


1

## Act 38 of 2025

---

- Commission must provide a recommended amended definition of “plant”
- Interested party engagement
- Must consider
  - the land use benefits of co-location of energy generation facilities;
  - the ability to ensure comprehensive review of co-located facilities; and
  - the potential impacts to ratepayers associated with co-located facilities.



2

# The Commission's Process

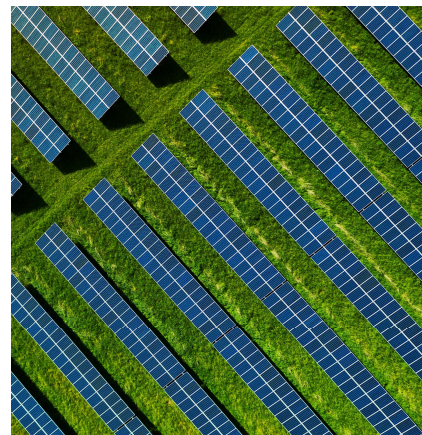


- 6/30/25: Opened a Commission proceeding (25-1253-INV)
  - Sought definitions of “plant”
  - Put out statutory language and a proposal regarding a decommissioning fund
- Two rounds of written comments (7/17/25, 9/5/25)
- 9/11/25: Issued draft conceptual plan for decommissioning fund proposal
- Held two workshops
  - 9/22/25: definition of “plant”
  - 9/25/25: decommissioning
- Provided for final comment on the Commission’s proposed amended definition of “plant”

3

## Current Definition

(18) “Plant” means an independent technical facility that generates electricity from renewable energy. A group of facilities, such as wind turbines, shall be considered one plant if the group is part of the **same project** and uses **common equipment and infrastructure** such as roads, control facilities, and connections to the electric grid. Common ownership, contiguity in time of construction, and proximity of facilities to each other shall be relevant to determining whether a group of facilities is part of the same project.



4

## Recommended Amended Definition of “Plant”

### New standard

- Same or contiguous parcels
- Same electricity-generating technology

### Exceptions

- Individual residential net-metering (neighbors)
- Multi-owner individual residential net-metering (common interest communities)
- More than one renewable-energy-program facility

### Definitions

- Common interest community
- Contiguous
- Electricity-generating technology
- Point of interconnection

5

## Exception (C)

“Plant” means an independent technical facility that generates electricity from renewable energy. 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 following exceptions:

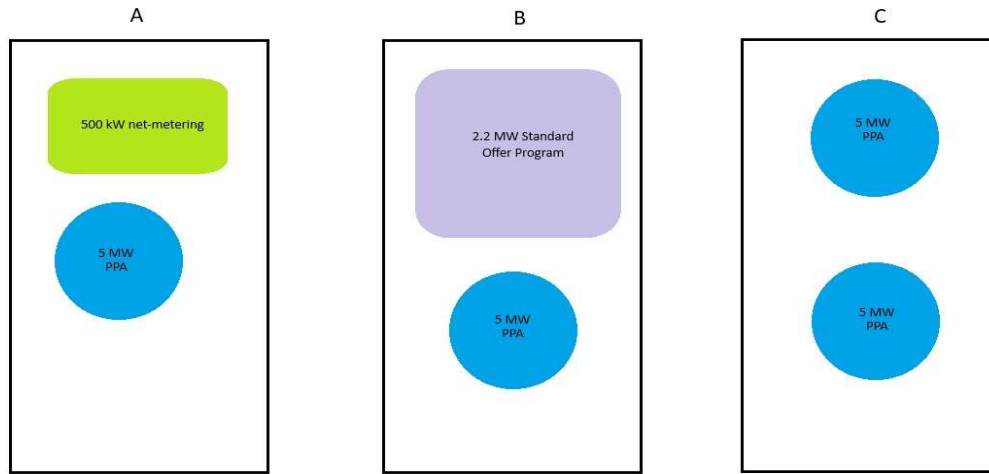
\*\*\*

(C) Exception for colocation of facilities other than net-metering program or Standard Offer Program facilities. Applies if the facilities have separate points of interconnection if:

- (i) a net-metering facility and a Standard Offer Program facility are not sited on the same parcel or contiguous parcels; and
- (ii) the statutory capacity cap for the net-metering program or the Standard Offer Program is not exceeded on the same parcel or contiguous parcels.

6

## What can be sited (under the new definition)



7

What can't be  
sited  
(under the new  
definition)



8



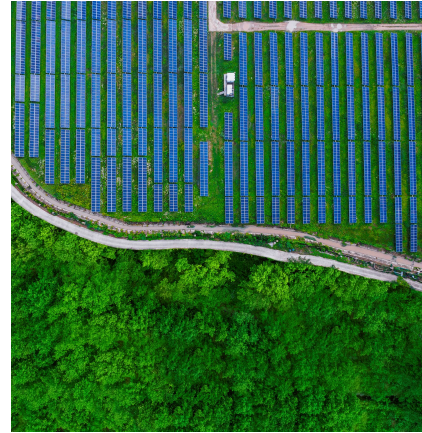
9



10

# Background

- Brief overview of statutes and rules concerning solar decommissioning
- Terminology (decommissioning, financial assurances, financial surety instruments)
- Solar decommissioning in practice at the PUC



11

## Challenges with Current System

Administrative Constraints and Impossibility

Substantial Noncompliance

Liability and Uncertainty




12

# Fund Model Basics

- Up-front contribution
- Managed by the Commission/State
- Growth over time
- Available regardless of delinquency
- Covers Commission costs to administer
- Accounts for overruns

13

# Questions & Comments



14

1 H.710

2 Introduced by Representatives Campbell of St. Johnsbury and James of

3 Manchester

4 Referred to Committee on

5 Date:

6 Subject: Public service; utility companies; renewable energy programs;

7 definitions; plant

8 Statement of purpose of bill as introduced: This bill proposes to amend the  
9 definition of “plant” to clarify when the Public Utility Commission would  
10 consider multiple energy-generating facilities to be a single facility. This bill  
11 would consider a plant with multiple energy-generating facilities to be a single  
12 facility if the facilities use the same electricity-generating technology and if  
13 the facilities are on the same parcel or contiguous parcels of land, unless an  
14 exception applies.

