



Vermonters ^{for a} Clean Environment

To: STATE OF VERMONT PUBLIC UTILITY COMMISSION

Re: Case No. 19-0855-RULE

VCE's Comments on Proposed Revisions to Vermont Public Utility Commission Rule 5.100 Pertaining to Construction and Operation of Net-Metering Systems

Vermonters for a Clean Environment appreciates the opportunity to offer comments on proposed revisions to Rule 5.100. VCE previously participated in the preferred sites workshops.

5.103 Definitions

(6)(a). Having heard the discussion about reclaimed extraction sites in Case No. 17-5202-PET, VCE understands why the PUC has established a three year time frame for this section. However, the time frame may not address the issues raised, which had more to do with reclaimed sites that had not been active for many years prior. The proposed change seems to eliminate the possibility of using old unreclaimed gravel pits (of which there are many in parts of Vermont) as a preferred site to host a net-metered solar array.

VCE suggests modifying this section such as “the site was developed and used as an extraction site at least three years prior... or the site is currently an unreclaimed extraction site.” Allowing unreclaimed extraction sites to host net-metered solar arrays would seem to be beneficial in reusing the site, since grandfathered gravel pits in particular have no reclamation requirements.

(7) Many towns are still grappling with whether or not to do Enhanced Energy Plans. However, there has now been sufficient time for towns that are choosing to adopt Enhanced Energy Plans that designate preferred sites to get those plans in place. The option of including a preferred sites map in a municipal plan encourages developers to approach towns early in the process, prior to filing an application with the PUC, and work through many issues prior to finalizing details of the project. This should result in fewer contested cases, less expense, and faster approval of well sited projects.

Volunteer town planners may lack adequate information to identify preferred sites. In particular, planners can identify sites based on how well screened they are,

whether or not they are productive fields or forests, and whether neighbors and community members have aesthetic issues with the site. The one aspect of siting that planners are not able to assess is the grid impacts. Therefore, a town's preferred site designation may not result in a "good" site, if there is inadequate grid capacity or cost-effective infrastructure to support the project.

VCE supports eliminating the joint letter of support as an option for designating preferred sites. As we have previously indicated during the workshops, we have observed several problems with the joint letter option:

1. The decision by towns may be based more on personal relationships or sympathy for the landowner who makes the argument to friends on the town boards that the project will enable the property owner to keep the land and help with the taxes.
2. Once two town boards have signed a preferred sites letter, it becomes almost automatic that the Regional Planning Commission will agree, since the RPCs will be inclined to defer to the towns.
3. One developer told a town board that signing the preferred sites letter does not mean the town is endorsing the project. It should be obvious that if a town is designating a "preferred site", it is an endorsement by the town.
4. The preferred sites letter request may occur very early in the process, before much information has been developed. VCE encourages developers to engage at such an early stage with neighbors, community members, and municipal bodies. However, when there is a financial benefit to obtaining the preferred site letter so early in the process, some aspects of the issues may be overlooked, only to surface later in the process.
5. A town board's opinion of what makes a site "preferred" may not ultimately result in it actually being a "good" site. As mentioned above, towns and planners are hampered on the local level by inadequate information regarding the grid. At a meeting between an RPC and three utilities, it was disclosed by the utilities that there are security issues that preclude utilities from disclosing where new generation is desirable. This is most unfortunate from a planning perspective, as it would seem like the place to start. Instead, the system in place is to start with a piece of land and only after thousands of dollars have been spent do parties know anything about whether it is a good place in the grid to site new renewable generation. VCE has heard GMP say to the PUC "we do not want new solar unless it is in the right place." How do towns know what the right places are?
6. The biggest problem VCE has seen occur with joint preferred sites letters is the lack of notice to adjoining landowners and people with an affected

interest. In one town, a public warning for the joint meeting of the selectboard and planning commission about a proposed solar project at a specific location was posted, without mentioning the purpose was to discuss issuing a preferred sites letter. The project site location in the public warning was incorrect. This fact was identified during the meeting, but the joint bodies approved signing the preferred sites letter anyway, thereby depriving adjoining and those who might have an interest in the project from learning about the project or participating in the discussion.

VCE anticipates that developers and others will object to eliminating the joint preferred sites letter option. Should the PUC decide to keep it as an option, we recommend putting several requirements in place:

- a. Notice requirements to the typical parties, as required when the full petition is filed, for each of the meetings where the request is discussed.
- b. A checklist or narrative identifying the reasons why the site is preferred; for instance, a field with poor productivity for agriculture, a low grade forest, a site right next to a power line that has specific attributes such as good natural screening. In other words, preferred sites should have to meet some standards that make it a site that warrants a higher financial return.
- c. A joint preferred sites letter should include language that informs the signatories that signing the letter constitutes an endorsement of the project.

Preferred-sites and pricing: Developers who choose to site projects on preferred-sites presumably obtain a benefit of a faster approval process and ability to construct the project without opposition. Those factors result in a financial benefit; therefore it seems unnecessary to provide further financial benefit in the form of a higher cost to ratepayers for developing net-metered projects on preferred sites.

We reiterate that VCE supports early meetings between developers, municipalities, utilities and neighbors to work out issues prior to the filing of a full petition. The way preferred site joint letters is currently carried out does not bring the full set of stakeholders into the discussion. We support a higher price for projects that have engaged all the stakeholders prior to filing with the PUC.

