflict between the procedures described in this Rule and any other Commission rule, the provisions of this Rule govern.

5.116 Submission of Public Comments

When a net-metering application is filed with the Commission, the public may file comments addressing whether the application should be approved. Public comments that do not include a notice of intervention, a motion to intervene, or a request for hearing may be filed using ePUC, by email to puc.clerk@vermont.gov, or in paper. All public comments concerning an application must be filed with the Commission, with a copy sent to the applicant unless the comment was filed in ePUC, within 30 days from the date of notification by the Commission that the application is administratively complete. These public comments will be viewable on the Commission's electronic filing system. The applicant may file a written response to all timely filed public comments with the Commission within 14 days of the close of the 30-day public comment period, unless otherwise directed by the Commission.

5.117 Party Status in Net-Metering CPG Proceedings

(A) When a person wishes to participate in the review of a CPG application as a party, which is a prerequisite to filing an appeal of a final Commission decision, such person must

obtain party status from the Commission.

(B) The following persons must obtain party status as follows:

(1) The Vermont Department of Public Service, and the Agency of Natural Resources are parties in any proceeding under this Rule.

(2) The following persons will obtain party status fro~~m the~~ Commission only after filing a notice of intervention. All notices of intervention must be filed using ePUC unless the filing is accompanied by a request for a waiver under Commission Rule 2.107 to allow for paper filings. If a notice of intervention is filed in paper along with a request for a waiver of the requirement to use ePUC, the filer must mail copies of the entire filing to all parties in the case. Filers can obtain a list of names and addresses of the parties in the case by contacting Commission administrative staff at 802-828-2358 or puc.clerk@vermont.gov. The Commission will provide a form for such purpose:

(a) the electric company;

(b) the legislative body and the planning commission of the municipality in which a facility is located, pursuant to 30 V.S.A. § 248(a)(4)(F);

(c) the regional planning commission of the region in which a facility is located;

(d) the regional planning commission of an adjacent region if the distance between the net-metering system's nearest component and the boundary of that adjacent region is less than or equal to 500 feet or 10 times the height of the facility's tallest component, whichever is greater;

(e) the legislative body and planning commission of an adjacent municipality if the distance between the net-metering system's nearest component and the boundary of that adjacent municipality is less than or equal to 500 feet or 10 times the height of the

facility's tallest component, whichever is greater;

(f) adjoining landowners;

(g) the Vermont Agency of Agriculture Food and Markets;

(h) the Vermont Division of Historic Preservation; and

(i) the Natural Resources Board.

(C) Any other person seeking to participate in a net-metering proceeding as a party must file a motion to intervene either in accordance with Commission Rule 2.209 or by filing a form developed by the Commission for use under this Rule. All motions to intervene must be filed using ePUC unless the filing is accompanied by a request for a waiver under Commission Rule 2.107 to allow for paper filings. If a motion to intervene is filed in paper along with a request for a waiver of the requirement to use ePUC, the filer must mail copies of the entire filing to all parties in the case. Filers can obtain a list of names and addresses of the parties in the case by contacting Commission administrative staff at 802-828-2358 or puc.clerk@vermont.gov.

(D) Any person who obtains party status acquires all of the legal rights and obligations of a party in a Commission proceeding. The filing of public comments on an application and the consideration of such public comments by the Commission do not confer party status. Party status is conferred only upon the filing of a notice of intervention by the persons listed in (B)(3), above, or upon issuance of an order from the Commission granting a duly filed motion to intervene.

5.118 Requests for Hearing

The review of net-metering CPG applications is based upon the information contained in the application filed by the applicant. If a party wishes to offer contrary evidence or to challenge the accuracy of information contained in an application, then the party must request a hearing to present such evidence and argument. A party must file a request for hearing within 30 days from the date of notification by the Commission that the application is administratively complete. The request must identify the proposed issues to be resolved through the hearing. Unless the party has already been granted party status by the Commission, a request for a hearing must be accompanied by a notice of intervention or motion to intervene, pursuant to Section 5.117 of this Rule.

5.119 Circumstances When the Commission Will Grant a Request for Hearing

(A) The Commission will grant a request for a hearing only if such request is filed by a

party. Such a request may be included with a notice of intervention or motion to intervene. A hearing requested by a party will be granted provided that the request raises:

(1) one or more substantive issues under the applicable Section 248 criteria; or

(2) a substantive issue that is within the Commission's jurisdiction to resolve.

(B) Requests must be supported by more than general or speculative statements. For example, it is not sufficient to state that an application "violates Section 248(b)(5)." Instead, a party should state with specificity why the project raises a substantive issue under the Section 248 criteria. For example: "The application raises an issue under the aesthetics criterion under Section 248(b)(5) because the applicant has not proposed adequate mitigation to screen the western portion of the project from Maple Street."

5.120 Scheduling Conferences and Status Conferences

In cases where the Commission has determined that a hearing will be held, on reasonable notice the Commission will conduct a scheduling conference prior to the hearing. The Commission may also conduct additional status conferences as necessary. . The following topics may be addressed at a scheduling or status conference:

(a) clarifying the issues to be addressed at the hearing and, if possible, narrowing them;

(b) identifying evidence, documents, witnesses, stipulations, and other offers of proof to be presented at a hearing;

(c) promoting the expeditious, informal, and nonadversarial resolution of issues and the settlement of differences;

(d) requiring the timely exchange of information concerning the application;

(e) setting a schedule for the prefiling of testimony and exhibits; and

(f) such other matters as the Commission deems appropriate.

5.121 [DELETED]

5.122 Procedure for Hearings

(A) Notice. Prior to any hearing conducted under this Rule, each party will receive a notice stating the time, place, and nature of the hearing. The notice will include a short and plain

statement of the matters at issue in the hearing and a statement of the statutes and rules involved in the case.

(B) Order of Witnesses, Marking of Exhibits. At the hearing the Commission will establish the order in which the parties will present their witnesses and evidence. At that time all exhibits and any other documents to be entered into the record must be marked for identification (for example, Exhibit Applicant-1).

(C) Pre-Filed Testimony and Exhibits. Each party must pre-file a copy of all testimony and exhibits with the Commission. Copies of such filings must be provided to the applicant and other parties at the time of filing. At the discretion of the Commission, parties may present live direct or rebuttal testimony.

(D) Cross-Examination. At the hearing, each party will be afforded a reasonable opportunity to ask questions of other parties' witnesses.

(E) Evidence. The Rules of Evidence, as modified by 3 V.S.A. § 810, apply in hearings under this Rule.

(F) Transcript. Any hearing will be transcribed and a transcript will be made available to the public by the Commission.

(G) Briefs, Proposed Findings of Fact. At the conclusion of the hearing, the parties will state whether they wish to file proposed findings of fact or legal briefs. A schedule for making such filings will be established, if necessary.