15 An act relating to defining electricity generating facilities

16 It is hereby enacted by the General Assembly of the State of Vermont:

17 ~~Sec. 1. 30 V.S.A. § 8002 is amended to read:~~

18 § 8002. DEFINITIONS

19 ~~As used in this chapter.~~

1  
2 (18) "Plant" means an independent technical facility that generates  
3 electricity from renewable energy. A group of facilities, such as wind turbines,  
4 shall be considered one plant if the group is part of the same project and uses  
5 common equipment and infrastructure such as roads, control facilities, and  
6 connections to the electric grid. Common ownership, contiguity in time of  
7 construction, and proximity of facilities to each other shall be relevant to  
8 determining whether a group of facilities is part of the same project. Multiple  
9 electricity-generating facilities, regardless of when each is constructed, shall be  
10 considered one plant if the facilities use the same electricity-generating  
11 technology and are located on the same parcel or contiguous parcels of land.

12 Such facilities shall only be considered separate plants if they meet one of the  
13 following exceptions:

14 (A) Exception for individual net-metering and self-consumption.

15 Applies if the facilities:

16 (i) are not located on the same parcel of land;

17 (ii) are wired to offset consumption on separate billing meters;

18 and

19 (iii) supply different retail customers.

20 (B) Exception for multi-owner individual net-metering on the same  
21 parcel. Applies if the facilities.

1 ~~(i) are located on the same parcel of land where a common~~  
2 ~~interest community is located;~~

3 ~~(ii) are wired to offset consumption on separate billing meters;~~  
4 ~~and~~

5 ~~(iii) supply different retail customers.~~

6 ~~(C) Exception for colocation of renewable energy program facilities.~~

7 ~~More than one facility may be located on the same parcel or contiguous~~  
8 ~~parcels with net-metering, Standard Offer Program facilities, or other~~

9 ~~Renewable Energy Standard Tier II facilities when:~~

10 ~~(i) the facilities have separate points of interconnection; and~~

11 ~~(ii) not more than the statutory capacity cap for net-metering or~~  
12 ~~the statutory capacity cap for the Standard Offer Program is sited on the same~~  
13 ~~parcel or contiguous parcels and a net-metering facility and a Standard Offer~~  
14 ~~facility are not sited on the same parcel or contiguous parcels.~~

15 \* \* \*

16 ~~(33) "Common interest community" means real estate described in a~~  
17 ~~declaration with respect to which a person, by virtue of the person's ownership~~  
18 ~~of a unit, is obligated to pay for a share of real estate taxes on, insurance~~  
19 ~~premiums, maintenance, or improvement of, or services or other expenses~~  
20 ~~related to common elements, other units, or other real estate than that unit~~  
21 ~~described in the declaration.~~

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

4 (35) “Electricity generating technology” means a method or system  
5 used to convert energy from one form into electric power, including wind,  
6 hydropower or water, solar, or biomass.

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

10 Sec. 2. EFFECTIVE DATE

11 ~~This act shall take effect on July 1, 2026.~~

*Sec. 1. 30 V.S.A. § 8002 is amended to read:*

*§ 8002. DEFINITIONS*

*As used in this chapter:*

*\* \* \**

*(18) “Plant” means an independent technical facility that generates electricity from renewable energy. A group of facilities, such as wind turbines, shall be considered one plant if the group is part of the same project and uses common equipment and infrastructure such as roads, control facilities, and connections to the electric grid. Common ownership, contiguity in time of construction, and proximity of facilities to each other shall be relevant to*

determining whether a group of facilities is part of the same project. 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 following exceptions:

(A) Exception for individual net-metering and self-consumption.

Applies if the facilities:

(i) are not located on the same parcel of land;

(ii) are wired to offset consumption on separate billing meters;

and

(iii) supply different retail customers.

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

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

(ii) are wired to offset consumption on separate billing meters;

and

(iii) supply different retail customers.

(C) Exception for colocation of facilities other than net-metering program or Standard Offer Program facilities. Applies if the facilities have separate points of interconnection if:

(i) a net-metering facility and a Standard Offer Program facility are not sited on the same parcel or contiguous parcels; and

(ii) the statutory capacity cap for the net-metering program or the Standard Offer Program is not exceeded on the same parcel or contiguous parcels.

\* \* \*

(33) “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 than that unit described in the declaration.

(34) “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.

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

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

*Sec. 2. EFFECTIVE DATE*

*This act shall take effect on July 1, 2026.*



# 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

**Submitted By:**

Vermont Public Utility Commission

**Published:**

11.12.2025

## Contact Information

**To receive this information in an alternative format or for other accessibility requests, please contact:**

Holly Anderson, Clerk  
Public Utility Commission  
puc.clerk@vermont.gov, 802-828-2358

## Table of Contents

1. Introduction _____	4
2. Commission’s Stakeholder Engagement _____	5
3. Recommended Amended Definition of “Plant” _____	5
4. Explanation of Recommendation _____	7
A. Comparison of Recommendation to Current Definition _____	8
B. Exceptions _____	10
1. Individual Net-Metering and Self-Consumption _____	10
2. Multi-Owner Individual Net-Metering on the Same Parcel _____	11
3. Facilities Co-located with a Net-Metering, Standard-Offer, or Other Renewable Energy Standard Tier II Facility _____	11
C. Opportunities for Further Development under the Proposed Definition _____	12
5. Conclusion _____	12

## 1. Introduction

In 2025, the Vermont General Assembly passed Act 38.<sup>1</sup> 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.<sup>2</sup>

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.

