



Vermont Agency of Natural Resources

Office of Planning

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December 6, 2019

Judith Whitney, Clerk
Vermont Public Utility Commission
112 State Street – 4th Floor
Montpelier, VT 05620-2701

Re: 19-0855-RULE, Reply Comments

Dear Ms. Whitney:

The Vermont Agency of Natural Resources (“Agency”) offers the following comments in reply to Renewable Energy Vermont’s (“REV”) November 1, 2019 comments in Case No. 19-0855-RULE.

Joint Letters Preferred Site

The Agency is aware of 14 net-metering applications filed since July 1, 2017 that used the joint letters option of preferred site 7 when preferred sites 6 (mineral extraction sites) or 4 (certified brownfields) might have been used.¹ One net-metering application (18-0139-NMP) was filed using the joint letters option for a project on a parcel that contains a sanitary landfill (preferred site 5) but would not occur on the landfill cap. The Agency was careful to state in its October 17, 2019 comments that applicants “may” be using the joint letters option to circumvent the requirements of other preferred site definitions. The Agency does not believe, as REV suggests, that municipalities and regional planning commissions are conspiring with developers to circumvent preferred site requirements.

REV correctly points out the Agency, as a statutory party, maintains the opportunity to review projects for natural resource impacts even if sites are designated as preferred through letters of support.² Nevertheless, the Agency believes consideration of certain

¹ Case No.’s: 17-4350-NMP, 18-0879-NMP, 18-1136-NMP, 18-1139-NMP, 18-1152-NMP, 18-1686-NMP, 18-2014-NMP, 18-2015-NMP, 18-2049-NMP, 18-2050-NMP, 18-2535-NMP, 18-2599-NMP, 18-4209-NMP, and 19-1458-NMP.

² REV’s November 1 comment letter at 10.

environmental constraints before regional and local bodies designate a site as preferred may eliminate projects that clearly have undue adverse environmental effects or warn applicants and supporters projects may have such effects. This pre-application environmental screening may preserve applicant and state resources and provide helpful information to the public and decisionmakers.

Sanitary Landfill Preferred Site

To receive certification from the Agency that the site of a net-metering system is a sanitary landfill (preferred site 5), the Agency has been requiring systems to be located on landfill caps because the net-metering rule refers specifically to the definition of “sanitary landfill” in 10 V.S.A. § 6602. The Agency proposed, and the draft potential changes to Rule 5.100 incorporate, revisions to the landfill preferred site definition that would allow portions of net-metering systems to extend off landfill caps provided *some portion* of systems occur on landfill caps.³ The Agency notes 6 net-metering applications have been certified as landfill preferred sites since July 1, 2017, the arrays for which are located on landfill caps.⁴ Three applications for net-metering systems have been filed for projects on parcels with sanitary landfills or other solid waste management facilities but would not locate net metering system components on landfill caps.⁵ These latter three projects received or proposed preferred site designation through joint letters of support or brownfield certification.

Respectfully submitted,



Billy Coster
Director of Planning

Cc: Service List

³ See Agency comment letter dated June 14, 2018 in Case No. 17-5202-PET.

⁴ Case No.'s: 17-4318-NMP, 17-5234-NMP, 18-1190-NMP, 18-1504-NMP, 18-2449-NMP, and 18-2603-NMP.

⁵ Case No.'s: 18-0139-NMP, 18-2901-NMP, and 19-2539-NMP.