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October 4, 2019
Mrs. Judith C. Whitney
Clerk of the Commission
Vermont Public Utility Commission
112 State Street, 4th Floor
Montpelier, VT 05620

Re: Proposed Revisions to PUC Rule 5.100 (Docket No. 19-0855-RULE)
Dear Commissioners:

Please accept this correspondence as the Town of Colchester's (the Town) comments on the proposed amendments to Public Utility Commission Rule No. 5.100.

First of all, the Town appreciates the PUC's efforts to clarify Vermont's net-metering review process. The program has been a success because it is simple, relatively fast, and has favored rapid deployment of net-metering facilities. The Town appreciates that the PUC has implemented the Legislature's directive to allocate approvals to standard offer plants located on preferred locations, and the Commission's effort to delineate just how a "preferred site" should be defined. The Town's interest in commenting on this rulemaking is as follows: 1) to ensure the PUC appropriately implements the Legislature's goal of allocating standard offer capacity to preferred sites; 2) to ensure the PUC appropriately defines preferred sites, specifically with respect to those preferred sites which are *municipally-designated* as "preferred"; and 3) to ensure the PUC does not reverse the important municipal input contemplated by the existing version of Rule 5.100.

The PUC's proposed amendment of Rule 5.100 proposes to amend the definition of "Preferred Site" as follows:

"Preferred Site" means one of the following:

(7) A specific location designated in a duly adopted municipal plan under 24 V.S.A. chapter 117 for the siting of a renewable energy plant or specific type or size of renewable energy plant, provided that the plant

~~meets the siting criteria recommended in the plan for the location; or 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.~~

This proposed deletion effectively eliminates local input in the PUC net metering approval process. While the Town is cognizant of the overarching policy requirement that a generation facility contribute to the public good of the state of Vermont, the existing Rule allows a limited but vital ability for a community to provide input in the PUC net metering approval process, without intruding onto the concept of public good for the entire state.

It is critical that the Commission continue to allow the Town, through its Selectboard (or its Planning Commission), and also the local Regional Planning Commission, the ability to designate sites suitable for development via letter to the Commission. The preferred site designation option is an important tool for the Town – and for other communities – to influence how renewable energy facilities fit into the local landscape. The proposal to strike this option does not comport with the Commission’s broader effort to improve local participation in the siting process. Specifically, the Commission has found, “[t]he recent development of net-metering projects is now evident in many Vermont communities. Throughout the Act 99 process, the [Commission] received ample feedback from Vermont municipalities to the effect that the revised net-metering program should provide better opportunities for towns and adjoining landowners to participate in the siting process for net-metering projects. Accordingly, the [Commission] has endeavored to improve the participation component of the net-metering program.” In Re: Revised net-metering program pursuant to Act 99 of 2014, Order on Reconsideration, August 29, 2016.

Without the ability to submit comments to the Commission by letter, the Town would be left to rely solely on its Town Plan, and the hope that the PUC would consider the Town Plan without further input from the Town. The Town has adopted an enhanced energy plan pursuant to Act 174; nevertheless, it does not provide the Town with any greater input into the permitting process for preferred sites. Nevertheless, this would require the Town to create another document for review by applicants and Town staff, which is more appropriately contained within the Town Plan.

Additionally, the Town of Colchester created a score card to allow landowners and developers the ability to index their property’s features in an effort to demonstrate suitability as a preferred site. The concept of the score card allows the Town to be flexible in its review and ultimate recommendation of a site for net metering development, because the Town does not have the resources to individually catalogue

all parcels that might be suitable for net metering development at some point in the future. Most town plans do not indicate specific parcels for possible net metering development; rather, they allow the municipality to issue a letter of suitability indicating whether a property is appropriate for net metering development. Here, the Town has adopted a score card methodology in its own Town Plan at Pages 67-68 to allow for individualized parcel evaluations which would take on the force of a component of the Town Plan. See https://issuu.com/colchestervt/docs/2019_town_plan (last accessed October 4, 2019).

Relying on the PUC's developing policy framework to enhance municipal and citizen participation in the net metering approval process, the Town created a Preferred Site Scorecard to evaluate which sites appropriate for preferred site status. The Town's Scorecard can be found at: <https://colchestervt.gov/DocumentCenter/View/4192/PreferredSitesSBDraft?bidId=> (last accessed October 4, 2019).

The Town drafted its Town Plan, and went through the lengthy approval process on the belief that the Town's score card and letter designation would remain viable options by which to participate in the siting process. Eliminating this ability would nullify an important preferred site category in municipal plans—a result wholly inconsistent with the participatory reform goals of Act 174.

Indeed, the Legislature amended 30 V.S.A. § 248(f) to ensure that net metering petitioners attend a public meeting with the municipal legislative body or planning commission upon request, and required the Department of Public Service to attend that public meeting upon request of the municipality; further, the Legislature required the Department to consider the comments made in that public meeting in making recommendations to the Commission on the petition.

The change would also create hardship and inequity for the Town, and for the many municipalities that do not have an enhanced energy plan. When the current version of Rule 5.100 was adopted in 2017, the Commission agreed that relying solely on municipal plans would “limit the availability of locally preferred sites.” Vt. PUC, Report to the Vermont General Assembly on the Net-Metering Program Pursuant to Act 99 of 2014, at 20 (2017) (Act 99 Report). Given this concern, the Commission decided to allow the letter option to ensure local participation. These legitimate concerns continue to weigh in favor of not relying solely on traditional municipal plans because, as reported by the Vermont Association for Planning and Development Agencies (VAPDA), just 33 of Vermont's 255 municipalities have adopted an enhanced energy plan. See

<https://www.vapda.org/vermont-enhanced-town-energy-plans/> (last accessed October 4, 2019).

For the Town of Colchester, which relied on the Commission's framework in adopting its enhanced energy Town Plan and score card process, the importance of keeping Rule 5.100 as-is cannot be overstated. The Town undertook significant efforts to create this process from whole cloth, and it was universally welcomed by the Town's varying constituencies. The score card process will allow the Town to provide guidance for its developers, and input to the Commission, on a detailed and property-specific basis. Should the Commission eliminate the Town's ability to undertake the score card process and provide input, it would render the Town's efforts worthless, it would reduce the quality of the net metering review process, and it would likely cause the Town to have to immediately amend and re-undertake the lengthy Town Plan approval process, well in advance of the typical five-year renewal process.

The Town's hope in this comment period is that the Commission will reconsider the proposed deletion of the above-referenced language so that the Town's score card process, and ability to comment to the PUC, remain robust and intact.

Thank you for the opportunity to provide comment to the Commission.

Sincerely,

Aaron Frank
Town Manager



Town of Colchester