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- Today I'm going to focus on general areas of concern and areas that the Commission has noted may need additional clarification or further explanation and testimony.
- To begin, the Commission is concerned by how complicated and nuanced the RES Tiers have become. This will make implementation and ensuring and verifying utility compliance a much more difficult and time-consuming process for both the Department and the Commission.
- Next, the Commission would like to note that these changes would necessitate updates to the Net-Metering and Renewable Energy Standard Rules. Under the Administrative Procedure Act, the formal rulemaking process normally takes six to seven months, at a minimum. It would be helpful for this bill to either provide an expedited rulemaking process for any updates necessitated by this bill or acknowledge the time it takes for formal rulemaking and adjust effective dates, as necessary.
- From here, I'll go section by section:
 - o Sec. 2
 - "net-metering system" definition – The Commission is concerned that the proposed changes are not clear enough and may not fully eliminate group net-metering, if that is the intention. If the elimination of group net-metering is not very clear, it will create ambiguity for the Commission as well as a real litigation risk.
 - "new renewable energy" definition – The Commission wanted to note that expanding the Tiers that a facility is eligible for under the RES—in other words allowing facilities commissioned between January 1, 2010, and June 30, 2015, to be "new renewable energy"—will require work on the part of the Commission. Entities that are currently eligible for Tier I and wish to also be eligible for Tier II or Tier IV will need to register with the Commission or otherwise be identified, so that the Commission can provide updated information to NEPOOL GIS, and the RECs from facilities can be appropriately tracked.
 - "low income customer" definition – The Commission would suggest moving this definition to the section regarding alternative compliance payments going towards low income customers (Section 3 of the bill). There is already a definition of "low income customer" in the RES Rule, which is used for different purposes (tracking spending on Tier III energy transformation projects that benefit customers with low income). The

Rule uses household income at 80% of Vermont statewide median income, which is one number.

- “load” definition – The Commission does not believe the intent of this language is for load to include behind the meter solar consumption. However, as the definition is currently written, that’s not completely clear, so the Committee should clarify that in the definition so it’s explicit.
- Sec. 4
 - Under Tier II, there’s language to allow GlobalFoundries to petition to meet Tier II with resources greater than 5 MW for a period greater than a year. There’s language that’s unclear. It says - “it has only one retail electricity customer who takes service at 115 kilovolts *on property owned or controlled by the customer as of January 1, 2024.*” Obviously, this is referring to GlobalFoundries, but the language “on property owned or controlled by the customer as of January 1, 2024,” is not used everywhere GlobalFoundries is referenced, so it’s unclear why it’s used here. If there’s a specific intent behind the language it should be clarified. This language may be related to an issue under Tier IV, that I will get to.
 - Under Tier III, the bill amends Tier III “energy transformation projects” to allow utilities to exceed the statutorily required amounts under Tier III. The Commission wanted to note that this is already permissible – the utilities often exceed their requirements in a given year and then bank the excess credits for use in future years. What the Commission is concerned about is the language, which says:

“The Commission shall not hold imprudent any retail electricity provider expenditure to support energy transformation projects or measures, based on the *expenditure* being above and beyond what is statutorily required, provided the projects and measures otherwise comply with statute and Commission rules.”

Currently projects must be below the alternative compliance payment, however, it appears this provision would give utilities a blank check for unfettered spending on Tier III projects. It would be helpful to establish sidebars regarding the appropriate level of spending on Tier III measures. The Commission understands that the alternative compliance payment limit may be an impediment to providing Tier III measures to customers with low-income and would be interested in seeing language more narrowly tailored to address that issue.
 - Under Tier IV, the bill would allow GlobalFoundries to use Tier IV to satisfy Tier II, if GlobalFoundries did not have sufficient Tier II facilities

located on its campuses by January 1, 2024. It's unclear why the date is January 1, 2024. GMP will supply power to and comply with the RES on GlobalFoundries' behalf until September 30, 2026, so September 30, 2026, would appear to be the more appropriate date here.

- Sec. 5
 - Regarding the RES report, the Commission agrees with the Department that the report should not be a joint report. The Commission could certainly conduct a non-contested case process and would recommend that either the Department be the author of the whole report, or the Department author the parts of the report under (b)(1)-(3) that it typically does and the Commission author the part of the report regarding GMP compliance with Tier IV.

- Sec. 7
 - Certain net-metering changes would allow all utilities, other than GMP, to use the RECs from “existing net-metering systems” of less than 150 kW if the utility “has not been informed that the environmental attributes have been sold or otherwise retired.” This language is problematic because it could result in double counting. System owners need to consent to transfer the RECs to the utility. For example, some owners may have previously transferred their RECs to their system installer for the installer to sell them, so it is not appropriate to assume the RECs are available for the utility to count.