5.123 Decisions

After the conclusion of the hearing and after the submission of any briefs and proposed findings of fact, the Commission will issue a written decision in the case. In a case where a majority of the Commission members have not heard the case or read the record, a proposal for decision will be provided to the parties for comment and opportunity for oral argument prior to the issuance of a final decision.

5.124 Appeals of Commission Decisions

Information about how to appeal a Commission decision to the Vermont Supreme Court will be provided with any final order from the Commission.

PART IV: THE NET-METERING PROGRAM

5.125 Pre-Existing Net-Metering Systems

(A) Eligibility. A pre-existing net-metering system must:

(1) have a complete CPG application filed with the Commission prior to January 1, 2017;

(2) the complete CPG application must have been filed at a time when the electric company was accepting net-metering systems pursuant to 30 V.S.A. § 219a(h)(1)(A) as the statute existed on December 31, 2016, orqualified under state law as a system that did not count towards the capacity limit on net-metering contained in that statute; and

(3) not have been amended to increase its capacity by more than 5% or 10 kW, whichever is greater, after the effective date of this Rule.

(B) [DELETED]

(C) Applicable Rates for Pre-Existing Net-Metering Systems. Customers using pre-existing net-metering systems shall, for a period of 10 years from the date of the net-metering system's commissioning, be credited for generation according to the rates and incentives provided for in 30 V.S.A. § 219a, as the statute existed on December 31, 2016, and the Commission's rules implementing that statute. If the customer's system was commissioned before the electric company's first rate schedule to comply with Section 219a(h)(1)(K) took effect, then the 10-year period shall run from the effective date of the electric company's first rate schedule implementing the incentive. At the end of the applicable 10-year period, customers using pre-existing net-metering systems shall be credited for excess generation as provided in Section 5.126 of this Rule or its successor.

(D) Non-Bypassable Charges. For a period of 10 years from the date that a pre-existing net-metering system was commissioned, a customer using that net-metering system may apply any accrued net-metering credits to any charge irrespective of whether that charge is a non-bypassable charge.

(E) Adjustors Not Applicable to Pre-Existing Net-Metering Systems. Pre-existing net-metering systems are not subject to any siting adjustors or REC adjustors established under this Rule.

(F) Tradeable Renewable Energy Credits. Any tradeable renewable energy credits created by pre-existing net-metering systems will continue to be either retained by the customer or transferred to the electric company per the election made by the applicant at the time of application for its CPG. For CPG applications filed prior to the time when such election was available, tradeable renewable energy credits are retained by the customer.

(G) Existing Groups Using Pre-Existing Net-Metering Systems. Notwithstanding Sections 5.129(C) through (E), an existing group or customer may have more than 500 kW of pre-existing net-metering systems attributed to the group or customer if these net-metering arrangements were requested prior to January 1, 2017.

(H) Provisions of This Rule Applicable to Pre-Existing Net-Metering Systems. Pre-existing net-metering systems are subject only to the following provisions of this Rule.

(1) 5.109 (Amendments to Approved Net-Metering Systems);

(2) 5.110 (Transfers and Abandonment);

(3) 5.126 (Energy Measurement), except as modified by (C), above, and except that a customer is not required to install a production meter at a pre-existing system pursuant to 5.126(A)(1);

(4) 5.129 (Billing Standards and Procedures);

(5) 5.131 (Interconnection Requirements);

(6) 5.132 (Disconnection of Net-Metering Systems);

(7) 5.135 (Participation in Wholesale Markets);

(8) 5.137 (Energy Storage Facility Electrically Connected to a Net-Metering System); and

(9) 5.138 (Compliance Proceedings).

(I) All other net-metering systems are subject to all provisions of this Rule.

5.126 Energy Measurement for Net-Metering Systems

(A) Electric energy measurement for net-metering systems must be performed in the following manner:

(1) At its own expense, the applicant must install a production meter to measure the electricity produced by the net-metering system.

(2) Individual Net-Metering System Billing: For customers who elect to wire

net-metering systems such that they offset consumption on the billing meter, the billing meter establishes billing determinants for the customer's bill based on the rate schedule for the customer.

(a) At the end of the billing period, the electric company must net electricity produced with electricity consumed.

(i) If electricity consumed by the customer exceeds the electricity produced by the net-metering system, the customer must be billed the difference, net of any credit accumulated in the preceding 12 months. Credits may not be applied to non-bypassable charges as identified in a utility's tariff.

(ii) If the electricity produced by the net-metering system exceeds the electricity consumed, the excess generation must be monetized at the applicable blended residential rate. The monetized credit applies to all charges on the bill not identified as non-bypassable charges in a utility's tariff.

(iii) For the first 10 years after the system is commissioned, any zero or positive siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter and applied to the bill as a credit. For example, the $0.01/kWh siting adjustor for net-metering systems 15 kW or less will result in such systems receiving a bill credit of $0.01/kWh multiplied by all kWh on the production meter.

(iv) Any negative siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter and applied to the bill as an additional charge. For example, the -$0.03/kWh REC adjustor for net-metering systems that retain their RECs will result in such systems receiving a bill charge of $0.03/kWh

multiplied by all kWh on the production meter.

(v) If credits remain after being applied to all charges not identified in an electric company's tariff as non-bypassable charges, such credits must be tracked, applied, or carried forward on customer bills, as described in Section 5.129.

(3) Group Net-Metering System Billing for Systems Not Directly Interconnected: For customers who elect to wire group net-metering systems such that they offset consumption on the billing meter, the billing meter establishes the billing determinants for the customer's bill based on the rate schedule for the customer.

(a) At the end of the billing period, the electric company must net electricity produced with electricity consumed on the generation account.

(i) If electricity consumed by the customer exceeds the electricity produced by the net-metering system, the customer must be billed the difference, net of any credit accumulated in the preceding 12 months. Credits may not be applied to non-bypassable charges as identified in a utility's tariff.

(ii) If the electricity produced by the net-metering system exceeds the electricity consumed, the excess generation must be allocated to group members and monetized at the applicable blended residential rate. The monetized credit applies to all charges on the bill not identified as non-bypassable charges in a utility's tariff.

(iii) For the first 10 years after the system is commissioned, any zero or positive siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter, allocated to the group members and applied to the bills as credits. For example, the $0.01/kWh siting adjustor for net-metering systems 15 kW or less will

result in such systems receiving a bill credit of $0.01/kWh multiplied by all allocated kWh from the production meter.

(iv) Any negative siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter, allocated to the group members, and applied to the bills as additional charges. For example, the negative $0.03/kWh REC adjustor for net-metering systems that retain their RECs will result in such systems receiving a bill charge of $0.03/kWh multiplied by all allocated kWh from the production meter.

