



Public Utility Commission **Recommendation: Definition of “Plant” in 30 V.S.A. § 8002(18)**

This document contains the Public Utility Commission’s recommended amended definition of “plant” in 30 V.S.A. § 8002(18) as required by Act 38 of 2025.

Submitted To:

Senate Committee on Natural Resources and Energy
House Committee on Energy and Digital Infrastructure

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1. Introduction

In 2025, the Vermont General Assembly passed Act 38.¹ Section 5 of Act 38 requires the Vermont Public Utility Commission (“Commission”) to provide a recommended amended definition of “plant” in 30 V.S.A. § 8002(18) to the Legislature by November 1, 2025. The legislation reads:

On or before November 1, 2025, and with input from stakeholders, the Public Utility Commission shall submit a recommended amended definition of “plant” in 30 V.S.A. § 8002(18) and an overview of their process and explanation of the recommendation to the House Committee on Energy and Digital Infrastructure and the Senate Committee on Natural Resources and Energy. In making its recommendation, the Commission shall consider:

- (1) the land use benefits of co-location of energy generation facilities;
- (2) the ability to ensure comprehensive review of co-located facilities; and
- (3) the potential impacts to ratepayers associated with co-located facilities.²

On June 30, 2025, the Commission opened a proceeding to investigate the definition of “plant” in 30 V.S.A. § 8002(18). All submissions and Commission-issued documents on this matter are available in the Commission’s electronic filing system, ePUC, in Case No. 25-1253-INV.

This recommendation is organized into sections.

- Section I provides an introduction to the legislative directive regarding the definition of “plant” in 30 V.S.A. § 8002(18).
- Section II identifies the participants and process the Commission conducted, pursuant to Act 38.
- Section III sets out the Commission’s recommended amended definition of “plant.”
- Section IV explains the Commission’s recommendation.
- Section V concludes this report.

¹ [Act 38](https://legislature.vermont.gov/bill/status/2026/S.50) (<https://legislature.vermont.gov/bill/status/2026/S.50>).

² Use of the terms “collocation” and “collocated” have been changed to the hyphenated terms.

2. Commission’s Stakeholder Engagement

Act 38 contemplates that the Commission will develop a recommendation for amending the definition of “plant” in 30 V.S.A. § 8002(18) after stakeholder engagement. The Commission opened a proceeding on June 30, 2025, to provide an opportunity for interested parties to submit comments for the Commission’s consideration. The Commission solicited two rounds of comments (including proposed amended definitions), held a workshop, and circulated a proposed definition for final comment.

Participants in this proceeding include: the Vermont Department of Public Service, Renewable Energy Vermont, AllEarth Renewables, Inc., Vermonters for a Clean Environment, Downs Rachlin Martin PLLC, Green Mountain Power Corporation, City of Burlington Electric Department, the Nature Conservancy Vermont Chapter, the Vermont Agency of Natural Resources, the Vermont Agency of Agriculture, Food and Markets, and Allco Renewable Energy Limited. Public comments were also filed jointly by the Vermont Public Interest Research Group, the Vermont Natural Resources Council, Vermont Conservation Voters, the Nature Conservancy Vermont Chapter, and the Conservation Law Foundation.

3. Recommended Amended Definition of “Plant”

After consideration of participants’ proposals and comments and the factors identified in the legislation, the following is the Commission’s recommendation for amending the definition of “plant” in 30 V.S.A. § 8002(18).

30 V.S.A. § 8002(18) is amended to read:

“Plant” means an independent technical facility that generates electricity from renewable energy. ~~A group of facilities, such as wind turbines, shall be considered one plant if the group is part of the same project and uses common equipment and infrastructure such as roads, control facilities, and connections to the electric grid. Common ownership, contiguity in time of construction, and proximity of facilities to each other shall be relevant to determining whether a group of facilities is part of the same project.~~ Multiple electricity-generating facilities, regardless of when each is constructed, shall be considered one plant if the facilities use the same electricity-generating technology and are located on the same parcel or contiguous parcels of land.

Such facilities shall only be considered separate plants if they meet one of the exceptions below.

(a) Exception for individual net-metering and self-consumption. Applies if the facilities:

(1) Are not located on the same parcel of land;

(2) Are wired to offset consumption on separate billing meters; and

(3) Supply different retail customers.

(b) Exception for multi-owner individual net-metering on the same parcel.
Applies if the facilities:

(1) Are located on the same parcel of land where a common interest community is located;

(2) Are wired to offset consumption on separate billing meters; and

(3) Supply different retail customers.

(c) Exception for co-location of renewable energy program facilities. More than one facility may be located on the same parcel or contiguous parcels with net-metering, standard-offer, or other Renewable Energy Standard Tier II facilities when:

(1) The facilities have separate points of interconnection; and

(2) No more than the statutory capacity cap for net-metering or the statutory capacity cap for the Standard Offer Program is sited on the same parcel or contiguous parcels and a net-metering facility and a standard-offer facility are not sited on the same parcel or contiguous parcels.

