

**RELEVANT STATUTE AND SESSION LAW  
DEVELOPMENT OF NET METERING PROGRAM FOR 2017**

Office of Legislative Counsel, Jan. 27, 2016

**30 V.S.A. § 8010**

§ 8010. SELF-GENERATION AND NET METERING

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(c) In accordance with this section, the Board 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 Board determines that this level is inconsistent with the goals and targets identified in subdivision (1)(A) of this subsection. Under this subdivision (B), the Board shall consider the Plans most recently issued at the time the Board 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. When assigning an amount of credit under this subdivision (F), the Board 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.

(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, the rules:

(A) 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) may modify notice and hearing requirements of this title as the Board considers appropriate;

(C) shall seek to simplify the application and review process as appropriate; and

(D) with respect to net metering systems that exceed 150 kW in plant capacity, 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.

(4) This section does not require the Board 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 Board.

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### **30 V.S.A. § 8002**

#### **§ 8002. DEFINITIONS**

As used in this chapter:

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(7) "Environmental attributes" means the characteristics of a plant that enable the energy it produces to qualify as renewable energy and include any and all benefits of the plant to the environment such as avoided emissions or other impacts to air, water, or soil that may occur through the plant's displacement of a nonrenewable energy source.

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(10) "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.

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

(A) 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

(B) 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.

(16) "Net metering system" means a plant for generation of electricity that:

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

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

(C) is intended primarily to offset the customer's own electricity requirements; and

(D)(i) employs a renewable energy source; or

(ii) is a qualified micro-combined heat and power system of 20 kW or fewer that meets the definition of combined heat and power in subsection 8015(b) of this title and uses any fuel source that meets air quality standards.

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(18) "Plant" means an independent technical facility that generates electricity from renewable energy. A group of facilities, such as wind turbines, shall 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, contiguity in time of construction, and proximity of facilities to each other shall be relevant to determining whether a group of facilities is part of the same project.

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(23) "Retail electricity provider" or "provider" means a company engaged in the distribution or sale of electricity directly to the public.

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## **2014 Acts and Resolves No. 99, Sec. 5**

### **Sec. 5. REVISED NET METERING PROGRAM; DEVELOPMENT; REPORTS; RULEMAKING**

(a) Process; revised program. This section creates a process to result in the establishment of a revised net metering program commencing on January 1, 2017. The components of the process include a report by the Department of Public Service (DPS) to the Public Service Board (Board

or PSB), one or more workshops by the Board, the proposal of rules for the new program by the Board with a contemporaneous report by the Board to the General Assembly, and the adoption of new net metering rate schedules by Vermont's retail electricity providers.

(b) DPS report to Board. On or before October 1, 2014, the DPS shall submit a report to the Board that evaluates the current state of net metering in Vermont. The report shall include each of the items listed in Sec. 4 of this act, 30 V.S.A. § 8010(d)(1)–(9). For the purpose of this report, the plan used under 30 V.S.A. § 8010(d)(2) shall be the Comprehensive Energy Plan issued in 2011.

(c) Workshops. Beginning in October 2014, the Board shall convene one or more workshops to solicit the input of potentially affected parties and the public on the design of a revised net metering program. The Board shall provide notice of the workshops on its website and directly to the Department, Vermont's retail electricity providers, Renewable Energy Vermont, business organizations such as Associated Industries of Vermont, environmental and consumer advocacy organizations such as the Vermont Natural Resources Council and the Vermont Public Interest Research Group, and to any other person that requests direct notice or to whom the Board may consider direct notice appropriate. The Board also shall provide an opportunity for submission of written comments, which the notice shall include.

(d) Rulemaking. On completion of the workshops, the Board shall commence a rulemaking proceeding for a revised net metering program in accordance with the following:

(1) 30 V.S.A. § 219a shall not apply to the rules to be adopted under this section.

(2) The provisions of Secs. 3 (definitions; 30 V.S.A. § 8002) and 4 (self generation and net metering; 30 V.S.A. § 8010) shall apply to the rules to be adopted under this section. Within the requirements of these provisions, the Board may consider and adopt approaches to net metering that are alternative to those currently employed in the State and that ensure a sustainable net metering program that achieves, in a balanced and equitable manner, the goals and policies identified in Sec. 4 in 30 V.S.A. § 8010(d)(2).

(3) In adopting rules under this section, the Board shall consider the DPS report under subsection (b) of this section and the comments received during the workshop process under subsection (c) of this section.

(4) On or before January 1, 2016, the Board, having filed proposed rules and completed the public hearing and comment process under the Vermont Administrative Procedure Act, shall submit to the House Committees on Commerce and on Natural Resources and Energy and the Senate Committees on Finance and on Natural Resources and Energy the text of the final proposed rules it intends to file with the Secretary of State and the Legislative Committee on Administrative Rules pursuant to 3 V.S.A. § 841. With this rule text, the Board shall submit a report summarizing the public comment received, providing the Board's evaluation of the effectiveness of the existing net metering program, describing the alternative approaches to net metering that it considered, and summarizing the rule text.

(5) On or before July 1, 2016, the Board shall finally adopt rules for a revised net metering program to take effect on January 1, 2017.

(A) If the Board is unable to finally adopt the rules by July 1, 2016, the Board may issue an order by that date establishing a revised net metering program to take effect on January 1, 2017, if that order is followed by final adoption of rules for this program within a reasonable period. The provisions of subdivisions (d)(1) through (3) of this subsection shall apply to this order.

(B) Rules finally adopted under this subdivision (5) shall not be subject to the requirement of 3 V.S.A. § 843(c) to finally adopt rules within eight months of initial filing.

(e) Following the Board's final adoption of rules under this section or issuance of an order under subdivision (d)(5)(A) of this section, whichever is earlier, each retail electricity provider within the meaning of 30 V.S.A. § 8002 shall, on a schedule directed by the Board, submit revised rate schedules that comply with those rules, for effect on January 1, 2017. The provisions of Secs. 3 (definitions; 30 V.S.A. § 8001) and 4 (self-generation and net metering; 30 V.S.A. § 8010) shall apply to the rate schedules to be adopted under this section.

**2014 Acts and Resolves No. 99, Sec. 10**

Sec. 10. EFFECTIVE DATES; APPLICABILITY; IMPLEMENTATION

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(c) Sec. 2 (repeal of 30 V.S.A. §§ 219a, 219b) shall take effect on January 1, 2017. However, nothing in this section or in the repeal of 30 V.S.A. § 219a or 219b shall affect the validity or terms of a certificate of public good issued for a net metering system prior to that date. A solar net metering system receiving a mandatory incentive under 30 V.S.A. § 219a(h)(1)(K) shall continue to receive that incentive through the end of the 10-year period set forth in that subdivision.

(d) Secs. 3 (definitions; 30 V.S.A. § 8002) and 4 (self-generation and net metering; 30 V.S.A. § 8010) shall take effect on January 1, 2017, except that on passage of this act, these sections shall apply to the reports to be submitted and the rules and rate schedules to be adopted under Sec. 5 and the order that may be issued under Sec. 5(d)(5)(A).

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(f) 30 V.S.A. § 219a and rules adopted under that section shall govern applications for net metering systems filed prior to January 1, 2017.

(g) 30 V.S.A. § 8010 and rules adopted under that section shall govern applications for net metering systems filed on and after January 1, 2017.

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