(v) If credits remain on group members' bills after being applied to all charges on the bills not identified as non-bypassable charges in an electric company's tariff, such credits must be tracked, applied, or carried forward on group member bills, as described in Section 5.129.

(4) Group Net-Metering System Billing for Systems Directly Interconnected: For customers who elect to wire group net-metering systems such that the generation is directly connected to the utility grid and does not also offset any customer's billing meter, the electricity produced by the net-metering system, all of which is excess generation as defined in this Rule, must be allocated to the group members and monetized at the applicable blended residential rate before netting. The monetized credit applies to all charges on the bill not identified as non-bypassable charges.

(a) For the first 10 years after the system is commissioned, any zero or positive siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter, allocated to the group members, and applied to the bills as credits. For example, the $0.01/kWh siting adjustor for net-metering systems 15 kW or less will result in such systems receiving a bill credit of $0.01/kWh multiplied by all allocated kWh from the production meter.

(b) Any negative siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter, allocated to the group members, and applied to the bills as additional charges. For example, the negative $0.03/kWh REC adjustor for net-metering systems that retain their RECs will result in such systems receiving a bill charge of $0.03/kWh multiplied by all allocated kWh from the production meter.

(c) If credits remain on group members' bills after being applied to all charges on the bills not identified as non-bypassable charges in an electric company's tariff, such credits must be tracked, applied, or carried forward on group member bills, as described in Section 5.129.

(B) As part of a tariff filed for Commission approval pursuant to this Rule, an electric company may propose alternative methods of energy measurement for group net-metering systems if the application of Section (A), above, would cause unreasonable administrative burdens for the electric company. Such alternatives may not displace any of the applicable adjustors, credits, or charges provided inthis Rule.

5.127 Determination of Applicable Rates and Adjustors

(A) Depending on the electric company service territory in which the net-metering system is located, the blended residential rate used to determine the value of credits for excess generation is the lowest of the following:

(1) For electric companies whose general residential service tariff does not include inclining block rates, the $/kWh charge set forth in that utility's tariff for general residential service;

(2) For electric companies whose general residential service tariff includes inclining block rates, a blend of those rates determined by adding together all of the revenues to the company during the most recent calendar year from kWh sold under those block rates and dividing the sum by the total kWh sold by the company at those rates during the same year. Each electric company whose general residential service tariff includes inclining

block rates must perform this calculation by February 1 of each even-numbered year. Any change to the blended residential rate calculated pursuant to this subsection must be included in a tariff compliance filing made pursuant to Section 5.128(H) of this Rule; or

(3) The weighted average of the blended residential rates for all Vermont electric companies. The average is weighted by the annual retail sales of the electric companies.

(B) The REC adjustors are determined as follows:

(1) At the time an application for authorization to construct the net-metering system is filed with the Commission, the applicant must elect whether to retain ownership of any RECs generated by the system or whether to transfer such RECs to the electric company. This election is irrevocable. The electric company must retire all RECs transferred to it by a net-metering customer.

(2) The REC adjustor for a net-metering system must be calculated in dollars per kWh ($/kWh) at the time the Commission issues the net-metering system a CPG. A zero or positive REC adjustor applies for a period of 10 years from the date the system is commissioned; a negative REC adjustor applies in perpetuity. Except for systems that register pursuant to Section 5.105 of this Rule, both the amount and the term of the REC adjustor will be stated in the net-metering system's CPG.

(3) The value of the REC adjustors are those set in the most recent biennial update order issued by the Commission pursuant to Section 5.128. Hydroelectric facilities net-metering under this rule are not subject to a REC adjustor.

(C) The siting adjustors are determined as follows:

(1) In order to provide incentives for the appropriate and beneficial siting of net-metering systems, each net-metering system may receive the highest-value siting adjustor for which it meets the applicable criteria. The net-metering system's siting adjustor must be expressed in dollars per kWh ($/kWh) at the time the Commission issues the net-metering system a

CPG. A zero or positive siting adjustor applies for a period of 10 years from the date the system is commissioned; a negative siting adjustor applies in perpetuity. Except for systems that register pursuant to Section 5.105 of this Rule, both the amount and the term of the siting adjustor must be stated in the net-metering system's CPG.

(2) The value of the siting adjustors for Category I through IV facilities and hydroelectric facilities are those set in the most recent biennial update order issued by the Commission pursuant to Section 5.128.

5.128 Biennial Update Proceedings

(A) The Commission must conduct a biennial update in 2024 and every two years thereafter to update the following:

(1) REC adjustors;

(2) siting adjustors;

(3) the electric companies' blended residential rates and the statewide blended residential rate; and

(4) the eligibility criteria applicable to Categories I, II, III, and IV net-metering systems.

(B) In updating the REC adjustors, the Commission must consider:

(1) the pace of renewable energy deployment necessary to be consistent with the Renewable Energy Standard program, the Comprehensive Energy Plan, and any other relevant State program;

(2) the total amount of renewable energy capacity commissioned in Vermont in the most recent two years;

(3) the disposition of RECs generated by net-metering systems commissioned in the past two years; and

(4) any other information deemed appropriate by the Commission.

(C) In updating the siting adjustors, the Commission must consider:

(1) the number and capacity of net-metering systems receiving CPGs in the

most recent two years;

(2) the extent to which the current siting adjustors are affecting siting decisions;

(3) whether changes to the qualifying criteria of the categories are necessary;

(4) the overall pace of net-metering deployment; and

(5) any other information deemed appropriate by the Commission.

(D) On or before March 1 of each even-numbered year, each electric company must file in the biennial update investigation case a form developed by the Commission in consultation with the Department and the electric companies. The form will collect the following information regarding the state of the electric company's net-metering program:

(1) the number of net-metering systems interconnected with the electric company's distribution system during the past two years;

(2) the capacity of each system;

(3) the fuel source of each system;

(4) the REC disposition of each system;

(5) the siting adjustor applicable to each system;

(6) the electric company's updated blended residential rate and supporting calculations;

(7) any other information the electric company believes to be relevant to the biennial update; and

(8) any other information relevant to the biennial update required by the Commission's form.

(E) By no later than April 1 of each even-numbered year, the Department of Public Service and the Agency of Natural Resources may file in the biennial update investigation case any proposed updates to the items specified in Section 5.128(A)(1)-(4) and reasons therefor.

(F) Any person may file comments on the filings under (D) and (E), above, by April 15.

(G) By June 1 of each even-numbered year, the Commission may by order update the items specified in Section 5.128(A)(1)-(4), as necessary. Adjustors must be determined to ensure that net-metering deployment occurs at a reasonable pace and in furtherance of State

energy goals.

