STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 19-0855-RULE

Proposed revisions to Vermont Public Utility Commission Rule 5.100	

VERMONT DEPARTMENT OF PUBLIC SERVICE REPLY COMMENTS

On April 29, 2022, the Vermont Public Utility Commission ("Commission") issued a proposed draft red-line of a revised Rule 5.100 along with an order summarizing the changes and requesting comments on the draft rule. The stakeholders participating in this proceeding filed their initial comments regarding the Commission's redline of proposed revisions on May 27, 2022. The Commission requested that any reply comments be filed by June 24, 2022.

The Vermont Department of Public Service ("Department") has reviewed the comments filed on May 27, 2022, and hereby submits the following response. In general, the Department reaffirms the comments it made on May 27, 2022, as well as the comments it has previously made in this proceeding – to the extent that those earlier comments covered issues unaddressed in, or otherwise consistent with, the Department's May 27, 2022, comments.

Concurrently, the Department has specific feedback regarding the May 27, 2022, comments of the Green Mountain Power Corporation ("GMP"). On pages 2-3 of its May 27, 2022, comments,[1] GMP expressed concerns regarding the Commission's proposed change to generally require interconnection approval to be

[1] Chiefly, under the heading "Sections 5.106(E)(9), 5.107, and 5.108."

obtained before a Certificate of Public Good ("CPG") petition is processed, and that evidence of the interconnection approval be filed with the CPG application. GMP explains that this change to interconnection review and CPG application timeframes could potentially complicate the administration of the interconnection queue and increase related costs. Instead, GMP recommends that CPG and interconnection review continue to be conducted in parallel.

While the Department remains supportive of separating the Rule 5.500 process from, and placing it before, the Rule 5.100 process (except as described in its May 27, 2022, comments regarding projects with a capacity of 15 kW or less), the Department understands GMP's concern about impacts to later-queued projects if proof of interconnection is required before applying via Rule 5.100 and a project applies for interconnection but not a CPG.

To address GMP's reasonable concern regarding interconnection queue impacts while also meeting the administrative goals which prompted rule change, the Department has the following recommendations:

If the Commission rejects GMP's recommendation for the Rule 5.100 and Rule 5.500 processes to proceed in parallel (thereby keeping the proposed Rule change), the Department suggests that Rule 5.500[2] be crafted to remove projects from the interconnection queue if a project doesn't apply for a CPG within a specific

[2] *See*, *Proposed revisions to Vermont Public Utility Commission Rule 5.500*, Case No. 19-0856-RULE (an ongoing interconnection Rule 5.500 rulemaking).

time-period, such as one year, after interconnection studies are completed and approved.

If the Commission adopts GMP's recommendation for the Rule 5.100 and Rule 5.500 processes to proceed in parallel (effectively maintaining timing more akin to that currently in place), the Department suggests that Rule 5.100 be revised such that a CPG isn't approved until the interconnection study results are filed with the Commission and, especially for projects greater than 150 kW, parties have an opportunity to comment.

Finally, in the proposed draft rule language issued by the Commission on April 29, 2022, Section 5.136 provides language which would enable utilities to propose tariffs to address the impact of new net-metering systems located in constrained areas of the grid. Specifically, Section 5.136 would enable distribution utilities to propose tariff-based fees that "reflect the incremental economic harm caused by constructing additional generation in the constrained area."

On May 27, 2022, several stakeholders offered comments regarding Section 5.136. For example, Green Mountain Power Corporation ("GMP") recommended in its comments that the proposed Section 5.136 language be broadened to address not only existing export-constrained areas (with resulting curtailment of existing generation) but also areas of the grid with limited headroom for additional generation before large-scale infrastructure upgrades are triggered.[3] To allow this flexibility in the Rule, GMP recommended that the Commission adopt language proposed by the Department in its September 17, 2021, proposal,[4] with potential amendments to reflect implementation via tariff rather than in the biennial review process. The language proposed by the Department on September 17, 2021, was:

