

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 5.124 (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 Board.
- (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 Board, 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 Board's office and the Board'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.

- (B) Enlargement. The Board 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.

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 Board, 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.

“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 Board, whichever is lower.

“Board” means the Public Service Board 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 Board pursuant to 30 V.S.A. § 8010.

“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 Board waiver of the requirements for the presentation of evidence under the criterion, a specific review of the project by the Board under the criterion, and the development of specific findings of facts for the criterion, unless the Board 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.

“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 Board through the Board's electronic filing system, by delivery to the Board's offices, or by delivery to the Board 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 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.

“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.

“Limits of Disturbance” means the boundary within which all construction, materials storage, grading, 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, 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 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
- (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 5.116 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 Board 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:

- (1) 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;
- (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 impervious surface was lawfully in existence and use prior to July 1 of the year preceding the year in which an application for a certificate of public good under this Rule is filed. To qualify under this subdivision (3), the limits of disturbance of a proposed net-metering system must include either the existing structure or impervious surface and may not include any headwaters, streams, shorelines, floodways, rare and irreplaceable natural areas, necessary wildlife habitat, wetlands, endangered species, productive forestlands, or primary agricultural soils, all of which are as defined in 10 V.S.A. chapter 151;
- (4) Land certified by the Secretary of Natural Resources to be a brownfield site as defined under 10 V.S.A. § 6642;
- (5) A sanitary landfill as defined in 10 V.S.A. § 6602, provided that the Secretary of Natural Resources certifies that the land constitutes such a landfill and is suitable for the development of the plant;
- (6) The disturbed portion of a gravel pit, quarry, or similar site for the extraction of a mineral resource that was in lawful operation on January 1, 2017, provided that all activities pertaining to site reclamation required by applicable law or permit condition are completed prior to the installation of the plant;
- (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.

- (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 each of the following that the site is listed on the NPL;
- (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.

“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 Board, 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 Board.

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

- (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.
- (B) Form and Content. A net-metering system under this subsection must be registered with the Board in accordance with the filing procedures and registration form prescribed by the Board 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 Board by the interconnecting utility, a CPG will be deemed issued by the Board 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, the eleventh business 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 Board, the applicant must also cause notice of the form to be sent to the electric company and to the Department via the Board's electronic filing system.
- (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 Board 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 Board Rule 5.500, which governs interconnection requests.

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

- (A) Applicability. This application procedure is applicable to ground-mounted photovoltaic net-metering systems that are greater than 15 kW and up to 50 kW in capacity. This application procedure is also applicable to net-metering systems of 50 kW or less that use other eligible technologies. This application procedure does not apply to hydroelectric facilities or roof-mounted photovoltaic net-metering systems.
- (B) Form and Content. An application for a CPG under this subsection must be filed with the Board in accordance with the Board's current filing procedures, using the application form prescribed by the Board, and must contain all of the information

required by this Rule and the instructions for that form.

- (C) Advance Notice Requirements. The applicant must provide notice of the application as follows:
- (1) Recipients Entitled to Advance Notice. The applicant must provide the following persons with advance notice of an application, at least 45 days in advance of filing the application with the Board:
 - (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;
 - (g) the Division for Historic Preservation;
 - (h) the Agency of Agriculture Food and Markets; and
 - (i) the electric company.
 - (2) Method of Service of Advance Notice. The applicant must cause the advance notice to be served to the entities listed in (1)(a) through (c), above, by certified mail. The applicant must cause the advance notice to be transmitted to the entities listed in (1)(d) through (i), above, using the Board's electronic filing system, unless the applicant is making a paper filing in accordance with the Board'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 notice via electronic mail.
 - (3) Contents of Advance Notice. The notice must state that the applicant intends to file a Section 8010 application with the Board, 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 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 Board's jurisdiction to address. The notice 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 Board once the application is filed.

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

(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 Permit applicable 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.
- (4) Certification that advance notice requirements have been met. The applicant must certify that it has complied with the advance notice 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;
 - (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 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;
 - (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,

- 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;
 - (h) The latitude and longitude coordinates for the proposed project; and
 - (i) 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 person on the Agency of Natural Resources' list of "qualified consultants," 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 within 150 feet of any significant wetlands.
- (7) Response to recommendations of municipalities and adjoining landowners. 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.
- (8) 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.

