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STATE OF VERMONT

PUBLIC UTILITY COMMISSION

Case No. 19-0855-RULE

Proposed revisions to Vermont Public Utility
Commission Rule 5.100

COMMENTS OF ALLEARTH RENEWABLES, INC.

AllEarth Renewables, Inc. ("AER") offers these comments in accordance with the schedule established by the Vermont Public Utility Commission in its April 16, 2019 Order ("the April 16th Order") in this matter. AER is not offering comments on each and every component of the prospective changes set forth in the Commission's April, 2019 draft ("Commission draft"), but addresses the major issues of concern below.

1. *Lengthening of registration period.* The Commission draft reflects prospective amendment of Rule 5.105 to extend the time for interconnection objections for even the smallest projects from 10 to 30 days. AER submits that this change is unnecessary and inappropriate. The Commission's April 16th Order articulates no particular problem that has arisen under the current system, in which small-scale projects make an important contribution to "advancing the State's greenhouse goals and total renewable energy targets."[1] A tripling of the time it takes for a CPG to be deemed issued may deprive the system owner of the benefit of the best solar months, result in a loss of tax benefits and/or push installation into the following year if registration occurs during the winter months. If anything, registration for small systems should be instantaneous or at least shorter that the current period, and a tripling of the time period would be a significant step in the wrong direction.
2. *Elimination of the distinction between major and minor amendments*. The Commission proposes amendment to Rule 5.108 to eliminate the differentiation between major and minor amendments, based on concerns that "[s]olar installers have expressed confusion about this regulation, and the Commission's staff spends a significant amount of time correcting and updating" registrations. Order Opening Rulemaking at 3. It is not clear, at least from the limited information at hand, as to whether these concerns are traceable to the existence of differentiated amendment procedures, or other issues that might be addressed through training, generic regulatory guidance or other steps. Title 30 and the efforts of the Commission and case parties have for many years successfully operated under procedures that create different levels of regulatory review depending on what is being requested,[2] and an improved procedure for clearly defined minor changes has potential to be more, not less

[1] 30 V.S.A. §8010(c).

[2] 30 V.S.A. §248(j) affords a good example of this.

efficient than elimination of the minor vs. major distinction entirely. This may be an area where a workshop process is especially helpful for illuminating and addressing the concerns raised by the Commission while minimizing changes to the Rule.

3. *Elimination of the preferred site "joint letter" provision.* The Commission draft would eliminate the section of Rule 5.103 under which a preferred site can include "a specific location that is identified in a joint letter of support from the municipal legislative body and municipal and regional planning commissions in the community where the net-metering system will be located." The April 16th Order expresses no basis for this proposed change beyond that it is based on the Commission's review of information in Case No. 17-5202-PET, and it again may be valuable to further hear the Commission's rationale in the context of a workshop process. That said, AER sees no basis for this change. The presence of the existing option invites collaboration between project developers and local and regional bodies, which is likely to lessen or eliminate areas of contention and thus make regulatory processes easier and more efficient surrounding a project.
4. *Lengthening of time to construct projects*. The Commission draft proposes that Rule 5.110(D) be amended to allow two years, rather than the current one year, for construction of projects. As a developer of renewable energy projects with years of experience, AER understands that projects may face unexpected delays. It is vital, however, that development of projects go forth as rapidly as possible if Vermont is to meet its renewable energy mandates and make a meaningful difference relative to climate change. With solar projects in particular, a project proponent should and general will have all key components lined up by the time a CPG is issued. Given these considerations, and the provision in the existing rule allowing for extension for good cause, AER believes that this provision of the rule should be left as it is or, as an alternative, the time should be extended to not more than 18 months.
5. *Relationship of preferred site status to asserted grid constraints*. The April 16th Order requests "comments on whether preferred-site status is appropriate for areas of the grid that are constrained." April 16th Order at 4. AER submits that assertions of constraint should not impact preferred site designations. First, there are no clear criteria for determining what constitutes such a constraint; assertions that constraints exist may be contested, and may be based on physical factors or economic ones. Assertions of constraint may be disputed on engineering and/or regulatory levels, and constraints even where they exist may or may not be related to the existence of proposed renewable energy projects or be reasons to delay or prevent their development. What is needed on this level is not an unworkable addition to an already complex net metering rule, but a system of identification and reporting that holds utilities to a high standard of ascertaining and solving constraint issues in an early and transparent manner.
6. *Relationship of CPG and interconnection application processes.* AER appreciates that the scope of the Commission's inquiry will look at various issues related to the interconnection process and the relationships between Rule 5.100 and Rule 5.500, and strongly shares the Commission's aspiration to "streamline the vast majority of cases where no issues are disputed." April 16th Order at 3. Achieving this goal, as well as

ensuring that interconnection disputes are resolved quickly where they exist, should be a specific and early subject of either a specific workshop or a clearly defined component of one, so that all parties can evaluate the interconnection-related provisions of the Commission draft mindful of past experience and what the changes would look like in day to day practice for all stakeholders and the Commission itself.

7. *Rate structure*. While the Commission draft does not propose any changes to the net metering rate structure, the April 16th Order invites comment on whether any changes to the rate structure would be beneficial. April 16th Order at 4. First, it is essential that any changes not apply retroactively in ways that would impair rights of existing net metering customers under the Contracts Clause of the Constitution. U.S. Const., Art I, §, cl. 1. Second, the current practice of linking net metering rates to retail electric rates should not be abandoned in favor of an avoided cost or other concept that would in all likelihood would be more complex, more disputed and would make net metering implementation more difficult by removing the intuitive link between net metering and utility rates that facilitates customer comprehension. For these same reasons, the use of locational pricing, about which the April 16th Order inquires at page 5, would not be beneficial.
8. *Process going forward*. Lastly, the Commission has asked for comments as to how this prospective rulemaking should go forth process-wise. Given the density and importance of the Rule and the number of likely parties, AER submits that it would be appropriate to have a second round of comments reflecting parties' consideration of the first round, followed by at least two workshops (structure to be determined) and issuance of a revised draft by the Commission should it be persuaded that some changes to its initial draft are appropriate. At that juncture, the Commission and the parties can assess what additional comment periods, workshops or other manners of proceeding are most appropriate.

Thank you for this opportunity to comment, and AER looks forward to full involvement in this proceeding and any subsequent rulemaking process.

Dated this 17th day of May, 2019.

AllEarth Renewables, Inc.

By: ***/s/ David Mullett***

David Mullett, Esq.
General Counsel
AllEarth Renewables, Inc.
94 Harvest Lane
Williston, VT 05495
802-793-3705
dmullett@allearthrenewables.com