(d) Definitions.

(1) “Common interest community” means real estate described in a declaration with respect to which a person, by virtue of the person’s ownership of a unit, is obligated to pay for a share of real estate taxes on, insurance premiums, maintenance, or improvement of, or services or other expenses related to common elements, other units, or other real estate other than that unit described in the declaration.

(2) “Contiguous” means sharing a property boundary with another parcel of land or being adjacent to that parcel of land and the two parcels are separated only by a road, recreation path, railway line, stream, or river.

(3) “Electricity-generating technology” means a method or system used to convert energy from one form into electric power (e.g., wind, hydropower or water, solar, or biomass).

(4) “Point of interconnection” means the point on the interconnecting utility’s existing distribution system to which a facility proposes to interconnect.

4. Explanation of Recommendation

The definition of “plant” under 30 V.S.A. § 8002(18) is a statutory screening requirement used to determine whether a facility qualifies for Vermont’s renewable energy programs meant to encourage small-scale facilities and for Vermont’s Renewable Energy Standard Tier II. Further, the definition serves as a screening tool for applying the correct application procedures and rates and financial adjustors for a renewable energy facility. If co-located facilities constitute a single plant, and if the combined capacity of that single plant exceeds the statutory capacity cap for participation in a specific renewable energy program, for example, then the Commission must prohibit the facility’s participation in that renewable energy program. This screening ensures that the facilities meet the statutory goal of distributed, small renewable energy generation as well as other statutory and rule-based requirements tied to a facility’s capacity.

Act 38 asks the Commission to work with stakeholders to offer an amended definition of “plant” under 30 V.S.A. § 8002(18). Participants in the Commission’s proceeding on the definition of “plant” voiced varying levels of support for increasing the possibility for co-location of renewable energy facilities.

In making our recommendation and in accordance with Act 38, the Commission considered the land-use benefits of co-location of energy generation facilities; the ability to ensure comprehensive review of co-located facilities; and the potential ratepayer impacts associated with co-located facilities. These policy considerations require that we balance competing concerns. Given the expansion of distributed generation requirements under Vermont’s Renewable Energy Standard, the need to find suitable sites in Vermont for renewable energy generation may necessarily require co-location at sites where a facility is already sited or where multiple facilities could be proposed.³ At the same time, some of Vermont’s incentive-based renewable energy programs compensate generation at rates that are not intended for larger-scale facilities, and the small facilities receiving these incentives already cause significant ratepayer impacts. Taking into account the various approaches offered in the proceeding, the Commission recommends the above definition of “plant.”

The goals informing this definition are:

³ The Commission uses the same process to review (1) facilities that add to existing facilities (an amendment to an already-built system requires a new petition to be filed with the Commission) and (2) applications for two facilities simultaneously (each requiring a new petition).

- Balance the land use, comprehensive review, and ratepayer impact resulting from co-location of energy generation facilities;
- Reduce regulatory uncertainty;
- Eliminate the need for redundant utility-owned infrastructure; and
- Ensure that the definition of “plant” pertains to all electricity-generating technologies and remains applicable as renewable energy programs evolve.

A. Comparison of Recommendation to Current Definition

Reviewing the proposed definition of “plant” against the current definition helps to illustrate the ambiguities that the proposal resolves. Currently, the definition of “plant” requires the Commission to assess whether two or more facilities (1) are the “same project” and (2) share infrastructure or equipment. The same-project analysis includes (1) proximity, (2) common ownership, and (3) contiguity in time of construction. None of the three concepts is defined in the statute, and therefore the current definition requires the Commission to conduct complex factual and legal analyses.

Instead, the amended definition asks two straightforward questions: (1) whether facilities use the same electricity-generating technology (e.g., wind, solar, hydro, or biomass) and (2) whether facilities are on the same parcel or contiguous parcels of land. All facilities that use the same electricity-generating technology and are on the same parcel or contiguous parcels of land are a single plant under the amended definition.

The second question — same parcel or contiguous parcels of land — supplants the Commission’s current proximity analysis. Whether two or more facilities are on the same parcel or contiguous parcels is an unambiguous inquiry, particularly because the proposal includes a definition of “contiguous.” Developers will immediately be able to ascertain whether their proposed development plan meets this test.

One principal area of concern in this proceeding for both distribution utilities and developers was the way in which the current definition of “plant” treats developer-financed, but utility-owned infrastructure and equipment. Shared utility-owned infrastructure, rather than duplicate infrastructure, can reduce maintenance costs for utilities and avoid the need for a utility to participate in Section 248 cases where the utility has no concerns about the interconnection of a proposed facility. Certainty about this aspect of the “plant” analysis also benefits developers. The proposed definition of “plant” eliminates the requirement for independent utility-owned infrastructure.

