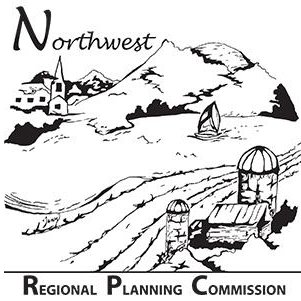




October 31, 2019

Public Utility Commission
c/o Judith Whitney, Clerk
112 State Street
Montpelier, VT 05702
(filed electronically via ePUC)

RE: Docket #19-0855-RULE

Dear Commissioners,

The following comments from Northwest Regional Planning Commission (NRPC) are in response to the Public Utility Commission (PUC) Procedural Order issued on August 18, 2019. These comments are submitted by NRPC and are endorsed by the Vermont Association of Planning and Development Agencies (VAPDA).

The Northwest Regional Plan clearly states NRPC's continued support of the net-metering program in Vermont for both individual property owners and group systems. The program is integral to ensuring that the State is able to meet its renewable energy goals.

NRPC has responded to only questions posed by the PUC in regards to 'preferred sites.' Many of the other questions posed by the PUC are important to the future of the net-metering program, but are beyond the specific expertise of regional planning commissions.

The following are NRPC's responses to the PUC's questions about 'preferred site:'

16. What standards or criteria should regional and local bodies apply to determine whether a site should be designated as "preferred"?

Regional and local bodies should apply the existing standards and criteria set forth in local and regional plans to determine whether a proposed project is 'preferred.' 'Preferred sites' (not meeting other definitions of the PUC rule) should be only those sites that conform with local and regional plans.

Determination that a site 'conforms' to a local or regional plan provides a consistent approach for evaluating project locations. Criteria 10 of Act 250 (10 V.S.A. § 6086a(10)) requires a

project to be in conformance with a local and regional plan and as such it is a familiar approach to municipalities, RPCs and developers.

Not every municipality is able to review parcels in a town plan process to enable sites to qualify under definition 7 (locations identified in the town plan.). Over time, more municipal plans should include that level of specificity. Until then, maintaining a process to establish preferred sites after a plan has been adopted allows time for proper evaluation to take place. Utilizing the goals, policies, maps and other language of the plan as the criteria for review ensures a consistent approach to determining ‘preferred sites.’

VAPDA supports adding language that a site is preferred if there is a “determination from the legislative body and the municipal and regional planning commissions that the site in question is a preferred site for solar energy development based upon the goals, policies and other criteria in their respective plans.”

The rule could require documentation of sections of the plan used to make this determination. It is important to include language noting that this does not mean that the project in total is in conformance with the plan, and additional review and comments may take place as the petition process continues.

17. Which entity should be responsible for making a determination that a preferred site meets the applicable standards and criteria? Should it be the local planning body, the regional planning body, or the local legislative body? Or all three?

VAPDA believes all three have a role to play in this process. Regional Planning Commissions are political subdivisions of the state (24 V.S.A. § 4341(a)). 30 V.S.A. § 248(a)(4) notes that regional planning commissions and municipalities have the right to appear as a party in proceedings held under this section. Subsection (G) states, “The regional planning commission for the region in which the facility is located shall have the right to appear as a party in any proceedings held under this subsection.” Subsection H goes on to state, “The legislative body and the planning commission for the municipality in which a facility is located shall have the right to appear as a party in any proceedings held under this subsection.”

The regional planning commissions, the legislative body and the municipal planning commission each have specific statutory responsibilities, serve in a unique role, and bring specialized expertise. Therefore, it is appropriate for all three to make a determination that a project site conforms with the respective plan and is therefore a preferred site.

18. What procedures should regional and local bodies follow before designating a site as preferred? Should notice be provided to adjoining landowners and the public before this decision is rendered?

Regional and local bodies should review requests as a specific agenda item that is posted in accordance with Vermont’s Open Meeting Law. This ensures a minimum level of public notice as set forth in statute. Regional and local bodies should not be required to provide notice to adjoining property owners because notice is already provided in the 45-day notice period. To ensure adjoining property owners are aware of the preferred site determination, the 45-day notice could include a summary of the ‘preferred site’ process.

Some RPCs and municipalities may choose to develop additional materials to guide the determination of conformance. For example, in the absence of current standards, Northwest Regional Planning Commission, Chittenden County Regional Planning Commission, Windham Regional Commission and some municipalities have established internal processes for evaluating requests for preferred sites. These RPCs review requests in the context of their regional plans, including goals, policies, and defined constraints.

19. What information should applicants be required to provide to regional and local bodies before a site is designated as preferred?

Developers should be responsible for providing the municipality and regional planning commissions with a basic site plan, showing the approximate location of the generation facility and areas of disturbance and mapped constraints from a publicly available mapping service such as the ANR Natural Resource Atlas. While field verification may be needed for further evaluation through the permitting process, this will provide a standardized level of information at the beginning of the evaluation process, for ‘preferred site’ determination only.

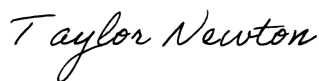
The filing requirements for net-metering applications subject to Section 5.107 states that an applicant must provide copies of the relevant section of any town plan and regional plan in effect and ‘testimony describing how the project complies with or is inconsistent with the land conservation measures in those plans’ (p.28). VAPDA supports moving this requirement to the 45-day notice period.

20. Should a local determination that a site is or is not a preferred site be subject to review by the Commission? If so, what procedures should the Commission use to review such determinations?

Yes, the local and regional determination that a site is or is not a preferred site should be subject to review by the PUC. This review should happen as part of the final determination of public good.

NRPC appreciates the ability to respond to these questions and looks forward to the continued dialogue about PUC Rule 5.100. Please let me know if you have any questions regarding NRPC’s comments.

Sincerely,



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