(H) Electric companies must file no later than June 15 revisions to their net-metering tariffs that incorporate the new values set forth by the Commission in its biennial update order. Each tariff must be filed as a new tariff case in ePUC. Such tariffs must have an effective date of August 1. This tariff compliance filing may not include any other proposed changes to the utility's net-metering tariff, except for any revisions to the items in Rule 5.128(A)(1)-(4) ordered in the Commission's biennial update order.

(I) Notwithstanding the above, the Commission may conduct an update sooner than biennially at its own discretion or upon petition by the Department.

5.129 Billing Standards and Procedures

(A) Customer Billing Requirements. The bill of a net-metering customer must include the following:

(1) the dollar amount of any credits carried forward from the previous months;

(2) the dollar amount of credits that have expired in the current month;

(3) the dollar amount of credits generated in the current month;

(4) the dollar amount of credits remaining; and

(5) the total kWh generated by the net-metering system in the current month.

(B) Accumulated Bill Credits. Any accumulated bill credit must be used within 12 months from the month it is earned, or it reverts to the electric company without any compensation to the net-metering customer. Bill credits may not be transferred independently of a transfer of ownership of a net-metering system.

(C) Membership in Multiple Net-Metering Groups. Individual customer accounts may be enrolled in only one net-metering group at a time. Customers with multiple accounts may enroll each account in a separate net-metering group.

(D) 500 kW Customer Limit. The cumulative capacity of net-metering systems allocated to a single customer may not exceed 500 kW, except as provided in Rule 5.129(F), below. For example, a customer who has two accounts cannot have each account allocated more than 50 percent of the output from two 500 kW net-metering systems because the cumulative capacity of the allocated share of those net-metering systems would exceed 500 kW.

(E) Multiple Net-Metering Systems in a Group. Groups may have more than one net-

metering system attributed to a group and may increase the capacity of existing generation attributed to the group. However, the cumulative capacity of net-metering systems attributed to a group may not exceed 500 kW, except as provided in Rule 5.129(F), below.

(F) Cumulative Capacity of School Net-Metering Systems. The cumulative capacity of net-metering systems allocated to a single customer:

(1) that is a public school, as defined in 16 V.S.A. § 11(7); an independent school, as defined in 16 V.S.A. § 11(8); a supervisory union, as defined in 16 V.S.A. § 11(23); or a school district, as defined in 16 V.S.A. § 11(10), must not exceed 1 MW.

(2) that is a school district, as defined in 16 V.S.A. § 11(10), or a supervisory union, as defined in 16 V.S.A. § 11(23), created as a result of school district consolidation under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended, must not exceed the greater of:

(a) the cumulative capacity of the net-metering systems that the school districts were participating in, or had agreed to participate in, prior to consolidation; or

(b) 1 MW.

(G) Group Member Allocations. Where the customer has, at its own expense, provided a separate meter for measuring production, the kWh produced by a net-metering system may be allocated to the accounts of a single customer or the accounts of group members. Where there is no separate production meter, only the excess generation may be allocated to accounts belonging to a single customer or to the accounts of members of a group.

5.130 Group System Requirements

(A) In addition to any other requirements in 30 V.S.A. §§ 248 and 8010, and in any applicable Commission rules, before a group system may be formed and served by an electric company, the group must file the following information with the electric company:

(1) The meters to be included in the group system, which must be located within the same electric company service territory;

(2) A process for adding and removing meters in the group and an allocation

of any credits among the members of the group. This allocation arrangement may be changed only on written notice to the electric company by the person designated under 5.130(A)(3), and any such change may only apply on a prospective basis;

(3) The name and contact information for a designated person who is responsible for all communications from the group system to the serving electric company, except for communications related to billing, payment, and disconnection; and

(4) A binding process for resolving any disputes among the members of a group relating to the net-metering system. This dispute resolution process may not in any way require the involvement of the electric company, the Commission, or the Department. This process does not apply to disputes between the electric company and individual group members regarding billing, payment, or disconnection.

(B) The electric company must implement appropriate changes to a net-metering group within 30 days after receiving written notification of such changes from the person designated under subsection 5.130(A)(3). Written notification of a change in the person designated under subsection 5.130(A)(3) is effective upon receipt by the electric company. The electric company is not liable for the consequences from actions based on such notification.

(C) For each group member's customer account, the electric company must bill that group member directly and send directly to that group member all communications related to billing, payment, and disconnection of that group member's customer account. Any volumetric charges for any account so billed must be based on the individual meter for the account.

5.131 Interconnection Requirements

The interconnection of all net-metering systems is governed by Commission Rule 5.500. The applicant bears the costs of all equipment necessary to interconnect the net-metering system to the distribution grid and any distribution system upgrades necessary to ensure system stability and reliability.

5.132 Disconnection of a Net-Metering System

The following procedures govern the disconnection of a net-metering system from the electrical system. These procedures apply to net-metering systems only and do not supplant Commission Rules 3.300 and 3.400 relating to company disconnection in general. A customer who initiates a permanent disconnection of a net-metering system must notify the electric company. The electric company must notify the Commission and the Department of the disconnection.

(A) In the event the electric company must perform an emergency disconnection of a net-metering system, the electric company must notify the customer within 24 hours after the disconnection. For the purpose of this section, the term "emergency" means a situation in which continued interconnection of the net- metering system is imminently likely to result in significant disruption of service or endanger life or property.

(B) If the emergency is not caused by the operation of the net-metering system, the company must reconnect the net-metering system upon cessation of the emergency.

(C) If the emergency is caused by the operation of the net-metering system, the electric company must communicate the nature of the problem to the customer within 5 days, and attempt to resolve the problem. If the problem has not been resolved within 30 days of an emergency disconnection, the electric company must file a disconnection petition with the Commission.

(D) Non-emergency disconnections must follow the same procedure as emergency disconnections in subsection B above, except that the electric company must give written notice of the disconnection no earlier than 10 days and no later than 5 days prior to the first date on which the disconnection of the net-metering system is scheduled to occur. Such notice must communicate to the customer the reason for disconnection and the expected duration of the disconnection. With written consent from the customer, an electric company may arrange to provide the customer with notice of non-emergency disconnections on terms other than those set forth in this Rule, provided that the electric company first informs the customer of the provisions of this Rule and that the customer may contact the Consumer Affairs and Public Information Division of the Vermont Department of Public Service. For group systems, such consent may be obtained from the person designated under Section 5.130(A)(3).

(E) A customer who is involuntarily disconnected may file a written complaint with the Commission at any time following disconnection. The customer must provide a copy of the

complaint to the electric company and the Department of Public Service. Within 30 days of the date the complaint is filed, the Commission may hold a hearing to investigate the complaint. In the event of the filing of such a complaint, the electric company must carry the burden of proof to demonstrate the reasonableness of disconnection.