- (E) Review for Administrative Completeness. Board 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 Board 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 of Applications. Within 2 business days after the application is determined to be administratively complete, the applicant must serve copies of the application in accordance with this section.
- (1) Entities Entitled to Copies 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;
 - (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.
 - (b) The applicant must cause copies of the application to be transmitted to the entities listed under (1)(d) through (i), above, using the Board's electronic filing system, or if the applicant is making a paper filing, then using certified mail.
- (G) Effect of Failure to Provide Timely Service. The Board 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 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 Board no later than the thirty-first day following the Board'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 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

- (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:
- (1) Recipients Entitled to Advance Notice. The applicant must provide the following persons with advance notice of an application, at least 45 days in advance of filing the application with the Board:
 - (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;
 - (g) the Division for Historic Preservation;
 - (h) the Agency of Agriculture Food and Markets; and
 - (i) the electric company.
 - (2) Method of Service of Advance Notice. The applicant must cause the advance notice to be served to the entities listed in (1)(a) through (c), above, by certified mail. The applicant must cause the advance notice to be transmitted to the entities listed in (1)(d) through (i), above, using the Board's electronic filing system, unless the applicant is making a paper filing in accordance with the Board'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 notice via electronic mail.
 - (3) Contents of Advance Notice. The notice must state that the applicant

intends to file a Section 8010 application with the Board, 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 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 Board's jurisdiction to address. The notice 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 Board once the application is filed.

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

(C) 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:

(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 Permit applicable 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.
- (4) Certification that advance notice requirements have been met. The applicant must certify that it has complied with the advance notice 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;
 - (b) 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;
 - (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 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;
 - (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,

- 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;
 - (h) The latitude and longitude coordinates for the proposed project;
 - (i) 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; and
 - (j) The approved site plan from any Act 250 Land Use Permit applicable to the host parcel.
- (6) Elevation drawings.
- (a) For each proposed structure, the applicant must provide elevation drawings.
 - (b) The elevation drawings must be to appropriate scales but no smaller than 1"/20'.
 - (c) 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.
 - (d) The elevation drawing must indicate the relative height of the facility to the tops of surrounding trees as they presently exist.
 - (e) 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.

- (7) 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 Board 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.

- (8) 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 how the project complies with or is inconsistent with the land conservation measures in those plans.
- (9) Wetland delineation. The applicant must provide either a wetland delineation prepared by a person on the Agency of Natural Resources' list of "qualified consultants," 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.
- (10) 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.

- (b) 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 Board no later than the thirty-first day following the Board'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 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.

- (11) Response to recommendations of municipalities and adjoining landowners. 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.
- (12) 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.
- (13) 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.
- (D) Review for Administrative Completeness. Board 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 Board 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.

(E) Service of Copies of Applications and Notices. Within 2 business 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.

(1) Entities Entitled to Copies 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 Department of Public Service;
- (c) the Agency of Natural Resources;
- (d) the Natural Resources Board, if the proposed net-metering system is located on a parcel subject to an Act 250 Land Use Permit;
- (e) the Division for Historic Preservation;
- (f) the Agency of Agriculture Food and Markets; and
- (g) the electric company.
- (h) the host landowner; and
- (i) all adjoining landowners.

(2) Method of Service.

- (a) The applicant must provide a copy of the application to the entities listed in (1)(a), above, by certified mail.
- (b) The applicant must cause copies of the application to be transmitted to the entities named in (1)(b) through (g), above, using the Board's electronic filing system, or if the applicant is making a paper filing, using certified mail.
- (c) The applicant must cause notices under (2), above, to be served by certified mail.

(3) Effect of Failure to Provide Timely Service. The Board 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.

5.108 Amendments to Pending Registrations and Applications

- (A) Minor Amendment. For ground-mounted systems, applicants must provide notice of all minor amendments to the Board, the Department of Public Service, the Agency of Natural Resources, and the electric company. For roof-mounted systems, applicants must provide notice of all minor amendments to the Board, the Department of Public Service, and the electric company. The notice must provide sufficient information so that the Board can understand the nature of the proposed change and its impact, if any, on any of the Section 248 criteria. The filing of a minor amendment does not extend the applicable comment period for the application. The Board may request additional information from the applicant regarding a proposed minor amendment at any time during the review of a net-metering system.
- (B) 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.