> Locational Adjustors. As part of the February 1 filing required in the biennial update process (Commission Rule 5.128(D)), each electric company must provide information as to whether a load or generation constraint exists, or is expected to arise, within some portion of its service territory and whether a locational adjustor to the net-metering compensation would alleviate such load or generation constraint. As part of the filing, the electric company must provide the following: (1) specific geographic boundaries of the existing or forecasted load or generation constraints; (2) the existing and forecasted load within the area; (3) the existing and forecasted DG deployment within the area; (4) the capacity of the distribution, sub-transmission, or transmission system within the area that is facing a constraint; (6) any other affected distribution utility, or VELCO, that is potentially impacted by the load or generation constraint, particularly in cases where it is the sub-transmission or transmission system that is facing a constraint; and (7) any other factors relevant to the determination of whether a locational adjustor is just and reasonable.

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[3] There are several examples of mechanisms that employ similar methods of collecting fees that contribute toward mitigating the collective impact of development. For example, in the context of electric generation, fees are collected to mitigate transmission ground-fault overvoltage risks presented by high penetrations of distributed energy resource, as provided in the case, *Tariff filing of Green Mountain Power Corporation for net-metering transmission ground-fault overvoltage ("TGFOV") fee and new generation resource rider on bills rendered on or after July 1, 2019*, Case No. 19-0441-TF.
Concurrently, in the land-use realm, an example is provided in changes enacted by Act 145 of 2014 for Act 250 projects, where costs of transportation improvements are borne not in full by the "last one in" but are rather assessed, in part, to future projects benefitting from such improvements via a "transportation impact fee." VERMONT AGENCY OF TRANSPORTATION: DEVELOPMENT REVIEW AND PERMITTING SERVICES, *Act 145 Transportation Fee Guidance* (Apr. 3, 2018 *revised* Jan.3, 2022), *available at* https://vtrans.vermont.gov/sites/aot/files/documents/Act%20145%20Guidance%20Revision%203%20-%20January%202022.pdf.

[4] Vermont Department of Public Service Reply Comments on Revising Rule 5.100 to Address Sheffield Highgate Export Interface ("SHEI") Impacts, Case No. 19-0855 Rule, September 17, 2021.

> Any comments on an electric company's filing regarding a load or generation constraint must be filed by March 15.

That language might be revised to reflect tariff-based implementation as follows:

> Locational Adjustors. An electric company may propose for Commission approval a tariff assessing a grid mitigation fee on new net-metering systems located in constrained or limited-headroom areas of the grid. The fee will be assessed on a per-kilowatt basis and collected before a net-metering system is energized. The amount of the fee must reflect the incremental economic harm in a constrained area, or the incremental cost to ratepayers of expanding the available grid capacity in a generation constrained area. The electric company tariff must describe the physical boundaries of the constrained or limited-headroom area; existing and forecasted load and generation within the area; the capacity of the distribution, sub-transmission, or transmission system within the area; any other affected distribution utility, or VELCO, that is potentially impacted by the addition of generation to the area, particularly in cases where it is the sub-transmission or transmission system that is facing a constraint; and any other factors relevant to the determination of whether a locational adjustor is just and reasonable. The tariff must also provide a method for allocating any fees collected among other electric companies affected by the constraint.

To be clear, this suggestion is intended to help future-proof Rule 5.100 by allowing tariffs in a set of circumstances that is broader than simply economic harm of existing resources. While the Commission proposed language in Section 5.136 may be interpreted to allow tariff-based fees in the broader set of circumstances described above, the Department's proposed revision here will provide both clarity on this point, as well as flexibility in when to develop such tariffs going forward, if they are warranted. Checks on the breadth of scope of this Section and any resulting tariff will come – at a minimum – during a case-by-case implementation of such fees. Moreover, the Department also recommends additional process, likely best done outside of this rulemaking, for the Commission and stakeholders to discuss details and mechanics of such tariffs, with the goal of achieving some consistency in application and interpretation prior to the first proposal for a specific tariff implementing Rule 5.136.

Thank you for the opportunity to comment on this matter, please do not hesitate to contact me with questions or concerns.

Dated at Montpelier, Vermont, this 24th day of June 2022.

VERMONT DEPARTMENT OF PUBLIC SERVICE

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cc: ePUC Service List