5.133 Electric Company Requirements

(A) Generally. Electric companies:

(1) Must make net-metering available to any customer or group on a first-come, first-served basis as determined by the order in which customers file a complete interconnection application;

(2) Must track credits by the month and year created and apply them on a first-created, first-used basis;

(3) May charge a reasonable fee for establishment, special meter reading, accounting, account correction, and account maintenance for a net-metering system;

(4) May, prior to interconnection, charge a reasonable fee to cover the cost of electric company distribution system improvements necessary to safely and reliably serve the net-metering customer;

(5) May require a customer to install advanced metering infrastructure prior to serving the net-metering customer;

(6) May require that all meters included within a group system be read on the same billing cycle; and

(7) May require energy efficiency audits for customers seeking to install and operate a net-metering system if they are:

(a) a residential customer with historic energy consumption of 750 kWh or more per month; or

(b) a commercial or industrial customer.

(B) Each electric company with net-metering customers must maintain current records of the number, individual capacity, cumulative capacity, and disconnections of net-metering generation installed within its service territory.

5.134 Electric Company Tariffs

Tariffs. Each electric company must review its net-metering tariff and, pursuant to 30 V.S.A. § 225, file any revisions necessary to ensure consistency with this Rule.

5.135 Participation in Wholesale Markets

No net-metering system may participate in a wholesale market unless the Commission finds that such participation will not harm the interests of Vermont ratepayers and will be in the public good.

5.136 Locational Adjustor Fee

An electric company may propose for Commission approval a tariff assessing a locational adjustor fee on new net-metering systems located in constrained or limited-headroom areas of the grid. The fee will be assessed on a per-kilowatt basis and collected before a net-metering system is energized. The amount of the fee must reflect the incremental economic harm caused by constructing additional generation in the area or the incremental cost to ratepayers of expanding the available grid capacity in the area. The electric company tariff must describe the physical boundaries of the constrained area or limited headroom area; existing and forecasted load and generation within the area; the capacity of the distribution, sub-transmission, or transmission system within the area; any other affected distribution utility, or VELCO, that is potentially affected by the addition of generation to the area, particularly in cases where it is the sub-transmission or transmission system that is facing a constraint; and any other factors relevant to the determination of whether a locational adjustor is just and reasonable. The tariff must also provide a method for allocating any fees collected among other electric companies affected by the constraint. A tariff proposed under this section may apply to new electric generation facilities other than net-metering systems.

5.137 Energy Storage Facility Electrically Connected to a Net-Metering System

(A) An energy storage facility that is electrically connected to a net-metering system must be configured such that the customer cannot receive net-metering compensation for electricity drawn from a source other than the net-metering system.

(B) No electric company may allow an energy storage facility to be interconnected in a

manner that allows electricity generated by any source other than a net-metering system to receive net-metering compensation.

PART V: COMPLIANCE PROCEEDINGS

5.138 Compliance Proceedings

(A) In response to a complaint filed by any member of the public or on its own motion, the Commission may open a compliance proceeding or refer matters concerning whether an approved net-metering system is complying with the terms of its CPG or any applicable law within the Commission's jurisdiction to the Department of Public Service for investigation and to make a recommendation as to whether the Commission should open a compliance proceeding or take any other steps necessary to ensure that the net-metering system continues to serve the public good.

(B) The Commission may take any or all of the following steps to ensure that a net-metering system is constructed and operated in compliance with the terms and conditions of the CPG issued for that net-metering system and any related Commission order:

(1) Direct the certificate holder to provide the Commission with an affidavit under oath or affirmation attesting that the person, company, or corporation or any facility or plant thereof is in compliance with the terms and conditions of the CPG pursuant to 30 V.S.A. § 30(g);

(2) Direct the certificate holder to provide additional information;

(3) Dismiss the complaint;

(4) After notice and opportunity for hearing, amend or revoke any CPG for a net-metering system, impose a penalty under 30 V.S.A. § 30, or order remedial activities for any of the following causes:

(a) The CPG or order approving the CPG was issued based on material information that was false or misleading;

(b) The system was not installed, or is not being operated, in accordance with the National Electrical Code or applicable interconnection standards;

(c) The net-metering system was not installed or is not being operated

in accordance with the plans and evidence submitted in support of the application or registration form or with the findings contained in the order approving the net-metering system;

(d) The holder of the CPG has failed to comply with one or more of the CPG conditions, the order approving a CPG for the net-metering system, or this Rule; or

(e) Other good cause as determined by the Commission in its discretion.

(C) If, assuming the allegations in the complaint are true, the Commission determines that there is no probability of a violation of any CPG condition, Commission order, or any applicable law, the Commission will dismiss the complaint and inform the complainant and CPG holder of such dismissal.

History: Effective March 1, 2001; revised July, 2003; revised November 1, 2007; revised April 15, 2009; revised January 27, 2014; revised July 1, 2017.

VERMONT **GENERAL ASSEMBLY**

The Vermont Statutes Online

The Vermont Statutes Online have been updated to include the actions of the 2023 session of the General Assembly.

NOTE: The Vermont Statutes Online is an unofficial copy of the Vermont Statutes Annotated that is provided as a convenience.

Title 30 : Public Service

Chapter 089 : Renewable Energy Programs

Subchapter 001 : General Provisions

(Cite as: 30 V.S.A. § 8010)

§ 8010. Self-generation and net metering

(a) A customer may install and operate a net metering system in accordance with this section and the rules adopted under this section.

(b) A net metering customer shall pay the same rates, fees, or other payments and be subject to the same conditions and requirements as all other purchasers from the interconnecting retail electricity provider in the same rate-class, except as this section or the rules adopted under this section may provide, and except for appropriate and necessary conditions approved by the Commission for the safety and reliability of the electric distribution system.

(c) In accordance with this section, the Commission shall adopt and implement rules that govern the installation and operation of net metering systems.

(1) The rules shall establish and maintain a net metering program that:

(A) advances the goals and total renewables targets of this chapter and the goals of 10 V.S.A. § 578 (greenhouse gas reduction) and is consistent with the criteria of subsection 248(b) of this title;

(B) achieves a level of deployment that is consistent with the recommendations of the Electrical Energy and Comprehensive Energy Plans under sections 202 and 202b of this title, unless the Commission determines that this level is inconsistent with the goals and targets identified in subdivision (1)(A) of this subsection (c). Under this subdivision (B), the Commission shall consider the Plans most recently issued at the time the Commission adopts or amends the rules;

(C) to the extent feasible, ensures that net metering does not shift costs included

in each retail electricity provider's revenue requirement between net metering customers and other customers;

(D) accounts for all costs and benefits of net metering, including the potential for net metering to contribute toward relieving supply constraints in the transmission and distribution systems and to reduce consumption of fossil fuels for heating and transportation;

(E) ensures that all customers who want to participate in net metering have the opportunity to do so;

(F) balances, over time, the pace of deployment and cost of the program with the program's impact on rates;

(G) accounts for changes over time in the cost of technology; and

(H) allows a customer to retain ownership of the environmental attributes of energy generated by the customer's net metering system and of any associated tradeable renewable energy credits or to transfer those attributes and credits to the interconnecting retail provider, and:

(i) if the customer retains the attributes, reduces the value of the credit provided under this section for electricity generated by the customer's net metering system by an appropriate amount; and

(ii) if the customer transfers the attributes to the interconnecting provider, requires the provider to retain them for application toward compliance with sections 8004 and 8005 of this title.