The proposed definition treats all net-metering facilities on the same parcel as one plant. Often at the residential net-metering scale, the definition of “plant” is applied not to determine whether a facility qualifies for the net-metering program, but rather what process and form an applicant must use to obtain a net-metering certificate of public good. Further, the aggregate size of a net-metering facility dictates the rate the facility

receives. When net-metering facilities are separate, they can receive different rates. Under the proposed definition, all net-metering facilities on the same parcel (barring an exception) are one facility.

Under the Commission’s net-metering application process, adding capacity to an existing net-metering system is considered an amendment. Under the proposed definition of “plant,” if an amendment is filed, the Commission would assess all existing net-metering capacity located on a parcel along with the proposed new capacity to determine the size of the system and therefore the rates.

Based on the current definition of “plant,” the Commission has previously determined that some net-metering facilities on the same parcel are “separate,” and those “separate” facilities on the same parcel often have different siting and renewable energy credit (“REC”) adjusters. If the proposed definition is adopted, those facilities would remain separate unless a net-metering customer applies to increase the net-metering capacity on the parcel because the Commission would not apply the new definition of “plant” retroactively. Thus, net-metering customers could preserve their current rate(s) by not seeking an amendment. However, adding net-metering capacity would trigger the use of the proposed definition of “plant,” which would supersede the previous determination that the facilities are “separate” and thus the most recently adopted siting and REC adjusters would apply to the entire output of the amended net-metering system.⁴

The Commission has developed rules for setting net-metering rates. Commission Rule 5.109(D) establishes a threshold that applies to amendments that increase the capacity of an existing system. The rule states:

Except as provided below, the REC and siting adjusters applicable to an amended net-metering system, if any, will be based on the date that the first, complete application or registration was filed with the Commission and not on the date that the amendment request was filed. An amendment or series of amendments that increase the capacity of a net-metering system by more than 5% or 15 kW, whichever is greater, will trigger the application of the most recently adopted siting and REC adjusters to the entire output of the amended net-metering system.

Commission Rule 5.109(D) explains what rate applies based on how much net-metering capacity is added to an existing net-metering facility. The proposed definition of “plant” would not change the application of the above rule to setting rates for amended net-

⁴ Of the more than 27,000 net-metering certificates of public good that have been issued or deemed issued, approximately 100, or 0.37%, involved a determination by the Commission under the definition of “plant.”

metering systems, except when there are existing “separate” net-metering facilities on a parcel, as described above.

The proposed definition’s treatment of amended net-metering systems strikes a balance between regulatory clarity, fulfilling Vermont’s renewable energy goals, and ratepayer impacts.

B. Exceptions

1. Individual Net-Metering and Self-Consumption

Exception (a) in the Commission’s recommended language is for individual net-metering and self-consumption. Individual net-metering systems are described in Commission Rule 5.126(A)(2). This exception looks at three factors and applies if the facilities (1) are not located on the same parcel of land, (2) are wired to offset consumption on separate billing meters, and (3) supply different retail customers. These factors are unambiguous inquiries with obvious yes/no answers.

The first factor asks whether the facilities are located on the same parcel of land. This makes it possible for two neighbors to develop individual net-metering systems at their homes. As mentioned above, at the residential scale, the definition of “plant” more often serves to determine what process and form an applicant must use to obtain a certificate of public good. Under the current definition of “plant,” applicants must undergo a cumbersome evaluation to determine what rates and application processes apply to multiple facilities located on the same parcel. In contrast, the proposed definition, for example, would treat solar panels on a person’s roof and garage and on the ground in the backyard as a single facility. The Commission would then apply the rate and application process for a facility of the total size of all the generating capacity on the same parcel. Only when the total aggregate capacity exceeds the statutory net-metering capacity cap would a facility be denied a net-metering certificate of public good.

Questions two and three ask whether the facilities are separately interconnected, measured as wired to offset consumption on separate billing meters in line with Commission Rule 5.126(A)(2). Again, this does not preclude homeowners from putting solar panels on their roof and garage and on the ground in their backyard. Finally, the third factor looks at who the customers are for a facility. These questions are straightforward inquiries and require little analysis beyond reviewing the answers provided to these questions in an application. This exception provides clarity and avoids complex factual and legal inquiries for homeowners who apply for residential-size solar facilities.

2. Multi-Owner Individual Net-Metering on the Same Parcel

Exception (b) in the recommended language is for individual net-metering systems located on the same parcel when the individual systems supply different retail customers. This exception is meant for residential-sized systems developed in the context of multi-owner housing, such as condominiums. This exception looks at three factors and applies if the facilities (1) are located on the same parcel of land, (2) are wired to offset consumption on separate billing meters, and (3) supply different retail customers. The Commission has defined a “common interest community” in the same way as it is defined in 27A V.S.A. § 1-103(7). Like the above exception, these factors are unambiguous inquiries with obvious yes/no answers.

