January 13, 2016

Judith Whitney, Interim Clerk of the Board
Vermont Public Service Board
12 State Street
Montpelier, VT 05620-2701

Re: REV Comments on Revised Rule 5.100 Pursuant to Act 99

Dear Ms. Whitney,

As per the Public Service Board's (PSB) request for comments, Renewable Energy Vermont (REV) provides the following comments regarding Draft Rule 5.100 on Net Metering.

REV is a nonprofit, nonpartisan trade association representing nearly 300 businesses, individuals, colleges and others committed to reducing our reliance on fossil fuels and expanding the availability of renewable sources of power in Vermont. This submission is made in accordance with the Public Service Board's (the "Board") Requests for comments on December 7th, and extended on December 22nd, in this matter.

The revision of Vermont's net metering rule allows us the opportunity to improve the current program and to further align it with our current State goals.

The rule should encourage projects, be transparent, and constitute a predictable marketplace for current and future systems. To meet our aggressive state goals of achieving 90% or our energy needs from renewables by 2050, and to ensure that every person who wants to participate in net metering can, we need to eliminate arbitrary limitations and caps. Being mindful that the solar Investment Tax Credit is a short-term incentive, we need to favor rules that ensure long-term success and that shepherd us towards the deployment of renewables and away from fossil fuels over the coming decades.

These comments are meant to supplement more detailed comments, provided by other REV members. As such, REV's recommendations are as follows, and are organized by the corresponding sections in the Board's Draft Rule:

Definitions:

"Group Net Metering" should not have a barrier set at 10 mile radius, and further, there should be no limits on distance of the customer to the system. The distance is seemingly arbitrary and will limit customer access to net metering, which is inconsistent with Act 99's stated goal of establishing a program that allows all customers who want to participate in net metering to do so. Distributed Generation adds value to our electric grid irrespective of geographic distance from the actual customers in the net metering group to the power. Our interconnection

application and review process determines whether the grid can handle the system and the needs of the load.

Further, a “Net Metering System” should not be restricted to being located on a net metering customer’s premises. This definition imposes undesirable limits on who can participate, again contrary to Act 99’s express goal.

5.103 Electric Company Tariffs:

We strongly encourage the Board to reevaluate the grandfathering of existing net metering customers who “commissioned their net metering systems prior to January 1, 2017…for a period of 10 years” and increase the applicable period of the tariff on file at the time of commissioning to, at a minimum, 20 years. Additionally, projects commissioned after January 1, 2017 should have some surety and should be eligible for grandfathering. An unknown and/or unstable rate structure or fee structure will not only hinder current projects, it will significantly impact the feasibility of future projects. Without predictability and stability in rates, investors and homeowners will be far less inclined to invest in renewable energy infrastructure in Vermont. This could be devastating to the deployment of renewables in our state, and Vermont’s ability to meet statewide renewable energy goals. In sum, current customers should be protected from significant changes to the rate design and the economics of their system, while future customers should have a reasonable ability to understand the long-term payback of their investment.

5.104 Energy Measurement for Net Metering Systems:

The preferred rate structure for net metering should be based on retail rates—preferably a residential retail rate. Retail rates are already highly regulated and are the relationship prospective customers understand with his or her utility. A basic structure based on retail rates is simple, understandable, and fair.

Further, we believe, incentive credits for siting and RECs should be added to the retail rate and adders should be applied to the entire amount of kWh produced, not just “excess generation”. (The draft rule proposes a retail rate plus 2 cents for siting and 3 cents for the value of RECs but credited on excess generation only.) Net-metering systems are designed to meet customer load, so they generally do not have much, if any, excess generation. Applying the credit as proposed in the Board’s draft not only fails to recognize the value that net-metering on the whole provides to the electric system, it could have the unintended result of encouraging net-metering installations that are sized to generate excess (for example in the summer months when the grid might benefit more from production throughout the year).

We do not believe adjustments to the retail rate plus the long-term value of the RECs the customer is providing to the utility are warranted, or will meet the pace of deployment necessary

to meet state energy goals. In fact, a retail plus model as described is already a dramatic reduction from the current credit/compensation structure.

Further, we believe net metering customers should be fairly compensated for all RECs provided to utilities. GMP's previously filed 20 year levelized value for RECs is $0.036 cents per kWh and the regional levelized rate is $0.04-$0.042, according to the New England AESC 2015.

Additionally, customer projects should be allowed to rollover their credits up to 24 months, versus 12 months, thus allowing for customers to increase their load at any point in the year and still have stability.

5.105 Billing Standards and Procedures:

When considering credits for generation on the brownfields, sanitary landfills, parking lots and gravel pits, it is important to keep in mind that developing on these sites usually is more costly to develop than other sites. Without a siting adder, these projects are costly and harder to finance.

Additionally, we would like to see all rooftop projects be included in the existing registration program. Allowing a streamlined process for rooftops will create a more viable, reliable and timely process and also reduce unnecessary oversight burden on regulators. Moreover, rooftops should not be subject to Agency of Natural Resources (ANR) fees.[1] There is no reason that ANR would need to review an application for a roof-mount system, as such systems will not impact any of the statutory criteria that are within ANR's purview.