(2) The rules shall include provisions that govern:

(A) whether there is a limit on the cumulative plant capacity of net metering systems to be installed over time and what that limit is, if any;

(B) the transfer of certificates of public good issued for net metering systems and the abandonment of net metering systems;

(C) the respective duties of retail electricity providers and net metering customers;

(D) the electrical safety, power quality, interconnection, and metering of net metering systems;

(E) the formation of group net metering systems, the resolution of disputes between group net metering customers and the interconnecting provider, and the billing, crediting, and disconnection of group net metering customers by the interconnecting provider; and

(F) the amount of the credit to be assigned to each kWh of electricity generated by a net metering customer in excess of the electricity supplied by the interconnecting

provider to the customer, the manner in which the customer's credit will be applied on the customer's bill, and the period during which a net metering customer must use the credit, after which the credit shall revert to the interconnecting provider.

(i) When assigning an amount of credit under this subdivision (F), the Commission shall consider making multiple lengths of time available over which a customer may take a credit and differentiating the amount according to the length of time chosen. For example, a monthly credit amount may be higher if taken over 10 years and lower if taken over 20 years. Factors relevant to this consideration shall include the customer's ability to finance the net metering system, the cost of that financing, and the net present value to all ratepayers of the net metering program.

(ii) In this subdivision (ii), "existing net metering system" means a net metering system for which a complete application was filed before January 1, 2017.

(I) Commencing 10 years from the date on which an existing net metering system was installed, the Commission may apply to the system the same rules governing bill credits and the use of those credits on the customer's bill that it applies to net metering systems for which applications were filed on or after January 1, 2017, other than any adjustments related to siting and tradeable renewable energy credits.

(II) This subdivision (ii) shall apply to existing net metering systems notwithstanding any contrary provision of 1 V.S.A. § 214 and 2014 Acts and Resolves No. 99, Sec. 10.

(3) The rules shall establish standards and procedures governing application for and issuance or revocation of a certificate of public good for net metering systems under the provisions of section 248 of this title. In establishing these standards and procedures:

(A) The rules may waive the requirements of section 248 of this title that are not applicable to net metering systems, including criteria that are generally applicable to public service companies as defined in this title.

(B) The rules may modify notice and hearing requirements of this title as the Commission considers appropriate.

(C) The rules shall seek to simplify the application and review process as appropriate, including simplifying the application and review process to encourage group net metering systems when the system is at least 50 percent owned by the customers who receive the bill credits for the electricity generated by the system.

(D) With respect to net metering systems that exceed 150 kW in plant capacity, the rules shall apply the so-called "Quechee" test for aesthetic impact as described by the Vermont Supreme Court in the case of In re Halnon, 174 Vt. 515 (2002) (mem.). The rules and application form shall state the components of this test.

(E) The rules shall not waive or include provisions that are less stringent than the requirements of subdivision 248(a)(4)(J) (required information) of this title.

(F) This subdivision (F) applies to an application for a net metering system with a capacity that is greater than 15 kilowatts, unless the system is located on a new or existing structure the primary purpose of which is not the generation of electricity. With respect to such a system, the rules shall not waive or include provisions that are less stringent than each of the following:

(i) the requirement of subdivision 248(a)(4)(C) of this title to provide a copy of the application to the Agencies of Agriculture, Food and Markets and of Natural Resources; the Department of Public Service; the Division for Historic Preservation; the municipal legislative body; and the municipal and regional planning commissions; and

(ii) the requirements of subsection 248(f) (preapplication submittal) of this title.

(4) This section does not require the Commission to adopt identical requirements for the service territory of each retail electricity provider.

(5) Each retail electricity provider shall implement net metering in its service territory through a rate schedule that is consistent with this section and the rules adopted under this section and is approved by the Commission.

(d) Commencing in 2021 and biennially thereafter, the Department shall submit to the Commission its evaluation of the current state of net metering in Vermont, which shall be included within the Department's Annual Energy Report required under subsection 202b(e) of this title and shall also be submitted to the Committees listed under subdivision 202b(e)(2) of this title. The evaluation shall:

(1) analyze the current pace of net metering deployment, both statewide and within the service territory of each retail electricity provider;

(2) after considering the goals and policies of this chapter, of 10 V.S.A. § 578 (greenhouse gas reduction), of section 202a (State energy policy) of this title, and of the Electrical Energy and Comprehensive Energy Plans under sections 202 and 202b of this title, recommend the future pace of net metering deployment statewide and within the service territory of each provider;

(3) analyze the existence and degree of cross-subsidy between net metering customers and other customers on a statewide and on an individual provider basis;

(4) evaluate the effect of net metering on retail electricity provider infrastructure and revenue;

(5) evaluate the benefits to net metering customers of connecting to the provider's distribution system;

(6) analyze the economic and environmental benefits of net metering, and the short- and long-term impacts on rates, both statewide and for each provider;

(7) analyze the reliability and supply diversification costs and benefits of net metering;

(8) evaluate the ownership and transfer of the environmental attributes of energy generated by net metering systems and of any associated tradeable renewable energy credits; and

(9) examine and evaluate best practices for net metering identified from other states.

(e) If a hydroelectric generation plant seeking approval as a net metering system is subject to licensing jurisdiction under the Federal Power Act, 16 U.S.C. chapter 12, subchapter 1, the Commission shall require the plant to obtain such approval through means other than by application for a certificate of public good under section 248 of this title.

(f) Except for net metering systems for which the Commission has established a registration process, the Commission shall issue a final determination as to an uncontested application within 90 days of the date of the last substantive filing by a party. (Added 2013, No. 99 (Adj. Sess.), § 4, eff. Jan. 1, 2017; amended 2015, No. 56, § 12, eff. Jan. 2, 2017; 2015, No. 174 (Adj. Sess.), § 13, eff. Jan. 2, 2017; 2017, No. 42, § 7, eff. May 22, 2017; 2019, No. 31, § 6; 2019, No. 81, § 5.)