---

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

<sup>2</sup> 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.<sup>3</sup> 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:

---

<sup>3</sup> 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”) adjustors. 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 adjustors would apply to the entire output of the amended net-metering system.<sup>4</sup>

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 adjustors 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 adjustors 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-

---

<sup>4</sup> 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.<sup>5</sup>

---

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

112 State Street  
4<sup>th</sup> Floor  
Montpelier, VT 05620-2701  
TEL: 802-828-2358



TTY/TDD (VT: 800-253-0191)  
FAX: 802-828-3351  
E-mail: [puc.clerk@vermont.gov](mailto:puc.clerk@vermont.gov)  
Internet: [www.puc.vermont.gov](http://www.puc.vermont.gov)

**State of Vermont  
Public Utility Commission**

November 12, 2025

Senator Anne Watson, Chair, Senate Committee on Natural Resources and Energy  
Senator Ann Cummings, Chair, Senate Committee on Finance  
Representative Kathleen James, Chair, House Committee on Energy and Digital Infrastructure  
Representative Amy Sheldon, Chair, House Committee on Environment

**SENT VIA EMAIL**

**Re: Electric Generation and Energy Storage Facility Decommissioning Fund**

Dear Senators and Representatives:

Section 248(a)(5) of Title 30 of the Vermont Statutes Annotated mandates that electric generation and energy storage facilities be “removed once they are no longer in service,” and directs the Vermont Public Utility Commission (“Commission”) to draft rules to ensure that facilities are removed. Currently, the Commission requires that certificate of public good (“CPG”) holders for generation and storage facilities above a certain size file and regularly update financial instruments, such as letters of credit, escrow agreements, and bonds, with the Commission. These financial assurances are meant to ensure that funding is available to decommission the facility and restore the site once the facility is no longer in service. The administration of the current system of obtaining and maintaining financial assurance instruments requires a substantial amount of administrative work by Commission staff and imposes a lengthy and costly regulatory compliance burden for developers. This letter includes the Commission’s proposal to address both of these concerns.

Pursuant to Act 38 of 2025, entitled “An act relating to increasing the size of solar net metering projects that qualify for expedited registration,” the Commission opened an investigation into the definition of “plant” and a proposed alternative to the status quo method of providing decommissioning financial assurances. The Commission joined these topics in a single investigation because the interested parties for the definition of “plant” overlap significantly with the interested parties for the decommissioning process.

In this letter, we provide the legislative committees of jurisdiction with (1) background explaining the current approach to decommissioning financial assurances and why a change is needed, (2) an outline of the proposed solution, and (3) draft statutory language.

## BACKGROUND SUMMARY

### The status quo

- How does decommissioning fit into the Commission’s regulation?
  - Unlike in most other states, the siting of electric generation (*e.g.*, solar) and energy storage (*e.g.*, batteries) facilities is regulated at the state level in Vermont. Siting these facilities requires a project developer to obtain a CPG from the Commission under 30 V.S.A. § 248.
  - Section 248(a)(5) requires that the Commission adopt rules and standard conditions to ensure “that facilities are removed once they are no longer in service.”
  - The Commission promulgated Rule 5.900 in response to the statutory requirement. Rule 5.900 has two aims: (1) to require CPG holders to establish a plan and commit to decommissioning facilities at the end of their useful life, and (2) to establish sufficient financial assurances to support decommissioning.
  - For the financial component, the Commission accepts letters of credit, escrow agreements, and bonds from third-party financial institutions or financing companies to secure a decommissioning obligation.
- The fundamental problem is that the Commission has been tasked with ensuring decommissioning when we otherwise do not regulate the people performing this work or the tasks that must be completed to successfully decommission a facility. We do not regulate merchant generators in the same way as monopoly utilities. Further, the Commission does not currently have the statutory authorization to meet our obligation in the event of developer noncompliance with decommissioning expectations at the end of a facility’s useful life.

### Why does Vermont need a change?

- *Impossibility*: If called on, funds from current financial assurances — letters of credit, bonds, escrow agreements with third-party financial institutions or financing companies — cannot be deposited because the Commission does not have statutory authority to place these funds in a protected account solely for decommissioning.
- *Need to protect the State fiscally*: Having a single decommissioning fund would ensure enough available cash to fund decommissioning regardless of the status of the facility owner or third-party financial institution or financing company and to manage unanticipated cost overruns or inadequate initial cost estimates.
- *Simplicity and efficiency for developer and regulator*:
  - Currently, developers must engage frequently with maintaining financial instruments. This is costly, time-consuming regulatory engagement. Costs currently include:
    - Fees paid to third-party financial institutions for financial instruments;
    - Fees paid to lawyers to engage in the Commission’s regulatory process for updating or replacing financial instruments on a triennial basis;
    - Fees paid to someone to perform an inflation adjustment to the fund amount;
    - Dedicating — and often freezing — capital with a third-party financial institution to secure the financial instrument; and
    - Staff or attorney time spent on regular compliance with the Commission’s current financial instrument process.

- Administration of up-to-date financial instruments involves significant front-office and Commission staff time and is in tension with the Commission's move to an electronic filing system and electronic maintenance of records.

#### **THE PROPOSED SOLUTION: A DECOMMISSIONING FUND**

- A decommissioning fund is a pool of up-front contributions collected by the Commission at the time a CPG holder is given a CPG and is preparing a site for construction.
- The Commission, in conjunction with the Vermont Treasurer's Office, maintains the special fund for the purpose of decommissioning sites used for electric generation or energy storage facilities.
- The process:
  - A facility-specific cost estimate for decommissioning is calculated.
  - A CPG holder contributes a portion or all the estimated decommissioning cost into a fund held in escrow by the State.
  - The funds are invested.
  - The facility reaches the end of its useful life. Assuming the site components cannot or will not be repurposed, the site must be decommissioned and returned to the condition it was in before the site was developed.
    - If the facility owner is still actively involved in the operation and management of the facility, the facility owner arranges for site decommissioning. Upon satisfactory completion of site decommissioning, the Commission releases any remaining funds contributed to the decommissioning fund back to the CPG holder.
    - If the facility owner is missing, has filed for bankruptcy or is insolvent, or otherwise will not perform decommissioning, the Commission calls on the fund to pay retained contractors and site remediators to remove the facility components and restore the site.
    - Whether the facility owner is involved or unavailable, the fund can also be called on when costs exceed the initial decommissioning cost estimate (adjusted over the life of the facility for inflation).