5.106 Group System Requirements:

As stated above in "Group Net Metering" definitions, there should be no restrictions on distance for customers participating in a group system. Both our rural landscape and spread out infrastructure should be considered as well as the limitations of customers properties which might be small, or not suitable for solar. The draft rule creates barriers and would prevent customers from participating.

5.107 Electric Company Requirements:

The Board should not impose a cap on net-metering. A cap incites a "rush" to develop and can lead to projects that are premature and not ripe. A sound system should allow all who want to participate the ability to do just that. Eliminating the cap will decrease time pressures on developers, on regulators, and on utilities reviewing petitions and interconnection applications, and will allow for better planned projects. REV does support periodic check-ins on the pace of deployment for each 2 percent increase in total energy (kWh) provided by net metering customers.

[1] 30 V.S.A. §248b

Additionally, the draft rule states that a utility, "may charge a reasonable fee…and may require a customer charge…associated with net metering." REV is concerned that this inherently singles out and penalizes people who are providing net benefits to the grid, keeping the cost of infrastructure down for utilities and helping to reach our State goals. This is discriminatory to residential and commercial net-metering customers alike.

5.109 Aesthetic Evaluation of Net Metered Projects:

The draft rule omits language clarifying the well-established principle that the Board's consideration of aesthetics under Section 248 and its assessment of whether a particular project will have an undue adverse effect on aesthetics and scenic or natural beauty is "significantly informed by overall societal benefits of the project."[2] This language is in the current rule, and should be added to the new draft rule to avoid confusion.

With regards to screening, the stated language requiring that an applicant "shall include a proposal for aesthetic mitigation to harmonize the facility with its surroundings," is unnecessary, and will create confusion. Mitigation is considered in the Quechee test already articulated in 5.109(A) of the draft rule. Mitigation can be in the context of screening, but also through measures such as setbacks, specific infrastructure placement, colors used, etc. Some locations cannot be screened and not all mitigation will harmonize a project with its surroundings. The law requires only that "generally available" mitigation that "a reasonable person would use" be employed. The courts have held that: "a generally available mitigating step is one that is reasonably feasible and does not frustrate the project's purpose or [legislative] goals." This is an adequate and appropriate standard, and should be retained.

Lot Coverage will result in developers needing to acquire more area. With setbacks already in place, this proposed limitation should be removed.

5.111 Certificates of Public Good

A request for a hearing for a category II or III project needs to do more than simply "identify the issues to be resolved through the hearing," as the draft rule now reads. Rather, it should "raise a significant issue with regard to the applicable substantive criterion"--the same standard applied with respect to projects that qualify for summary procedures under Section 248(j)-- and be accompanied by one or more supporting affidavits. Otherwise, parties will have an unchecked ability to trigger the need for a hearing, regardless of whether the issue of concern to them needs to be addressed under the governing statutory framework.

In addition, the Draft Rule should include a timeframe by which the Board must notify applicants of incomplete registration forms and applications, e.g. ;"if the form is found to be incomplete, the Clerk of the Board will inform the applicant of the deficiencies within [10] business days of submission."

5.120 Decommissioning

[2] *In re: Northwest Vt. Reliability Project*, Docket No. 6860, Order of 11/28/05 at 79-80.

The proposed decommissioning is unfair, burdensome, doesn't apply to other projects or types of development, and should not be required. Creating rules such as this one that effectively penalize renewable energy projects is a step in the wrong direction.

Requiring all systems with capacities above 150 kW to demonstrate that the applicant possesses "sufficient financial resources" to decommission the net metering system is also not appropriate. It will cause projects to incur a significant expense (e.g. obtaining a decommissioning estimate and a letter of credit). This requirement is not something required of any other energy or development of similar size and scope.

5.121 Standard Conditions of Approval Applicable to Net Metering Systems

Standard conditions are a laudable idea that should be implemented through a PSB practice or addressed in general order that can be modified without resort to rulemaking procedures. This will allow for flexibility in light of inevitable advancements in science and to account for site-specific conditions.

Other Issues

Last year, the Vermont legislature enacted legislation that was a step in the right direction regarding a renewable energy standard for Vermont. Act 56, Section 11, page 41-2 states that a utility must take and retire a renewable energy credit (REC) for compliance, thus protecting customers from getting pushed out by larger projects (under 5 MW but bigger than net metered).[3] This is the baseline for Tier II, but certainly not the ceiling. We need to progress with rules and statutes that continue to encourage renewables.

Lastly, when looking at the benefits of solar, we should look at all of the benefits. The benefits include, but are not limited to: environmental benefits, economic benefits, industry stability, the reduction of greenhouse gasses, and climate change mitigation.

REV appreciates the hard work undertaken by the Board and looks forward to the next iteration of net metering rules that help encourage net metering, and creates consistency and transparency to help us reach our state goals. We appreciate the opportunity to comment.

Regards,

Jeff Forward, Chair of the Board
Renewable Energy Vermont

[3] http://legislature.vermont.gov/assets/Documents/2016/Docs/ACTS/ACT056/ACT056%20As%20Enacted.pdf.