

**STATE OF VERMONT
PUBLIC UTILITY COMMISSION**

Proposed Creation of Vermont Public Utility	)	Case No. 21-3883-RULE
Commission Rule Concerning Energy Storage	)	

**REPLY COMMENTS OF THE VERMONT AGENCY OF NATURAL
RESOURCES**

The Vermont Agency of Natural Resources (“Agency”) submits the following reply comments in response to the Public Utility Commission’s (“Commission”) Procedural Order Requesting Reply Comments dated February 16, 2022 (“Order”). The Agency’s reply comments are limited to the below topics which were raised in the Commission’s Order.

Topic 1. Simplified Siting

a. Decommissioning Plans.

The Agency believes that there should be decommissioning requirements which apply to energy storage facilities. The decommissioning requirements should include provisions for financial guarantees to provide adequate funding to ensure decommissioning happens in a timely and responsible manner. A logical approach to accomplish these objectives would be to amend existing Commission Rule 5.900, which applies to “all electric generation, electric transmission, and natural gas facilities that are or become subject to the jurisdiction of the [Commission] pursuant to 30 V.S.A. § 248,”¹ to include storage facilities.

¹ Commission Rule 5.901.

The Agency agrees with the recommendation of the Department of Public Service (Department) that decommissioning plans for energy storage facilities resemble those used in connection with other § 248 petitions (i.e., that the plans provide sufficient information to demonstrate that they are consistent with the requirements of Rule 5.904(A) or (B)). Decommissioning plans for smaller installations could mirror the plans required under the net metering rules. Decommissioning plans for larger installations should describe decommissioning activities and include a decommissioning cost estimate and irrevocable standby letter of credit or alternative form of financial security.

The Agency agrees with and supports the Department's recommendation that decommission requirements address the need to transport and recycle or dispose of the storage system components in accordance with all applicable state and federal waste management statutes and regulations and best management practices. The Agency recognizes that this is an emerging technology and that relevant statutes and regulations are likely to evolve in the coming years. For this reason, the Agency believes that the best approach is for the decommissioning requirements to require compliance with all applicable statutes, rules and best management practices, both state and federal, which are in effect at the time of decommissioning rather than attempt to define specific requirements at this point in time.

b. Simplified Siting for Storage other than Batteries.

The Agency agrees with the Department's recommendation that a simplified application process be made available to all energy storage facilities with a capacity up to 1 MW. The Agency believes that different degrees of process are warranted for battery vs. non-battery energy storage technologies, based on anticipated differences in footprint

and other characteristics. The Agency believes the following categories, which mirror those offered by the Department with one slight variation,² would promote the objective of a simplified process and provide an appropriate level of review of potential impacts under the natural environment criteria of § 248(b)(5).

- A. Battery storage projects between 100 kW and 1 MW, located within existing structures which do not require a distribution upgrade: registration process akin to that available to rooftop solar registration process under Rule 5.100;
- B. Battery storage projects between 100 kW and 1 MW, located within existing structures which require a distribution upgrade, battery storage projects between 100 kW and 1 MW, not located within existing structures, and all non-battery energy storage between 100 kW and 1 MW: 30 V.S.A. § 248(j) or like process, some conditionally waived criteria;
- C. Battery storage projects over 1 MW and up to 5 MW: 30 V.S.A. § 248(j) or like process, no conditionally waived criteria;
- D. Not Eligible for Simplified Siting: Battery storage projects over 5 MW, and non-battery storage projects over 1 MW (full process under 30 V.S.A. § 248, no conditionally waived criteria).