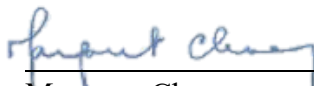
Attached is proposed statutory language that would authorize the Commission to take this new approach to financial assurances for decommissioning. The statutory language was provided to the participants in our investigation. The participants were given three opportunities to submit written comments, and the Commission held a workshop to discuss the approach and to answer questions.

We respectfully request that the committees consider this approach.


Sincerely,



Edward McNamara  
Chair



Margaret Cheney  
Commissioner



J. Riley Allen  
Commissioner

**30 V.S.A. § 20 is amended as follows:**

\*\*\*

(a)(1) The Commission or the Department of Public Service may authorize or retain legal counsel, official stenographers, expert witnesses, advisors and consultants, temporary employees, and other providers of research, scientific, financial, economic, actuarial, accounting, or engineering services:

\*\*\*

(F) To investigate, review, plan, oversee, or carry out the decommissioning and site restoration required by a certificate of public good issued to an electric generation or energy storage facility.

**30 V.S.A. is added to read:**

**§ 248e. Electric Generation and Energy Storage Facility Decommissioning Fund**

(a) There is created an Electric Generation and Energy Storage Facility Decommissioning Fund that shall be a special fund created pursuant to 32 V.S.A. chapter 7, subchapter 5, and shall be administered by the Chair of the Public Utility Commission.

(b) Deposits to the Decommissioning Fund shall consist of all decommissioning surety fees collected for electric generation or energy storage facilities that have received a certificate of public good from the Commission. The Commission shall deposit into the Decommissioning Fund each decommissioning surety fee it receives under this subchapter.

(c) Disbursements from the Decommissioning Fund may be made by the Chair of the Commission to undertake actions that the Commission considers necessary to investigate or mitigate, or both, the effects of an abandoned, non-operational, or disclaimed electric generation or energy storage facility. Disbursements under this subsection may be made:

(1) to pay costs to third parties who initiate or complete facility decommissioning and site restoration where the holder of the certificate of public good is unknown, cannot be contacted, is unwilling to take action, is incapable of carrying out decommissioning or site restoration, or does not take timely action as ordered by the Commission;

(2) to investigate ownership of or ascertain the holder of the certificate of public good for an electric generation or energy storage facility;

(3) to take other appropriate remedial action;

(4) to pay costs to persons retained by the Commission or the Department under 30 V.S.A. § 20(a)(1)(F); or

(5) to return portions of the surety fees as determined by a formula established by the Commission to individual CPG holders upon satisfactory completion of decommissioning and Commission approval.

The Chair is prohibited from disbursing funds for a facility that did not contribute to the Fund.

(d) For purposes of this section:

(1) “Chair” means the Chair of the Vermont Public Utility Commission.

(2) “Commission” means the Vermont Public Utility Commission.

(3) “Decommissioning” means to remove a facility safely from service and to restore the site to its condition before the facility was installed consistent with the facility’s certificate of public good and Commission rules and orders.

(4) “Decommissioning Fund” means the Electric Generation and Energy Storage Facility Decommissioning Fund.

(5) “Decommissioning surety fee” means the contribution assigned to a facility and determined by a funding formula established by the Commission.

(6) “Department” means the Vermont Department of Public Service.

(e) Balances in the Decommissioning Fund shall be expended only for the purposes authorized in this subchapter and shall not be used for the general obligations of government or for other governmental purposes. All balances in the Decommissioning Fund at the end of any fiscal year shall be carried forward and remain within the Decommissioning Fund. Interest earned by the Decommissioning Fund shall be deposited in the Decommissioning Fund.

(f) The Commission shall have authority to adopt rules or issue orders implementing this subchapter.

(g) The Commission shall provide to the Treasurer of the State of Vermont an annual accounting of each decommissioning fee showing the source and the amount collected and each decommissioning project that was funded or that will be funded with the fee and the amount expended.



July 17, 2025  
Ms. Holly Anderson, Clerk  
Vermont Public Utility Commission  
112 State Street, 4<sup>th</sup> Floor  
Montpelier, VT 05602

***Re: Decommissioning financial assurances (25-1253-INV)***

Dear Clerk Anderson,

In the opening order in Case 25-1253-INV, the Commission asked for feedback on a straw proposal that would shift decommissioning financial assurances “from a financial-instrument model to a cleanup-insurance model.” The impact that such a shift would have on the renewable sector would depend on the magnitude of the decommissioning surety fee and the “portions of the surety fees” that would be returned to a project upon the completion of decommissioning.

While Renewable Energy Vermont (REV) is conceptually supportive of lessening the burdens associated with obtaining and maintaining financial assurances, REV would not be able to support such a proposal without additional information about how the Commission intends to develop the formulas governing these items. REV is not currently aware of any renewable project large enough to trigger decommissioning financial assurance requirements that has been abandoned by a CPG holder before decommissioning is completed. REV respectfully requests that the Commission share any data or assumptions about the risk of decommissioning default, the size of the decommission fund that the Commission believes would be required, and the share of the decommission fee that would be returned to the CPG holder. REV looks forward to working with the Commission to better understand the impacts of this proposal.

Jonathan Dowds

A handwritten signature in black ink, appearing to read "Jonathan Dowds", written in a cursive style.

Deputy Director  
Renewable Energy Vermont



Josh Castonguay  
VP, Chief Innovation Officer, Generation & Power Supply

(802) 655-8754  
Josh.Castonguay@greenmountainpower.com

July 17, 2025

*Via ePUC*

Holly Anderson, Clerk  
Vermont Public Utility Commission  
112 State Street  
Montpelier, VT 05620-2701

**Re: Case No. 25-1253-INV – Public Utility Commission investigation into the definition of single plant pursuant to Act 38 of 2025 and decommissioning financial assurances**

Dear Ms. Anderson,

I am writing with the initial response of Green Mountain Power (GMP) pursuant to the Commission's Order of June 30, 2025, opening an investigation for purposes of providing a recommendation to the Legislature regarding amendment of the definition of "plant" set forth in 30 V.S.A. Section 8002(18) and to consider changes to managing decommissioning funding obligations for electric generation and energy storage facilities that hold Certificates of Public Good (CPG).