VERMONT

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Deadline For Public Comment

Deadline: Aug 17, 2023

The deadline for public comment has expired. Contact the agency or primary contact person listed below for assistance.

Rule Details

Rule Number:	23P019
Title:	5.100 Rule Pertaining to Construction and Operation of Net-Metering Systems (the
Type:	Standard
Status:	Proposed
Agency:	Vermont Public Utility Commission
Legal Authority:	30 V.S.A. § 8010(c).
Summary:	This rulemaking involves amendments to the Net-Metering Rule, including changes to the definition of the term "preferred site"; limits on the amount of forest clearing associated with projects on "preferred sites"; updates to the registration and application

	processes for net-metering systems; changes to project amendment processes and requirements; clarifications regarding the rates applicable to expanded net-metering systems; updates to the transfer and extension requirements for net-metering system certificates of public good; the addition of language authorizing utilities to propose tariffs assessing locational adjustor fees for constrained areas of the grid; changes to update the Rule consistent with state statute and other Commission rules, including the Commission's Rules of Practice and Interconnection Rule; changes acknowledging the use of ePUC - the Commission's electronic filing system; and other changes to otherwise improve, clarify, and streamline the Rule.
Persons Affected:	The Net-Metering Rule affects: all Vermont electric utility customers and all Vermont retail electric utilities; all individuals and entities that own and operate net-metering systems or wish to do so; businesses that sell, install, develop, and construct net-metering systems and other renewable energy projects; State agencies, including the Department of Public Service; the Agency of Natural Resources; the Agency of Agriculture, Food and Markets; the Division for Historic Preservation; and the Natural Resources Board; municipalities and municipal and regional planning commissions; landowners, businesses, and members of the public potentially affected by the construction of net-metering systems, and; environmental organizations, trade organizations, and other nonprofits and businesses concerned about climate change, natural resources, and renewable energy.
Economic Impact:	The proposed amendments do not include substantive changes to the compensation framework for net-metering systems or change the rate of compensation that systems receive. However, the proposed amendments clarify that net-metering systems that significantly expand (i.e., increase system capacity by more than 5 or 10 kW, whichever is greater) receive the same financial incentives available to new systems. This provision ensures that customers, especially residential customers, may make small increases to their systems to accommodate electric heating and transportation systems, while maintaining the current rate of compensation they relied on to install their existing system. Other proposed changes to the Rule could have indirect economic impacts by increasing or decreasing the rate of net-metering development.

	Consistent with the requirements of 30 V.S.A. § 8010(c), the Commission has crafted the proposed changes to balance the costs and benefits of the net-metering program to the extent feasible.
Posting date:	Jun 28,2023

Hearing Information

Information for Hearing # 1

Hearing date:	08-10-2023 1:00 PM ADD TO YOUR CALENDAR
Location:	Virtual Hearing via GoToMeeting.
Address:	https://meet.goto.com/919115653.
City:	Montpelier
State:	VT
Zip:	n/a
Hearing Notes:	

Contact Information

Information for Primary Contact

PRIMARY CONTACT PERSON - A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE.

Level:	Primary
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Website Address:	https://puc.vermont.gov/about-us/statutes-and-rules VIEW WEBSITE

Information for Secondary Contact

SECONDARY CONTACT PERSON - A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON.

Level:	Secondary
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SEND A COMMENT

Keyword Information

Keywords:

Net-metering
Distributed Generation
Solar
Wind
Rule 5.100

Back

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	The Addison Independent (legals@addisonindependent.com)	Tel: 388-4944 FAX: 388-3100 Attn: Display Advertising
	The Bennington Banner / Brattleboro Reformer Lylah Wright (lwright@reformer.com)	Tel: 254-2311 ext. 132 FAX: 447-2028 Attn: Lylah Wright
	The Chronicle (ads@bartonchronicle.com)	Tel: 525-3531 FAX: 525-3200
	Herald of Randolph (ads@ourherald.com)	Tel: 728-3232 FAX: 728-9275 Attn: Brandi Comette
	Newport Daily Express (jlafoe@newportvermontdailyexpress.com)	Tel: 334-6568 FAX: 334-6891 Attn: Jon Lafoe
	News & Citizen (mike@stowereporter.com) Irene Nuzzo (irene@newsandcitizen.com and ads@stowereporter .com removed from distribution list per Lisa Stearns.	Tel: 888-2212 FAX: 888-2173 Attn: Bryan
	St. Albans Messenger Legals (legals@samessenger.com)	Tel: 524-9771 ext. 117 FAX: 527-1948 Attn: Ben Letourneau
	The Islander (islander@vermontislander.com)	Tel: 802-372-5600 FAX: 802-372-3025
	Vermont Lawyer (hunter.press.vermont@gmail.com)	Attn: Will Hunter

FROM: APA Coordinator, VSARA **Date of Fax:** November 20, 2023

RE: The "Proposed State Rules " ad copy to run on **July 6, 2023**

PAGES INCLUDING THIS COVER MEMO: **4**

NOTE **8-pt font in body. 12-pt font max. for headings - single space body. Please include dashed lines where they appear in ad copy. Otherwise minimize the use of white space. Exceptions require written approval.**

If you have questions, or if the printing schedule of your paper is disrupted by holiday etc. please contact VSARA at 802-828-3700, or E-Mail sos.statutoryfilings@vermont.gov, Thanks.

PROPOSED STATE RULES

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By law, public notice of proposed rules must be given by publication in newspapers of record. The purpose of these notices is to give the public a chance to respond to the proposals. The public notices for administrative rules are now also available online at https://secure.vermont.gov/SOS/rules/ . The law requires an agency to hold a public hearing on a proposed rule, if requested to do so in writing by 25 persons or an association having at least 25 members.

To make special arrangements for individuals with disabilities or special needs please call or write the contact person listed below as soon as possible.

To obtain further information concerning any scheduled hearing(s), obtain copies of proposed rule(s) or submit comments regarding proposed rule(s), please call or write the contact person listed below. You may also submit comments in writing to the Legislative Committee on Administrative Rules, State House, Montpelier, Vermont 05602 (802-828-2231).

Vermont Use of Public Waters Rules.

Vermont Proposed Rule: 23P017

AGENCY: Agency of Natural Resources

CONCISE SUMMARY: The proposed rule is an amendment to Section 3 and Appendix A of the Vermont Use of Public Waters Rules (UPW), Environmental Protection Rule Chapter 32. The rule proposes to regulate "wakesports" involving a "wakeboat" on certain lakes and ponds in Vermont. The rule would prohibit such wakesports on lakes, ponds, and reservoirs that do not have a minimum of 50 contiguous acres that are both 500 feet from shore on all sides and a minimum of 20 feet deep (eligibility rule). The rule would also limit such wakesports to these defined areas that are 500 feet from shore and 20 feet deep (operating rule). Finally, the rule would require a "wakeboat" to only be used in one lake per summer unless the wakeboat is decontaminated at a certified Dept. of Environmental Conservation (DEC) service provider (home lake rule). This rule is in response to a petition that was submitted to DEC in March 2022, requesting that DEC regulate wakeboats on certain Vermont lakes. A few editorial corrections are also being made.