² The Agency's proposed modification (shown in underline) essentially creates two sub-categories for small-scale (up to 1 MW) battery storage projects which are located within an existing structure: those which *do* require distribution upgrades and those which *do not*. It is unknown to the Agency at this time how many of those projects would trigger the need for a distribution upgrade. However, at up to 1 MW, it appears that the potential may be there. Without a better understanding of the use of battery technology and how it may impact the distribution system, the Agency believes that the distinction is necessary to ensure that natural resource impacts are evaluated when the potential for them to occur exists. In the Agency's experience, it is not uncommon for generation projects within the current standard offer capacity limit to require distribution upgrades and for those upgrades to raise the potential for significant environmental impacts. That said, under the Agency's recommendation, all small-scale battery storage projects which would be located in an existing structure and which do not require a distribution upgrade will still qualify for the simple registration process.

With regard to the conditionally waived criteria referenced by the Department for category B. in its proposal, the Agency understands that as related to § 248(b)(5) those conditionally waived criteria would be limited to water conservation, sufficiency of water and burden on existing water supply. The Agency agrees with this approach for the facilities that fall within that category.

c. Natural Resource Assessments.

The Commission's Order states: The Department of Public Service ("Department") has proposed that natural resources criteria could be conditionally waived for energy storage facilities sited within existing structures. The Agency of Natural Resources ("ANR") has suggested that a full natural resources report should be submitted with every Certificate of Public Good ("CPG") petition. Are there any circumstances under which ANR would support the conditional waiver of some natural resources criteria?

The Agency would support the conditional waiver of the following § 248(b)(5) criteria related to the natural environment: water conservation, sufficiency of water and burden on existing water supply, for the category B. type projects identified above. (Note that the Agency's category B. varies slightly from the Department's in that the Agency's includes battery storage projects between 100 kW and 1 MW, located within existing structures *when a distribution upgrade is required.*) The Agency also supports the Department's proposal under category A. that battery storage projects between 100 kW and 1 MW, which are located within existing structures utilize a registration process similar to the rooftop solar registration process under Commission Rule 5.100, with the caveat that this category should be limited to projects do not require a distribution upgrade. In those instances, the Agency would support the conditional waiver of all §

248(b)(5) criteria related to the natural environment following the approach used in

Commission Rule 5.111(A). In addition, the Agency does not see the need for a natural resources assessment report for projects within this category - provided that a distribution upgrade is not required. The Agency believes that a natural resources assessment report should be required for battery storage projects between 100 kW and 1 MW located within existing structures when such projects require a distribution upgrade. However, in those instances it would be acceptable to limit the scope of the assessment to the distribution upgrade component. The Agency believes that all other storage projects in categories B. and beyond should be required to provide full natural resource assessments with their petitions.

Topic 2. Aggregations and interplay between owners, operators, and utilities

f. Ownership and Cumulative Impacts.

In its Order, the Commission posed the following question in the context of energy storage systems being added to existing generation facilities: When a proposed energy storage facility installer is not the CPG holder of the generation component of the paired system, should the storage project receive a separate CPG? If so, how should the Commission consider cumulative impacts?

The Agency believes that requiring the storage facility project to obtain its own CPG is the appropriate approach for the scenario described by the Commission. In that case, the CPG petition for the storage facility should assess and describe the impacts of the storage project *in combination with* the impacts associated with the pre-existing generation component. This would enable the Agency and the Commission to evaluate the *cumulative impacts* of both facilities and address them accordingly.

For example, a storage project which results in the creation of new impervious surface in addition to any impervious surface associated with the pre-existing generation component may need to obtain an operational stormwater permit even if the new impervious surface would not independently trigger the need for the permit.³ In order to make that determination, information ascertained through a cumulative impacts assessment is necessary. Similarly, the need for a cumulative impacts assessment and analysis would apply to a scenario where the existing CPG holder is seeking an amended CPG to add a storage component. In either situation, it is imperative that the potential impacts associated with the storage addition be evaluated and assessed cumulatively with the impacts associated with the pre-existing facility.

Dated March 11, 2022, at Waterbury, Vermont.

Respectfully submitted,

State of Vermont
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³ While the Commission's question discusses storage added to existing generation, the Agency recommends the same approach should apply when storage is added to other components of the system (e.g., storage added next to a substation).