GMP does not at this time have specific proposed revisions to Section 8002(18). GMP supports appropriate, efficient siting for solar and other generating facilities. GMP did not oppose the revised definition put forward during the 2025 legislative session, with the understanding that it would not lead to higher costs for customers. GMP would welcome more clarity on whether and when utility-owned distribution line upgrades completed for one project and later used by another should continue to be a part of the review regarding whether two facilities constitute one plant. We look forward to reviewing proposals and will plan to offer any detailed comments on the schedule set by the Commission and at the workshop.

With regard to decommissioning, GMP looks forward to learning more about the straw proposal cleanup fund approach set forth by the Commission compared to current instruments for decommissioning assurance such as Letters of Credit. GMP is interested in what types of facilities and to which ownership structures such a fund would be applied (for example, will it apply to existing facilities already holding CPGs regardless of ownership), along with the methodology that would be applied to set the fee. This will help GMP understand any difference in costs for customers between the current and proposed approaches.

Thank you for this initial opportunity to comment. We look forward to reviewing the submissions of other interested stakeholders, and to attending the workshop scheduled by the Commission.

Sincerely,



Josh Castonguay,  
Vice President, Chief Innovation Executive

cc: Service List (*via ePUC*)



July 17, 2025  
Ms. Holly Anderson, Clerk  
Vermont Public Utility Commission  
112 State Street, 4<sup>th</sup> Floor  
Montpelier, VT 05602

***Re: Decommissioning financial assurances (25-1253-INV)***

Dear Clerk Anderson,

Renewable Energy Vermont (REV) echoes Green Mountain Power's request for more information about whether the proposed decommissioning fund would apply to existing facilities already holding. REV would oppose changes that increased the financial burden on existing projects.

Jonathan Dowds

A handwritten signature in black ink, appearing to read "Jonathan Dowds", written in a cursive style.

Deputy Director  
Renewable Energy Vermont

**STATE OF VERMONT  
PUBLIC UTILITY COMMISSION**

Case No. 25-1253-INV

---

Public Utility Commission investigation into  
the definition of single plant pursuant to Act  
38 of 2025 and decommissioning financial assurances

---

**COMMENTS OF ALLEARTH RENEWABLES, INC.**

AllEarth Renewables, Inc. (“AER”) supports the proposed revisions to 30 V.S.A. §8002(18) offered by Allco Renewable Energy Inc. (“Allco”) in its July 17, 2025 filing in this case. A definition that focuses solely on the point of interconnection is clear, simple and consistent with the approach taken by ISO-New England and throughout the region. The present statutory language, with the vagaries noted by Allco, creates uncertainty for developers and other stakeholders and added work for the Commission. Moreover, the inevitable suppression of renewable energy development achieved by Federal (OBBB, Executive Order 14315, Treasury Notice 2025-42) and State (elimination of offsite net metering and winding down of Standard Offer without replacement) actions should not be further exacerbated by retention of a single plant definition and process that is ambiguous and unnecessary.

With respect to decommissioning issues, AER agrees with the concerns expressed by Renewable Energy Vermont in its July 17<sup>th</sup> filing on the subject. A significant lessening of financial burdens around decommissioning makes excellent sense given the absence of history of project abandonments, the long life of projects, and the incentive of project owners to keep their renewable energy facilities running as long as there is a reasonable revenue stream. More information will benefit all stakeholders in determining what changes are appropriate.

Thank you for this opportunity to comment.

Dated this 5<sup>th</sup> day of September, 2025

AllEarth Renewables, Inc.

By: /s/ **David Mullett**

David Mullett, General Counsel  
AllEarth Renewables, Inc.  
118 Firehouse Drive  
Bristol, VT 05443  
[dmullett@allearthrenewables.com](mailto:dmullett@allearthrenewables.com)

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 25-1253-INV

---

Public Utility Commission investigation into the definition of single plant pursuant to Act 38 of 2025 and decommissioning financial assurances	
---	--

---

**VERMONT DEPARTMENT OF PUBLIC SERVICE COMMENTS**

On May 28, 2025, the Vermont Legislature passed Act 38, “An act relating to increasing the size of solar net-metering projects that qualify for expedited registration” (Act 38). Act 38 required the Vermont Public Utility Commission (Commission) to make a recommendation regarding the amendment of the definition of “plant” within 30 V.S.A. § 8002(18). In response, the Commission opened this investigation docket to gather information. In addition, the Commission is using this docket to solicit comments on changes to the 30 V.S.A. § 248e Electric Generation and Energy Storage Facility Decommissioning Fund.

The Department has been involved in many cases examining the application of “plant” and recognizes the benefits and drawbacks to the current definition and application, many of which served as an impetus to make reforms pursuant to Act 38. It is with those in mind (discussed in greater detail below) that the Department recommends changes to the definition of “plant” that strive to meet the following objectives:

**Objectives**

1. **Enable co-location of renewable generators where adverse impacts to the 30 V.S.A. § 248(b) criteria can be minimized.** With the expansion of the distributed generation requirement under Act 179 of 2024, there is potential for approximately 500 MW of new, mostly solar generation resources to be sited somewhere in Vermont – a doubling of what

has been installed to date. Many “low-hanging fruit” sites have likely already been taken, and allowing expansion of *some* of those sites is sensible. There are instances where co-location would likely offer more benefits than costs from a land use, grid, and ratepayer perspective. For example: preferred sites such as capped landfills, brownfields, rooftops, parking lots, and other areas identified through municipal and regional planning efforts; areas with existing infrastructure such as roads and electrical infrastructure that can serve additional generation; and areas with sufficient transmission and distribution to accommodate the additional generation.