VCE has concerns about the challenges that merchant developers face with net-metering and standard-offer as the only viable options for bringing new renewables to the

market. We encourage stakeholders and regulators to review what is happening in other states to see if there are better mechanisms for deploying non-utility renewable energy.

Preferred-sites and tree clearing: Some developers have denigrated forests by noting they are “full of invasives and ticks.” This may be true for many otherwise healthy Vermont forests, so VCE does not support using generalized statements such as those as standards. The issue of cutting forests for solar is one that needs further scientific discussion and understanding.

In the context of net-metered projects and preferred sites, VCE is especially concerned because some planners are promoting the concept that the mapped “prime solar resources” that are part of the packet provided to each town as part of Act 174 Enhanced Energy Planning should simply be designated as “preferred sites” in a municipality.

VCE has reviewed some of those mapped solar resources and overlaid them on Google Earth and found that in two towns in two different regions, about 90% of those mapped prime solar resources are forested. VCE does not support this approach to identifying preferred sites, and we recommend that the PUC be wary of preferred site designations that involve clear-cutting a forest for the entire site.

VCE does not take issue with forest clearing along edges, or cutting forests that are demonstrated to be low value. The Town of Sudbury identified a forested site as “preferred” and apparently had reasonable justification for doing so. This is not a well-fleshed out topic, though, whether for net-metered or larger projects, when the carbon benefits of Vermont’s trees are of such high economic value that Vermont Land Trust and The Nature Conservancy are entering into agreements with Vermont landowners to sell the carbon benefits to California.

Grid constrained areas and locational pricing: If one thing has become abundantly clear in the last year or two, the siting of renewable energy must take into consideration the grid constraints, and the locations where developers are choosing sites. It is VCE’s understanding that there are security issues that result in utilities being unable to tell planners and developers where new renewables would be best sited. If this is indeed the case, it is most unfortunate.

Planners are hampered by lack of knowledge about the grid, utilities say they want new renewables only in the right places, yet developers keep proposing projects in grid constrained areas or further from load than would be beneficial from the grid perspective. It is like making decisions with eyes closed. If there is anything the PUC can do to bring utilities, developers, and planners together to identify the “right” places to site new renewables, it would be greatly appreciated.

5.112 Aesthetic Evaluation of Net-Metering Projects: Municipal planners must write specific language to meet the standards for aesthetic review. This is a challenging task and one that is unique to Vermont. Elsewhere in the country, plans are visionary, not regulatory. With thousands of CPGs issued by the PUC for solar arrays, VCE has observed that the PUC has not utilized some of the standards described in this section. It would be most helpful to planners if the PUC would provide more and better guidance about what the Commission would find helpful in evaluating aesthetic impacts.

For instance,

- Has the PUC ever found that a net-metered solar array would result in an unduly adverse aesthetic impact? If so, the language in the plan that resulted in the determination would be helpful for planners to read.
- Has the PUC ever found that a net-metered solar project violates a clear, written community standard? If so, would the PUC please provide the language that resulted in that finding?
- Has the PUC ever found that a net-metered solar project offends the sensibilities of the average person? If so, would the PUC please provide that plan language.
- And, has the PUC ever found that a net-metered solar array has not taken generally available mitigating steps? If so, please provide the case number or language that resulted in that determination?

The guidance provided to planners under (C)(1) and (2) are not that helpful. Planners are struggling to understand how to write language that is protective of, for example, productive agricultural soils and forests. The PUC’s requirement that the language must be specific to the site is an extremely high, if not impossible, standard for planners to meet, as it means looking at every possible site in town, and also considering the interests of the property owner. Under Act 174, it is much easier to identify sites

where projects are desired by including a preferred sites map in an Enhanced Energy Plan. In practice, those preferred sites maps are invitations to developers who are going directly to those towns that have adopted preferred sites maps. However, the idea of “un-preferred sites” is a much more challenging task for planners to identify, as developers are choosing sites that in some cases nobody would ever have considered being a likely candidate for a solar array.

Finally, this aesthetic evaluation section and standards are frustrating if the PUC has never utilized any of these criteria in the thousands of solar CPGs that have been issued. Planners would benefit from seeing specific examples the PUC has used to implement this section. If the PUC cannot provide any examples because no undue adverse aesthetic impacts have ever been found, VCE questions whether the PUC is following statutory requirements to assure that the aesthetics of Vermont are being protected. The PUC has a statutory requirement to implement the aesthetics criterion contained in 30 V.S.A. § 248(b)(5) but there seems to be limited, if any, application of this law. Please respond to this comment.

Net-metered projects should serve local load: VCE supports revising the net-metering program so that projects are built next to load, which is what net-metered renewable energy should be. 150 to 500 kW projects that do not serve local load do not meet any reasonable definition of net-metering. Projects should be sized based on load being served. Furthermore, developers routinely file petitions for large net-metered projects that have no identified off-taker. The PUC should abolish the ability of developers to file petitions for net-metered projects without a local off-taker under contract.

Process going forward: VCE supports at least one workshop and two more rounds of comments. Depending on how much controversy there is over the proposed changes, more process may be necessary.

Unless specifically referenced, VCE has no comment at this time or does not object to proposed changes as highlighted in yellow in the draft rule update.

Respectfully submitted this 17th day of May, 2019 by



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