5.109 Amendments to Approved Net-Metering Systems

- (A) Minor Amendment. For ground-mounted systems, certificate holders must provide notice of all minor amendments to the Board, 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 Board, 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 Board can understand the nature of the proposed minor 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 Board unless a written objection is filed with the Board 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 Board.

- (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.
- (C) Maintenance and Repair. The maintenance and repair of net-metering systems and the replacement of equipment with like equipment do not require prior notice or Board approval.

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:
 - (1) the new owner agrees to operate and maintain the net-metering system according to all terms and conditions of the CPG and complies with this Rule 5.100; and
 - (2) 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 Board, 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 Board, the

Department of Public Service, and the electric company.

- (B) 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 Board approval prior to transferring a CPG. To obtain Board 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. For the purpose of this section, for a CPG to be considered used, the net-metering system must be commissioned. An extension of time will only be granted upon written request and for good cause shown. Prior to construction, a certificate holder may abandon a CPG at any time upon written notice thereof to the Board, 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 Board may waive the requirements of 30 V.S.A. § 248(b) that are not applicable to net-metering systems, the Board will review registrations and applications for net-metering systems for compliance with the following statutory criteria. (All other criteria are conditionally waived.)

- (A) For hydroelectric net-metering systems and 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); (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); (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 Board 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 Board 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 Board 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 Board 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 Board 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.
- (F) 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 Board 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 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.

5.113 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 Board's electronic filing system or by contacting the Clerk of the Board.

5.114 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 5.115 through 5.123, below. The following provisions of the Board's general rules of practice, Board Rule 2.200 (Procedures Generally Applicable), do not apply in the review of a net-metering application or a hearing thereon: Board 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 Board rule, the provisions of this Rule govern.

5.115 Submission of Public Comments

When a net-metering application is filed with the Board, the public may file comments addressing whether the application should be approved. All public comments concerning an application must be filed with the Board, with a copy sent to the applicant, within 30 days from the date of notification by the Board that the application is administratively complete. These public comments will be viewable on the Board's electronic filing system. The applicant may file a written response to all timely filed public comments with the Board within 15 calendar

days of the close of the 30-day public comment period, unless otherwise directed by the Board.

5.116 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 Board decision, such person must obtain party status from the Board.
- (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 Natural Resources Board is a party in any proceeding for which it is entitled to receive notice of an application under this Rule.
 - (3) The following persons will be granted party status by the Board only after filing a notice of intervention. The Board 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 for Historic Preservation.
- (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 Board Rule 2.209 or by filing a form developed by the Board for use under this Rule.
- (D) Any person who obtains party status acquires all of the legal rights and obligations of a party in a Board proceeding. The filing of public comments on an application and the consideration of such public comments by the Board 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 Board granting a duly filed motion to intervene.

5.117 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 Board 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 Board, a request for a hearing must be accompanied by a notice of intervention or motion to intervene, pursuant to Section 5.116 of this Rule.

5.118 Circumstances When the Board Will Conduct a Hearing

- (A) The Board 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 Board'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."

5.119 Prehearing Conferences and Status Conferences

In cases where the Board has determined that a hearing will be held, on reasonable notice the Board will conduct a prehearing conference prior to the hearing. The Board may also conduct additional status conferences as necessary. Upon request of a party and in the discretion of the Board, such conferences may be conducted telephonically. The following topics may be addressed at a prehearing 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 Board deems appropriate.

5.120 Discovery

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 Board where the Board 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 Board in writing for resolution.

5.121 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 Board 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 Board. Copies of such filings must be provided to the applicant and other parties at the time of filing. At the discretion of the Board, 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 Board.
- (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.

5.122 Decisions

After the conclusion of the hearing and after the submission of any briefs and proposed findings of fact, the Board will issue a written decision in the case. In a case where a majority of the Board members have not heard the case or read the record, a proposal for decision will be provided to the parties for comment prior to the issuance of a final decision.

5.123 Appeals of Board Decisions

Notice of appeal of any Board decision under this Rule to the Supreme Court of Vermont must be filed with the Clerk of the Board within 30 days. Appeal will not stay the effect of Board decisions, absent further order by the Board or appropriate action by the Supreme Court of Vermont.