- 2. Reduce costs associated with uncertainty regarding single plant application and redundant infrastructure.** The existing proposals demonstrate shared sentiment among stakeholders that several aspects of the single plant definition and test should be eliminated or curtailed to increase certainty, gain efficiency, and reduce costs. Uncertainty for developers creates risk, and risk is priced into the costs of future renewable energy. The definition of plant should be as clear as possible to decrease uncertainty and reduce administrative burden, leading to reduced costs. Costs can also be reduced through shared utility-owned infrastructure – which should be universally encouraged – while plant proximity may make sense in certain circumstances as discussed in (1) above. To the Department, the role of the single plant test is to eliminate the possibility of developers “gaming” rates through artificial division of what could have been larger facilities at lower cost to ratepayers into multiple, smaller plants receiving incentive rates. A revised definition should both reduce redundant infrastructure and create certainty for developers on how their project will be treated in the regulatory process.

3. **Future-proof single-plant changes to protect ratepayers.** While the current renewable incentive programs may be winding down (Standard Offer) or evolving in ways that begin to mitigate rate impacts (net-metering), new incentive programs (e.g., net-metering 3.0, expansion of Standard Offer) may be introduced at any time. The best way to create a durable definition that is clear to developers and prevents gaming of the system is by having a test that hews closely to the current paradigm, which disallows proximate siting of facilities, but with explicit carveouts that support co-location in certain circumstances in the context of known renewable programs and the ability to thoughtfully and deliberately expand those carveouts if new programs are developed.

### **Stakeholder Proposals**

The Department has reviewed proposals offered by Allco and Renewable Energy Vermont and appreciates their attempts to refine the single plant definition. Aspects of their proposals could be effective. The Department offers its feedback on the Allco and Renewable Energy Vermont proposals below followed by the Department's own proposal that streamlines the single plant definition, allows for some siting expansion that is consistent with land use planning, grid efficiency, and rate impacts, and maintains the integrity of the Standard Offer and net-metering programs.

#### *Allco Proposal*

Allco proposes that the use of separate generators, inverters, and production meters should qualify facilities as independent technical facilities, regardless of whether the facilities are on the same or adjacent parcels or whether facilities share utility-owned infrastructure. Allco's suggestion eliminates the remaining "common ownership" factors such as roads, controls facilities, and grid connection as factors that could be used to determine whether a facility is a

single plant. In other words, so long as facilities have separate generators, inverters, and meters, the plants would be considered independent using Allco's proposed definition.

### *REV Proposal*

REV's proposed language is like Allco's, in that use of separate generators, inverters, and production meters would mean facilities are independent technical facilities, regardless of whether the facilities are on the same or adjacent parcels or share utility-owned infrastructure. What distinguished REV's proposal is that it appears to limit the cumulative capacity of the facilities on same or adjacent parcels to 10 MW and would only allow such "co-location" for non-Standard Offer and non-net-metering facilities amongst Standard Offer and net-metering facilities. For more than one Standard Offer or net-metering facilities located on the same or adjacent parcels, REV's proposal appears to retain the Commission's two-part "same project" and "shared infrastructure" tests, keeping most of the language concerning common equipment, infrastructure, and ownership.

### **Department's response to Allco and REV proposals**

#### *Reduce costs associated with uncertainty and redundant infrastructure*

The Department's understanding of the single plant test is that it has been applied to enforce the limits the legislature set for renewable energy incentive programs. The Standard Offer program goal was to incentivize the development of renewable generation by giving developers the opportunity to receive contracts for above-market rate generation facilities that are no larger than 2.2 MW. The single plant test has helped to administer this program by preventing developers from dividing renewable energy projects larger than 2.2 MW into clusters of two or more standard-offer projects at a higher cost to ratepayers. Without the single plant test, clustering would have made the legislature's facility cap meaningless, as developers could

otherwise fill any lot with as many 2.2 MW (or smaller) facilities as it could and feasibly build on a site. Similar logic applies to the net-metering program.

The proposals submitted by REV and Allco would effectively increase the cap in Standard Offer and net-metering programs via the single plant rule by increasing the number of separate facilities that can be clustered adjacent to one another under these incentive programs. REV's proposal would cap development at 10 MW of cumulative capacity on the same or adjacent parcels, allowing four or more adjacent 2.2 MW Standard Offer facilities or 20 adjacent 500 kW net-metering facilities, if those facilities could pass the conventional test involving common equipment and infrastructure, common ownership, contiguity in time of construction, and proximity. If there were to be a successor or successors to the Standard Offer or net-metering programs under a different title, the limitations proposed in subsection (a) of REV's proposal would not apply to said successor program(s). Allco's proposal would provide fewer checks on adjacent development, as it would consider facilities separate plants if each facility uses "separate generators, inverters, and production meters," allowing for unlimited adjacent development if redundant infrastructure is used for each additional program capacity multiple.

If the legislature desires to increase the facility size of the Standard Offer or net-metering programs, it could also be accomplished through revisions to 30 V.S.A. 8002(16) and 8005a rather than through redefining 30 V.S.A. § 8002(18).<sup>1</sup> However, taking too strict an approach to the single plant rule would miss an opportunities to promote the co-location of renewable energy

---

<sup>1</sup> On a similar note, the distributed generation limit of 5MW found in 30 V.S.A. § 8005(a)(2)(B) could be increased in that provision to make it easier to add more distributed generation to meet the Renewable Energy Standard

where impacts can be minimized. That is why the Department's proposal below carves out policy exceptions for co-location on preferred sites that are not constrained by the grid.

*Enable co-location where adverse 248(b) impacts can be minimized*

Allco's proposal does not address land use, grid, or ratepayer impacts. Allco does assert that Vermont's distributed generation programs (e.g., Standard Offer and net-metering) encourage siting generation close to load, thereby reducing line losses and addressing grid constraints. While this can be the case, many net-metering and Standard Offer projects have historically been located in remote areas far from load or areas with existing grid constraints exacerbated by the addition of the project.<sup>2</sup> This less-than-ideal location of generation facilities has led to recent attempts to better direct renewable generation to areas with grid capacity. For example, utilities have created online maps for developers to obtain information on available interconnection capacity.<sup>3</sup> VELCO's 2024 Long Range Transmission Plan provides an analysis that optimizes solar additions by load zone to avoid transmission and subtransmission upgrades.<sup>4</sup> and Rule 5.100 now provides a mechanism for utilities to file locational adjustor tariffs.<sup>5</sup> The Department recommends that hosting capacity be incorporated into any consideration of allowing additional facilities to be built either on or adjacent to parcels hosting existing solar facilities, in order to avoid exacerbating constraints and associated costs to ratepayers. While this

---

<sup>2</sup> See e.g.: *In Re Application of Derby Solar, LLC*, 2019 VT 77, 211 Vt. 144, 221 A.3d 777; Docket No. 18-1183-NMP order of 3/18/2022; Docket No. 21-3154-NM order of 3/3/2022; Docket No. 22-3873-NMP order of 11/4/2022; Docket No. 23-2820-NMP order of 2/20/2024.

