



January 2, 2024

Charlene Dindo, Committee Assistant

Legislative Committee on Administrative Rules

Submitted via email

Re: Public Utility Commission Proposed Rule 5.100

Dear Ms. Dindo and LCAR Committee Members:

REV submits comments in response to statements made at the December 14th, 2023, meeting of the Legislative Committee on Administrative Rules addressing proposed changes to Rule 5.100 regarding tree clearing on preferred sites and the compensation rates for expanded net-metering systems.

The Commission has argued that three acres of tree clearing may be the appropriate threshold because it would only have impacted a relatively small number of historical net-metering projects. The Commission's use of the number of projects that would have been impacted by the proposed rule rather than the *total capacity* of the projects that would be impacted by the proposal is misleading in terms of the impact that the proposed rule would have on Vermonters' ability to participating in net-metering. REV has calculated that the proposed rule would have impacted more than a fifth of the total capacity applied for under 5.106 and 5.107 between July 2017 and July 2021 and more than a quarter of the application between August 2021 and July 2023. Group or virtual net-metering projects – almost all 5.106 and 5.107 projects – are the sole option for many Vermonters, especially renters and low-income Vermonters, to participate in the net-metering program. The Legislature was very deliberate in creating group net metering and this proposal would significantly reduce the available capacity of these types of community solar projects and make it harder for Vermonters to access net metering.

The other justification suggested as a rationale for a three-acre threshold specifically was that three acres is approximately the footprint of a 500 kW solar array. While three acres is a reasonable theoretical estimate for the footprint of a square array built on flat ground, it does not include space for fencing and ignores the fact that projects may need to be designed in a shape other than a square to avoid wetlands, slopes, other protected areas, and to account for local topography. In addition, projects may require additional tree removal outside of the immediate footprint for purposes of reducing shading and connecting to the grid. In short three acres is not reflective of an objective standard of the appropriate size of a 500 kW array.

On a practical level, minimizing shading is a key consideration for the viability of solar projects in Vermont and requires a buffer around the project footprint to ensure optimal solar exposure. On flat ground in an area with average-height trees (~50ft canopy), this would require a 150-200 foot buffer on the east, west, and south sides of the array and a smaller buffer to the north of the project. This results in an array footprint and shading buffer that is approximately 7.5 acres in size. Thus a three-acre threshold is not well justified based on project size.

REV firmly believes that the Commission's unwillingness to consider forest quality has resulted in an arbitrary threshold that is not supported by ecological science and would not make sense to a reasonable person.

With respect to the treatment of system expansions, the Commission writes that "existing customers are not prohibited from constructing separate, new net-metering systems subject to current rates while retaining their old rates for their existing systems." This is precisely the outcome that REV has been advocating for during the rulemaking process – that existing systems receive existing compensation and that expansion receive compensation at the rate in place at the time that the expansion is permitted. The Commission's assertion that customers can simply build new systems rather than system expansions runs into significant practical problems because the Commission is likely to deem a new system built in close proximity to an existing system to be a part of the existing system (a "single plant") and thus ineligible for its own permit. If the Commission includes language in the Rule to make clear that separate projects could be built in close proximity to existing systems without triggering a "single plant" review process under these circumstances, REV would support the approach that the Commission articulated whereby new net-metering systems are subject to current rates and existing systems retain their old rates.

Respectfully submitted,

Jonathan Dowds,
Deputy Director