PART IV: THE NET-METERING PROGRAM

5.124 Pre-Existing Net-Metering Systems

- (A) Eligibility. A pre-existing net-metering system must:
- (1) have a complete CPG application filed with the Board 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, or qualified under state law as a system that did not count towards the capacity limit on net-metering contained in that statute.
- (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.
- (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, receive the incentive provided for in 30 V.S.A. § 219a(h)(1)(K), as the statute existed on December 31, 2016. In calculating this incentive, if the electric company's general residential rate schedule includes inclining block rates, the calculation shall be done using the highest block rate. 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, the customer shall receive the incentive provided for in Section 219a(h)(1)(K) as the statute existed on December 31, 2016, for 10 years after the customer took service under that rate schedule. At the end of this 10-year period, customers using pre-existing net-metering systems shall be credited for excess generation as provided in Section 5.125 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 5.128(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) 5.125 (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 5.125(A)(1);
 - (4) 5.128 (Billing Standards and Procedures);
 - (5) 5.130 (Interconnection Requirements);
 - (6) 5.131 (Disconnection of Net-Metering Systems); and
 - (7) 5.134 (Compliance Proceedings).

- (I) All other net-metering systems are subject to all provisions of this Rule.

5.125 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 5.128.

(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 5.128.
- (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 must be allocated to the 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.

- (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 5.128.
- (B) As part of a tariff filed for Board 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 in this Rule.

5.126 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 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 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 be included in a tariff compliance filing made pursuant to Section 5.127(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 Board, 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 Board 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 REC adjustors at the time this Rule becomes effective (January 1, 2017) are as follows:
 - (a) REC Adjustor (Transfer) = 3 cents per kilowatt hour;
 - (b) REC Adjustor (Retention) = negative 3 cents per kilowatt hour.
 - (c) 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 Board 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 siting adjustors at the time this Rule becomes effective (January 1, 2017) are as follows:
 - (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.

5.127 Biennial Update Proceedings

- (A) The Board must conduct a biennial update in 2018 and every two years thereafter to update the following:
 - (1) REC adjustors;
 - (2) siting adjustors;
 - (3) the statewide blended residential rate; and
 - (4) criteria applicable to different categories of net-metering systems.
- (B) In updating the REC adjustors, the Board 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 Board.
- (C) In updating the siting adjustors, the Board 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 Board.
- (D) On or before February 1 of each even-numbered year, each electric company must file with the Board 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; and
 - (6) any other information the electric company believes to be relevant to the biennial update.
- (E) By no later than March 1 of each even-numbered year, the Department of Public Service and the Agency of Natural Resources must file with the Board any proposed updates to the items specified in Section 5.127(A)(1)-(4) and reasons therefor.
- (F) Any person may file comments on the filings under (D) and (E), above, by March 15.
- (G) By May 1 of each even-numbered year, the Board may by order update the items specified in Section 5.127(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 15 revisions to their net-metering tariffs that incorporate the new values set forth by the Board in its biennial update order. Such tariffs must have an effective date of July 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 5.126(A) of this Rule.
- (I) Notwithstanding the above, the Board may conduct an update sooner than biennially at its own discretion or upon petition by the Department.

5.128 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. 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 Board 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.
- (F) 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.

5.129 Group System Requirements

- (A) In addition to any other requirements in 30 V.S.A. §§ 248 and 8010, and in any applicable Board 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 5.129(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 Board, 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 5.129(A)(3). Written notification of a change in the person designated under subsection 5.129(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.

5.130 Interconnection Requirements

The interconnection of all net-metering systems is governed by Board 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.

5.131 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 Board 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 Board 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 Board.
- (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 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 5.129(A)(3).

- (E) A customer who is involuntarily disconnected may file a written complaint with the Board 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 Board 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.

5.132 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.

5.133 Electric Company Tariffs

Tariffs. Pursuant to 30 V.S.A. § 225, an electric company must propose for Board 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 Board will grant reasonable requests where there is good cause shown.

PART V: COMPLIANCE PROCEEDINGS

5.134 Compliance Proceedings

- (A) In response to a complaint filed by any member of the public or on its own motion, the Board may refer matters concerning whether an approved net-metering system is complying with the terms of its CPG or any applicable law within the Board's jurisdiction to the Department of Public Service for investigation and to make a recommendation as to whether the Board 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, the Board 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 Board order:
 - (1) Direct the certificate holder to provide the Board 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 Board in its discretion.
- (C) If, assuming the allegations in the complaint are true, the Board determines that there is no probability of a violation of any CPG condition, Board order, or any applicable law, the Board 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 January 1, 2017.