<sup>3</sup> See for example,

<https://gmp.maps.arcgis.com/apps/webappviewer/index.html?id=4eaec2b58c4c4820b24c408a95ee8956>,  
<https://experience.arcgis.com/experience/94ecec61c75c54ad999c0629d80cb7354/>, and  
[https://burlingtonvt.maps.arcgis.com/apps/Embed/index.html?webmap=bb1b9156d8294e308ecfe803131e8c00&extent=-73.2731,44.4574,-73.1094,44.5091&zoom=true&scale=true&legend=true&disable\\_scroll=false](https://burlingtonvt.maps.arcgis.com/apps/Embed/index.html?webmap=bb1b9156d8294e308ecfe803131e8c00&extent=-73.2731,44.4574,-73.1094,44.5091&zoom=true&scale=true&legend=true&disable_scroll=false)

<sup>4</sup> [https://www.velco.com/sites/default/files/2024-09/101252\\_Velco\\_CC24\\_singles.pdf](https://www.velco.com/sites/default/files/2024-09/101252_Velco_CC24_singles.pdf)

<sup>5</sup> <https://puc.vermont.gov/sites/psbnew/files/documents/rule-5.100-clean-final-11-12-2024.pdf>, 5.136

could be done on a case-by-case basis, it would be clearer and more efficient to incorporate it into any revisions to the single plant definition.

REV argues that allowing more “co-location” is a type of land use efficiency or “solar smart growth” in keeping with the goals for non-energy development under Act 181. While not described by REV or Allco, the Department is mindful of Act 174 of 2016, which kicked off extensive energy-related land use planning by the state’s 11 regional planning commissions (RPCs) and municipalities (at least 120 as of 2/27/25)<sup>6</sup>, which are developed in the context of their broader land use planning goals. These plans and maps often inform the comments of RPCs and municipalities in Section 248 proceedings as well as these entities’ preferred-site letters in net-metering proceedings, where effective “expansion” (at least from a land use or aesthetics perspective) of a 2.2 MW or a 500 kW project may never have been contemplated by land use planners, neighbors, or other parties. It is important to incorporate years of effort and experience with Act 174 in consideration of an updated single plant definition.

Maximizing development on preferred sites –including sites preferred for development by regions and towns– was a primary objective expressed during discussion of the single plant issue by members of the House Committee on Energy and Digital Infrastructure during deliberation on Act 38 (then S. 50).<sup>7</sup> Given the objectives of the Legislature and the near decade of history with Act 174, the Department recommends that any changes to the definition of “plant” respect the extensive “solar smart growth” planning accomplished over the past decade

---

<sup>6</sup> [https://www.vapda.org/uploads/1/3/1/8/131894470/2-27-2025\\_determination\\_of\\_energy\\_compliance.pdf](https://www.vapda.org/uploads/1/3/1/8/131894470/2-27-2025_determination_of_energy_compliance.pdf)

<sup>7</sup> See <https://www.youtube.com/watch?v=cItznzYK5Gk>. In Vermont’s distributed generation program vernacular, these refer to sites listed in Rule 5.100 (revised over time from a list originally developed for a Standard Offer program pilot under 30 V.S.A. § 8005a(c)(1)(D)) including parking lots, gravel pits, brownfields, landfills, gravel pits, and locations specified by municipalities and RPCs).

of Act 174 regional and municipal enhanced energy planning as well as honor the intentions of the legislature to find a way to maximize development specifically on *preferred* sites.

#### *Future-proof single plant changes*

REV also asserts that allowing co-location up to 10 MW would lower the cost of Renewable Energy Standard (RES) compliance through economies of scale of site utilization and eliminate redundant infrastructure investments, which would presumably (but not absolutely) pass through to ratepayers. As discussed above, the single plant definition has historically been relied upon to prevent “gaming” of Vermont’s renewable energy incentive programs; without the limitation, a developer could artificially break up what could have been a larger, lower-cost facility (e.g., a 2.2 MW Standard Offer facility or 5 MW utility-contracted facility) – into smaller facilities (such as net-metering facilities) to receive higher compensation. The recent Act 179 net-metering reforms, which limit and eventually eliminate offsite group net-metering, plus the effective expiration of the Standard Offer program, help mitigate those concerns for now. However, other renewable generation incentive programs may materialize.<sup>8</sup> As long as incentive rates (i.e., compensation rates required to be paid to renewable generators above avoided costs, or the costs to utilities of procuring comparable renewable generation) – the potential exists for gaming, to the detriment of ratepayers. Thus, any modifications to the single plant definition should be mindful of the advent of new renewable procurement programs.

#### **Department’s Proposal**

To address the concerns discussed above about orderly development, grid constraints, and ratepayer impacts, and to achieve the objectives of enabling co-location where § 248(b) impacts

---

<sup>8</sup> See for example, [S. 57](https://legislature.vermont.gov/bill/status/2026/S.57) and [H. 155](https://legislature.vermont.gov/bill/status/2026/H.155), an Act Relating to the Standard Offer Program, introduced in 2025: <https://legislature.vermont.gov/bill/status/2026/S.57> and <https://legislature.vermont.gov/bill/status/2026/H.155>

can be minimized, costs associated with redundant infrastructure and uncertainty can be reduced, and future-proofing, the Department offers the following proposal for consideration and further discussion:

“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.~~ A group of electricity generating facilities shall be considered one plant for the purpose of renewable energy program eligibility if the facilities use the same electricity generating technology, such as solar, wind, or biomass, and are located on the same or contiguous parcels of land unless exempted in subsection (a), (b), or (c).