3. Facilities Co-located with a Net-Metering, Standard-Offer, or Other Renewable Energy Standard Tier II Facility

Exception (c) allows for co-location of additional facilities so long as the statutory capacity cap for net-metering or the Standard Offer Program is not exceeded by facilities sited on the same parcel or contiguous parcels. Put differently, there can be up to 500 kW of generated capacity participating in the net-metering program or up to 2.2 MW of generated capacity participating in the Standard Offer Program on the same parcel or contiguous parcels. There cannot be both. Any additional capacity above the net-metering or Standard Offer Program capacity caps cannot participate in one of those renewable energy programs.

This test is, again, a bright-line inquiry: Is there a net-metering facility(ies) or standard-offer facility(ies) on the parcel or a contiguous parcel? Has the statutory capacity cap for net-metering or the Standard Offer Program been reached? If so, then only facilities not participating in one of these electric energy generation programs can be co-located if their combined capacity would exceed the program’s statutory cap. This ensures that large projects enrolled in net-metering or holding a standard-offer contract have not been segmented into smaller projects to gain financial benefits under renewable energy programs intended for the benefit of smaller projects, in contravention of State policy.

In another renewable energy program, Vermont’s Renewable Energy Standard (RES) Tier II, pursuant to 30 V.S.A. § 8005(a)(2), the definition of “plant” applies to whether a proposed facility(ies) qualifies for Tier II. Section 8005(a)(2) sets a 5 MW capacity cap for Tier II qualification.

RES Tier II provides incentives for distributed renewable generation, but the incentive mechanism is indirect. Unlike in net-metering or the Standard Offer Program, the Commission does not set rates related to Tier II. Rather, Vermont’s electric distribution utilities are required to retire renewable energy credits from Tier II facilities and must

demonstrate this compliance annually to the Commission. The utilities meet Tier II requirements in one of three ways: by retiring RECs they received from net-metering facilities or from the Standard Offer Facilitator, by building utility-owned generation, or by contracting with a developer of a qualifying generation facility. RECs for Tier II facilities are worth more than other types of RECs. Thus, the higher-value RECs — in a marketplace that is not regulated by the Commission — serve as a financial incentive.

Finding suitable sites given the expansion of distributed generation requirements under the RES may necessarily require co-location. By allowing for greater co-location for RES Tier II facilities that do not participate in net-metering or the Standard Offer Program, exception (c) addresses the State’s evolving renewable energy goals and balances ratepayer and land-use impacts.

The Commission’s proposed exception for siting additional renewable energy generation, such as other RES Tier II facilities or facilities contracted under a power purchase agreement, is, again, a bright-line, administratively simple test. The facilities must have different points of interconnection, and the statutory capacity caps for either net-metering or the Standard Offer Program cannot be exceeded on the same parcel or contiguous parcels.

C. Opportunities for Further Development under the Proposed Definition

The proposed amended definition would allow for further renewable energy development on a parcel or contiguous parcel that is prohibited under the current statutory definition of “plant.” For example, under the proposed definition, up to 500 kW could be sited on one parcel under Vermont’s net-metering program and receive applicable net-metering rates. Additional solar development — for example, receiving compensation under a power purchase agreement — could also then be permitted on the same parcel or a contiguous parcel so long as it was not participating in the net-metering program or the Standard Offer Program. The Commission’s proposal also allows for multiple RES Tier II facilities on the same parcel or contiguous parcels, so long as they are separately interconnected and the net-metering or Standard Offer Program capacity cap is not exceeded. In contrast, the current definition counts all proposed solar capacity in close proximity (certainly on the same parcel) to ascertain whether the total capacity exceeds the cap set for the relevant program, thus limiting *all* development (in this example) to 500 kW in a proximate area.

5. Conclusion

The Commission recognizes the need to revisit and revise the definition of “plant” in 30 V.S.A. § 8002(18). This definition plays an important role in administering various statutory requirements that use facility capacity as a bright-line test for determining program eligibility. Our recommended amended definition strikes a balance between

shifts in the policy framework for renewable development and the still existing, and likely future, use of facility capacity as a bright-line test for program eligibility, review processes, rates, and other aspects of renewable energy development.

As long as the Legislature sets caps on renewable energy generation programs meant to encourage small-scale facilities, some screening tool is needed to differentiate between co-located facilities; otherwise, the purpose of those caps can be circumvented. If the Legislature wishes to alter or eliminate programmatic capacity caps, the appropriate place to make any such changes is in the statutes governing those programs.⁵

⁵ See, e.g., 30 V.S.A. §§ 8002(16), 8005(a)(2), 8005a.