



Dec. 13, 2023

Re: PUC Rule 5.400 update to net-metering rule

Dear Members of the Legislative Committee on Administrative Rules,

I write to offer comments in support of the proposed amendments to Rule 5.400. VCE participated in the rule-making workshops and comments. The PUC did not accept all of our recommendations but the final result is a major improvement to the existing rule, especially in two specific areas. We also offer two other points.

Preferred Site Letters: VCE and the Department of Public Service asked the PUC to eliminate the portion of the Rule that enables developers to get Preferred Site Letters from Town Select Boards and Planning Commissions and Regional Planning Commissions. After experiencing numerous problems with these letters, primarily because of lack of notification to adjoining, I began referring to them as “friends and family” letters because the town boards usually were persuaded to issue them due to relationships within the town, and then the RPCs went along with the towns. The RPCs asked that the PUC keep them, and they did.

DPS came up with a good solution, which was to require the filing of Advance Notices first, prior to seeking the Preferred Site Letter. This change will result in notice to potential parties, who currently are not notified when developers go to town boards to get the letters. This single issue is one of the primary reasons that citizens have reached out to VCE for assistance, as they have been surprised to learn about the issuance of the Preferred Site Letter prior to any notification to those who are required to be noticed once an Advance Notice is filed.

Cutting forests. This appears to be the most contentious issue in the rule update. Several 500 kW net-metered projects have been brought to VCE by citizens that propose to cut about 9 acres of forest for a 3 acre solar array. Upon review, a common pattern recurs: the projects are not dedicated to serving any specific customer or load, but are taking advantage of the high net-metering rates to sell wholesale power into the grid. This situation, called “virtual net-metering” by some, is discussed in the DPS net-metering report. The PUC issues CPGs for these projects without having any customer. Former Rep. Tony Klein has said in news reports that this is not what was intended when net-metering was put in place.

The environmental costs of forest-cleared 500 kW net-metered projects outweigh any potential benefit of projects that are resulting in raising rates for people who cannot afford to net-meter. Initially the PUC recommended a 1-acre clearing limit, which was eventually increased to 3-acres. This is likely the result of the PUC’s review of empirical evidence; i.e. what they are seeing in applications where a 3 acre site is sufficient for a 500 kW solar array. The wildlife habitat, water

filtration, and carbon sequestration and storage benefits of these forests serve a greater public and climate change benefits than the solar array.

#### Unregulated merchant developers

During one workshop about building solar arrays on parking lots, the PUC Chair made a very astute observation, noting that the PUC knows the costs, salaries and profits of regulated utilities but do not know anything about those costs or profits of merchant developers. The companies were asked to share their costs for solar parking lot canopies, as they were claiming they were too expensive, but no information was forthcoming. It seemed the PUC might consider higher rates for solar parking lot canopies, if they had some information on which to base a decision. Net-metering is the highest cost solar, with no accountability required of the companies who may be paying high salaries, have high profits, and spend a lot of money on advertising. Future legislative discussions about updating net-metering would benefit from more transparency about the industry's costs and profits.

#### Is the PUC slowing solar development?

In June 2023, Renewable Energy Vermont issued a report titled "No Good Reason" in which REV blames the PUC for slowing solar development. The report neglected to mention there are good reasons that solar development slowed from 2020 - 2022: because REV asked the PUC to extend commissioning deadlines due to pandemic-related workforce, supply chain and other issues that are detailed in numerous public comments to the PUC. REV has blamed the PUC for doing exactly what they asked them to do, without disclosing those issues in their misleading Report.

It has been VCE's experience that the PUC issues CPGs for net-metering projects expeditiously, but that in recent years it is the developers who are seeking extensions for various reasons. The problem projects that VCE has encountered have almost entirely to do with lack of community outreach early in the process, failure to work with neighbors or even consider their interests, poor siting that is harmful to the environment; in summary, it is the "plunk it down and blindside people" that results in opposition.

We are fortunate that the vast majority of solar proposals go through without opposition. The PUC's Rule 5.400 amendment is addressing these problems with some modest improvements that will likely result in less opposition and will promote good neighbor approaches in our communities and greater environmental benefits.

Thank you for the opportunity to provide these comments to you. I am available to respond to questions should you wish to hear from me.

Sincerely,

*/s/ Annette Smith*

Annette Smith  
Executive Director