FOR FURTHER INFORMATION, CONTACT: Oliver Pierson, Agency of Natural Resources, Davis Building, 3rd Floor, 1 National Life Drive, Montpelier, Vermont 05620-3522 Tel: 802-490-6198 Fax: 802-828-1544 Email: oliver.pierson@vermont.gov URL: https://dec.vermont.gov/watershed/lakes-ponds/rulemaking.

FOR COPIES: Katelyn Ellermann, Agency of Natural Resources, Davis Building, 2nd Floor, 1 National Life Drive, Montpelier, Vermont 05620-3901 Tel: 802-522-7125 Fax: 802-828-1544 Email: katelyn.ellerman@vermont.gov.

Rule 5.400 5.400 Petitions to Construct Electric and Gas Facilities Pursuant to 30 V.S.A. § 248.

Vermont Proposed Rule: 23P018

AGENCY: Public Utility Commission

CONCISE SUMMARY: Section 248 of Title 30 of the Vermont Statues annotated requires persons seeking to build certain electric generation, electric or gas transmission, or energy storage facilities to obtain a certificate

of public good from the Commission. Commission Rule 5.400 implements the requirements of Section 248. The proposed amendments serve four primary purposes. First, they provide increased clarity on the information that must be filed for a Section 248 petition to be considered complete. Second, they update the means by which parties can exchange and collect information in response to technological advances and our experience with the COVID-19 pandemic. Third, they provide clarity on the processes that must be followed when petitioners seek to amend projects that are under review, or have been reviewed and approved. Fourth, the amendments simplify the process for certain persons and entities to intervene as parties in Section 248 cases.

FOR FURTHER INFORMATION, CONTACT: John J. Cotter, Esq., Vermont Public Utility Commission, 112 State Street, 4th Floor, Montpelier, VT 05602 Tel: 802-461-6364 Fax: 802-828-3352 Email: john.cotter@vermont.gov URL: https://epuc.vermont.gov/?q=node/64/156798.

FOR COPIES: Elizabeth Schilling, Esq., Vermont Public Utility Commission, 112 State Street, 4th Floor, Montpelier, VT 05602 Tel: 802-828-1164 Fax: 802-828-3352 Email: elizabeth.schilling@vermont.gov.

5.100 Rule Pertaining to Construction and Operation of Net-Metering Systems (the "Net-Metering Rule").

Vermont Proposed Rule: 23P019

AGENCY: Public Utility Commission

CONCISE SUMMARY: This rulemaking involves amendments to the Net-Metering Rule, including changes to the definition of the term "preferred site"; limits on the amount of forest clearing associated with projects on "preferred sites"; updates to the registration and application processes for net-metering systems; changes to project amendment processes and requirements; clarifications regarding the rates applicable to expanded net-metering systems; updates to the transfer and extension requirements for net-metering system certificates of public good; the addition of language authorizing utilities to propose tariffs assessing locational adjustor fees for constrained areas of the grid; changes to update the Rule consistent with state statute and other Commission rules, including the Commission's Rules of Practice and Interconnection Rule; changes acknowledging the use of ePUC - the Commission's electronic filing system; and other changes to otherwise improve, clarify, and streamline the Rule.

FOR FURTHER INFORMATION, CONTACT: Jake Marren, Vermont Public Utility Commission, 112 State St. 4th Floor, Montpelier, VT 05602 Tel: 802-828-2358 Fax: 802-828-3351 Email: jake.marren@vermont.gov URL: https://puc.vermont.gov/about-us/statutes-and-rules.

FOR COPIES: Elizabeth Schilling, Vermont Public Utility Commission, 112 State St. 4th Floor, Montpelier, VT 05602 Tel: 802-828-2358 Email: elizabeth.schilling@vermont.gov.

Rule 5.500: Interconnection Procedures for Proposed Electric Generation Resources and Energy Storage Devices.

Vermont Proposed Rule: 23P020

AGENCY: Public Utility Commission

CONCISE SUMMARY: This rulemaking involves amendments to the interconnection rule, including revising the amount of the application fee; adopting standards for the interconnection of storage facilities; updating the procedures for filing an application with the interconnecting utility; establishing simplified procedures for small projects; revising the screening criteria for projects; updating the technical standards applicable to the

review of all projects; and establishing requirements for limited export projects. The Commission has reorganized the structure of the proposed rule to improve readability and reduce repetition compared to the current rule.

FOR FURTHER INFORMATION, CONTACT: Jake Marren, Vermont Public Utility Commission, 112 State St. 4th Floor, Montpelier, VT 05602 Tel: 802-828-2358 Fax: 802-828-3351 Email: jake.marren@vermont.gov URL: https://puc.vermont.gov/about-us/statutes-and-rules.

FOR COPIES: Mary Jo Krolewski, Vermont Public Utility Commission, 112 State St. 4th Floor, Montpelier, VT 05602 Tel: 802-828-2358 Fax: Fax: 802-828-3351 Email: Mary-Jo.Krolewski@vermont.gov.

Medicaid Coverage of Exception Requests.

Vermont Proposed Rule: 23P021

AGENCY: Agency of Human Services

CONCISE SUMMARY: This rule sets forth the criteria for Medicaid coverage pursuant to the Exceptions Request process. It amends current Medicaid Services Rule 7104 titled "Requesting Coverage Exceptions." Revisions include: (1)stating that the process only applies to beneficiaries age 21 years old or older, (2) stating that certain criteria are mandatory, (3) clarifying eligibility criteria, (4)changing the frequency that certain approved exception requests are published on the website of the Department of Vermont Health Access, and (5) removing references to the Interpretive Memo process and incorporating related processes into the rule.

FOR FURTHER INFORMATION, CONTACT: Ashley Berliner, Agency of Human Services, 280 State Drive, Waterbury, VT 05671-1000 Tel: 802-578-9305 Fax: 802-241-0450 Email: AHS.MedicaidPolicy@vermont.gov. URL: https://humanservices.vermont.gov/rules-policies/health-care-rules/health-care-administrative-rules-hcar.

FOR COPIES: Linda Narrow McLemore, Agency of Human Services, 280 State Drive, Waterbury, VT 05671-1000 Tel: 802-779-3258 Fax: 802-241-0450 Email: Linda.McLemore@Vermont.gov.