- (a) **Exceptions for net-metering and self-consumption.** Facilities located on the same or contiguous parcels of land shall be considered separate plants if they are located behind separate retail electricity meters and at least 50% of the facility’s annual generation supplies electricity to meet the load of a retail electricity customer on the same parcel as the facility.
- (b) **Exceptions for facilities with different ownership.** Facilities located on the same or contiguous parcels of land that are not owned by the same party or affiliate shall be considered separate plants if:
  - (1) The facilities are interconnected behind separate retail electricity meters;
  - (2) The facilities participate in different electric generation incentive programs or contractual agreements, such as ownership by or sales to a utility through a power purchase agreement;
  - (3) The facilities are located on a preferred site; and
  - (4) The facilities are not located in a constrained area of the transmission or distribution system.
- (c) **Exceptions for facilities with the same or affiliated ownership.** Facilities located on the same or contiguous parcels of land and owned by the same party or affiliate shall be considered separate plants if:
  - (1) The facilities are interconnected behind separate retail electricity meters;
  - (2) The facilities are compensated on an avoided-cost basis, as defined in 30 § V.S.A. 8005a(f)(2)(B);
  - (3) The facilities are located on a preferred site; and
  - (4) The facilities are not located in a constrained area of the transmission or distribution system.
- (d) **Affiliates.** In this section "affiliate" means any party that:

- (1) Directly or indirectly owns, controls, or holds the power to vote with sufficient voting securities to exert substantial control over another party;
- (2) Is directly or indirectly owned, controlled, or held by a party described in (1) through the power to vote with sufficient voting securities to exert substantial control over such party; or  
Exercises control by any means over the management, supervision, or operation of another party.

The language in (a) does away with the multifactorial legal test that included shared infrastructure, ownership, contiguity of time, and proximity and replaces it with proximity and technology as the threshold for determining whether a group of facilities is a single plant. The goal is to provide a bright-line rule so applicants can easily determine whether a proposed facility would be considered a single plant.

Then, a set of exceptions would enable co-location (in other words, separate plants in close proximity) in many instances. Exception (b) is for proximate (on the same or contiguous parcels) small facilities serving on-site load regardless of ownership. This would encourage siting of generation in proximity to the load it serves, which helps to reduce adverse § 248(b) impacts and costs associated with any shared infrastructure. Subsection (c) allows co-location of proximate facilities with different owners and interconnections enrolled in different renewable programs, as long as they are on good sites from a land use and grid perspective.<sup>9</sup> This would allow for facilities to co-located in preferred locations with grid capacity, also helping to reduce adverse § 248(b) impacts and costs associated with any shared infrastructure. Lastly, (d) allows

---

<sup>9</sup> Defining preferred sites, as well as constrained areas of the transmission and distribution system, will require further work. While a definition of preferred sites exists in 30 V.S.A. § 8005a(c)D, it has been further refined in Rule 5.100 over time, and the most recent version of the list should be used. This may entail updating (and potentially moving) the statutory definition. And, as discussed above, grid-constrained areas may be referenced in a piecemeal way from the websites of some utilities; locational adjutor tariffs pursuant to Rule 5.136 would provide more consistency and certainty, but no utility has yet filed such a tariff.

proximate facilities in unconstrained, preferred areas with common ownership that receive avoided-cost-based compensation for their production to prevent gaming of incentive programs. This too would allow for facilities to co-locate in preferred locations with grid capacity, also helping to reduce adverse § 248(b) impacts and costs associated with any shared infrastructure, but doesn't require tests for ownership or program type such as required under subsection (c). Rather, subsection (d) facilities, proximate with common ownership, would only be allowed if built at the lowest possible cost to ratepayers.

The exceptions listed above would allow co-location in many places, allow shared infrastructure where possible, and also contain protections to reduce land use or grid impacts under 248(b). If future renewable incentive programs are developed, legislators can revisit the "Plant" definition to ensure co-location is actively considered and plant size eligibility limits are meaningful. These changes would thereby serve the objectives articulated above: avoiding or mitigating 248(b) impacts, eliminating costs associated with uncertainty and redundant infrastructure, and futureproofing. Future-proofing could be enhanced through the potential addition of language to limit subsection(c) projects to currently available electric generation incentive programs, or to only allow one such contiguous facility to participate in any such program.

Subsection (d) defines "affiliate" to add clarity for the Commission to determine whether parties should be considered the same party for the purpose of the single plant test. When applying the single plant test today, the Commission already looks through corporate entities to evaluate whether multiple proposed facilities are held in common control and interest. This subsection would codify that practice in statute.

Other issues worthy of discussion in this proceeding regarding to co-located facilities, but not addressed in the proposal above, are defining the project boundaries, assessing environmental impacts, and assessing cumulative impacts.

### **Department's response regarding the decommissioning fund proposal**

The Commission proposes to create a pooled decommissioning fund where developers would pay a one-time fee instead of posting bonds or letters of credit. The Commission could then use the fund to deal with abandoned or non-operational facilities and developers could get part of their fee back if they decommission properly. The Department asserts that moving to a pooled decommissioning fund would be a sensible move overall and is easier to manage than the current patchwork. However, more consideration is warranted. The fee structure should be based on the risk of the project, meaning the fee should be tied to factors such as project size, type, and site complexity such that projects that could be more costly to decommission pay a higher fee. Modeling is likely necessary to ensure the fund stays solvent over time. Governance features could also help to improve the program, like independent audits and clear criteria for fee refunds. If there's concern about developers gaming the system, the Commission could look at tiered fees or partial bonding for higher-risk projects. To conclude, the Department believes a decommissioning fund program like the one the Commission proposed in this proceeding is worth pursuing.

[signature on following page]

Dated at Montpelier, Vermont this 12<sup>th</sup> day of September 2025.

VERMONT DEPARTMENT OF PUBLIC SERVICE

By: /s/ Michael Swain  
Michael Swain, Special Counsel  
112 State Street  
Montpelier, VT 05620  
[michael.swain@vermont.gov](mailto:michael.swain@vermont.gov)