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October 8, 2021

Holly Anderson  
Clerk  
Public Utility Commission  
112 State Street, 4<sup>th</sup> Floor  
Montpelier, VT 05620

Re: 19-0855-RULE – Reply to ANR Comments

To Whom It May Concern:

The Vermont Association of Planning and Development Agencies (VAPDA) appreciates the opportunity to reply to comments made by the Vermont Agency of Natural Resources (ANR) in regard to proposed changes to Rule 5.100 related to tree clearing. VAPDA will utilize this opportunity to respond directly to comments made by ANR and will raise a few additional issues that should be considered by parties involved in this workshop.

### **Forestry and Forest Conversion**

Stopping unnecessary forest conversion in Vermont is a bigger public policy issue that needs much more discussion. Specifically targeting net-metered solar facilities will not effectively stop forest conversion in Vermont (since most conversion/fragmentation is done through sub-Act 250 jurisdictional development) and is counter to our state energy goals.

For example, any forest conversion rule in PUC Rule 5.100 could easily be worked around by savvy landowners. Property owners in Vermont can legally conduct forestry on their property in conformance with the [Acceptable Management Practices for Maintaining Water Quality on Logging Jobs in Vermont](#), and other applicable forestry related laws. Substantial clearing on a property, and even clear cutting, could be completed by a property owner before seeking a Certificate of Public Good from the Public Utility Commission (PUC). Any PUC rule about forest conversion would hold very little weight on a property that had already been logged.

### **Proposed ANR Option #2**

If the PUC does pursue a rule to address forest conversion, VAPDA agrees with ANR that “ANR Option #2” is the preferred option. In codifying, ANR Option #2, VAPDA urges the PUC to use the following definition of “Excessive Forest Conversion:”

*Forest clearing for the project (including roads and staging areas) in excess of 1 acre of any deer yards or significant wildlife habitat; of an amount greater than 0.2 acre per 100 kW nameplate*

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Vice President: Catherine Dimitruk, NRPC

*generation capacity of the proposed facility (including existing generation on site); any interior clearing further than 300 feet from an existing forest edge in a priority forest block, and; any clearing in a future land use area in any municipal or regional plan that has a policy prohibiting development in forested areas.*

“ANR Option #2” does have weaknesses. Notably “ANR Option #2” does not address the locational aspect of forest conversion in that it does not recognize that forest conversion in some locations may be appropriate. For example, areas planned for growth are different than areas that are not planned for growth. The cutting of trees within or adjacent to a state-designated Village Center may make sense from a locational perspective and would be consistent with the state’s principal land use goal, which is to plan development that maintains the historic settlement pattern of compact village and urban centers separated by rural countryside (24 V.S.A. § 4302). Conversely, cutting trees in a remote location a substantial distance from three-phase power does not make sense from a location perspective. Any PUC rule about forest conversion must recognize this key difference.

The PUC could use Regional Plans and Municipal Plans to differentiate between areas planned for growth and areas that are not planned for growth as these plans and their policies are to be consistent with the state land use planning goal referenced above. There is typically a very clear distinction between these two areas on the future land use map in each document. Another less precise alternative would be to link the definition of “forest” to the “constraints” listed in the Vermont Department of Public Service’s (DPS) enhanced energy planning standards for municipal and regional plans that was developed upon the passage of Act 174. The list of known constraints and possible constraints identified by DPS includes national wilderness areas, deer wintering areas, significant natural communities, and VT Conservation Design-highest priority forest blocks. These constraints are typically located in rural areas and include the State’s most important and sensitive forests.

Regardless of approach to better defining the location of forest conversion, the PUC Rule should require that all Section 248 petitions within municipalities and regions with enhanced energy plans provide information about each known and possible constraint identified in the local and regional plans within in the 45-day notice of petition. Geographic information about known and possible constraints is generally available on the ANR Atlas, through the Vermont Center for Geographic Information (VCGI), or through the regional planning commission. Having this additional information available earlier in the process would be beneficial to all parties.

These comments are based on information currently available; VAPDA may have additional comments as the process continues. Please feel free to contact me should you have any questions.

Sincerely,



Charles Baker  
CCRPC Executive Director  
VAPDA Natural Resources Committee Chair