



Vermont Agency of Natural Resources

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Electronically Filed Using ePUC

May 27, 2022

Holly R. Anderson, Clerk

Vermont Public Utility Commission

112 State Street – 4th Floor

Montpelier, VT 05620-2701

Re: Comments on Draft Rule, 19-0855-RULE

Dear Ms. Anderson:

The Vermont Agency of Natural Resources (“Agency”) offers the following comments on draft changes to Rule 5.100 issued by order of the Vermont Public Utility Commission (“Commission”) on April 29, 2022, in Case No. 19-0855-RULE.

In previous filings in this case, the Agency recommended over 30 changes to Rule 5.100 and the registration and application forms for net-metering systems. Agency-recommended changes to Rule 5.100 relate to definitions, advance notice and application requirements, amendment and transfer processes, discovery, and standards to reduce forest conversion for net-metering systems. The latest draft Rule 5.100 incorporates some of these recommendations. While the Agency continues to stand by its earlier recommendations and expects the Commission gave them due consideration, the Agency respectfully requests that the Commission reconsider the following for reasons previously described:

- Revise Sections 5.106(D)(3) and 5.107(B)(3) to require that advance notices identify the preferred site category applicants intend to apply under (Agency’s May 17, 2019 comments at 6).
- Add the following sentence to 5.106(E)(6) and 5.107(C)(9): “Any wetland delineation older than five years at the time of application filing must be reevaluated for state jurisdictional purposes.” (Agency’s September 24, 2021 comments at 5).

The Agency encourages the Commission to revisit the Agency's earlier comments in this case or seek further input from the Agency before modifying or, in the case of Section 5.107 applications, developing registration and application forms. The Agency is agreeable to the elimination of prefiled testimony as a requirement in Section 5.107 applications provided the application form ensures applications include sufficient evidence to demonstrate proposed net-metering systems meet applicable criteria of 30 V.S.A. § 248(b) and Commission rules.

The draft changes to Rule 5.100 would limit the amount of forest clearing that may occur at preferred sites to one acre of a forest block, with "forest block" meaning, "a contiguous area of forest in any stage of succession and not currently developed for non-forest use." This meaning of forest block matches the definition of forest block in 24 V.S.A. § 4303. The Agency strongly supports this proposed change, which most closely follows option 2a presented by the Agency at the August 2021 workshop in this case. Though indifferent to system capacity (*i.e.*, it would apply to all Categories II and III net-metering systems regardless of capacity), the standard is simple and straightforward. It significantly reduces a perverse incentive to clear forests for net-metering and better aligns Rule 5.100 with the intent of the preferred sites framework to steer net-metering systems away from forests.¹

Finally, the Agency appreciates and supports the Commission's proposed addition of Sections 5.106(E)(10) and 5.107(C)(13) to Rule 5.100. Requiring information on a proposed net-metering system's occurrence in a flood hazard area and river corridor and compliance with the Agency's Flood Hazard Area and River Corridor Rule will ensure this critical information is part of applications before being noticed as complete and will help streamline Agency review.

Thank you for the opportunity to comment on the latest draft changes to Rule 5.100. Please contact me if the Agency can be of further assistance in this matter.

Respectfully submitted,

/s/ Kevin Anderson

Kevin Anderson

Regulatory Policy Analyst

Vermont Agency of Natural Resources

cc: Service List (by ePUC only)

¹ Vermont Public Utility Commission, *Report to the Vermont General Assembly on the Net-Metering Program Pursuant to Act 99 of 2014* ("2017 Net-Metering Program Report"), January 20, 2017, at 9.