STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 22-3947-TF

Tariff filing of City of Burlington Electric Department to revise its net-metering tariff effective October 1, 2022	

Order entered: 09/30/2022

ORDER APPROVING CERTAIN REVISIONS TO THE CITY OF BURLINGTON ELECTRIC DEPARTMENT'S NET-METERING TARIFF AND DIRECTING FURTHER PROCESS

I. INTRODUCTION

In this case, the City of Burlington Electric Department ("BED") has proposed to revise its Net-Metering Tariff, effective October 1, 2022, to correct a prior error regarding its solar incentive and reimburse net-metering customers who were affected by this error.[1] Additionally, BED has proposed other revisions to its Net-Metering Tariff to ensure that the tariff complies with statute and the Net-Metering Rule. The Commission approves the revised Net-Metering Tariff, except for the proposed deletion of Section V.F.(5) and (6), and directs further process in this docket to ensure that the Commission has an adequate record and customers have sufficient notice regarding the proposed deletion of Section V.F.(5) and (6) and the proposed refund to customers before the Commission makes a final decision on those proposals.

II. PROCEDURAL HISTORY AND COMMENTS

On September 2, 2022, BED filed proposed revisions to its Net-Metering Tariff and a proposal to reimburse customers affected by a prior error regarding its solar incentive.

On September 9, 2022, the Commission issued a request for information.

On September 16, 2022, in response to the Commission's request, BED filed prefiled testimony, a proposed customer notice, and an updated red-line and clean version of its Net-Metering Tariff.

[1] The Commission recently approved revisions to BED's Net-Metering Tariff to implement the 2022 biennial update. *Tariff filing of City of Burlington Electric Department revisions its net-metering tariff effective September 1,* 2022, Case No. 22-2768-TF, Order of 8/26/22. The error at issue in this case is unrelated to and predates the 2022 biennial update revisions. At the Department's recommendation, BED submitted the current proposed revisions as a separate case from other proceedings, including BED's 2022 rate case and the 2022 biennial update revisions.

Also on September 16, 2022, the Department filed comments in support of BED's proposed revisions to its Net-Metering Tariff. However, the Department requested additional time to review BED's September 16 supplemental filing and comment on BED's proposed refund to customers.

On September 19, 2022, the Commission requested that the Department file any additional comments on the proposed tariff revisions and refund by September 23, 2022.

On September 23, 2022, the Department filed comments reaffirming its support for BED's proposed revisions to its Net-Metering Tariff and requesting changes to BED's customer notice. The Department did not provide any comment on BED's proposed refund to customers.

Three public comments were filed on September 15, 21, and 26, 2022, objecting to BED removing Section V.F.(5) from its tariff. Section V.F.(5) allows pre-existing net-metering customers to carry forward net-metering credits from year to year.

On September 29, 2022, Renewable Energy Vermont ("REV") filed a Motion to Intervene Form.

No other comments were received by the Commission.

Regarding BED's proposal to fix its prior error regarding its solar incentive, no party has requested an evidentiary hearing or objected to the prefiled testimony and exhibits. Accordingly, the following prefiled testimony is admitted as if presented at a hearing: James Gibbons prefiled testimony.[2]

III. Background

In BED's 2021 rate case, Case No. 21-2186-TF, BED proposed revisions to its solar incentive for pre-existing net-metering 1.0 customers to reflect its requested 7.5% rate increase.[3] BED's proposed revisions reduced the solar incentive afforded to such customers from \$0.052265 to \$0.041185. BED's 2021 rate case included many revisions to BED's tariffs and, at the time of that case, neither the Department nor the Commission realized the error in BED's

[2] If any party has an objection to this document being entered into evidence, the party shall submit its objection within 14 days of the date this Order is entered.

[3] The solar incentive applies to the first 10 years of operation for preexisting net-metering 1.0 systems. 30 V.S.A. §219a(h)(1)(K) (2015).

proposed revision to its solar incentive. Thus, the proposed revision was inadvertently approved by the Commission under its final order approving BED's 2021 rate increase.[4]

In early 2022, the Department's Consumer Affairs and Public Information ("CAPI") Division received a customer complaint regarding BED's change in its solar incentive.[5] This complaint prompted conversations between the Department and BED in which the Department recommended and BED agreed that BED should change its solar incentive back to its pre-2021 amount of $0.052265.[6] BED first submitted the proposed change on June 16, 2022, in its 2022 rate case.[7] However, at the Department's suggestion, BED withdrew the proposed change from its 2022 rate case and resubmitted it in the present case.[8]

There are 205 pre-existing net-metering customers who have been affected by the solar incentive change. Between August 1, 2021, and September 7, 2022, the total difference between the solar incentive that customers received and what they would have received if the solar incentive had never changed is $24,269.96.[9]

IV. Discussion and Conclusion

By statute, the solar incentive for pre-existing net-metering 1.0 customers shall not fluctuate based upon changes in the underlying residential rate used to calculate the incentive, and customers receiving the incentive are locked in to the solar incentive amount for 10 years from the date of installation of their system regardless of any subsequent modifications to the incentive amount.[10] BED's previously approved change to its solar incentive contravened statute because the change was based on a change to BED's underlying residential rate and meant that net-metering 1.0 customers eligible for the incentive did not receive the same incentive amount for 10 years from the date of their system's installation. To correct this error, bring BED's Net-Metering Tariff into compliance with statute, and ensure BED correctly compensates pre-existing net-metering customers as soon as possible, the Commission approves the change to

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[4] *Tariff filing of City of Burlington Electric Department requesting a 7.5% rate increase effective on a service-rendered basis on August 1, 2021*, Case No. 21-2186-TF, Order of 2/24/22.

[5] James Gibbons, BED ("Gibbons pf.") at 4.

[6] Gibbons pf. at 4.

[7] *Tariff filing of City of Burlington Electric Department requesting a 3.95% rate increase effective August 1, 2022*, Case No. 22-2296-TF.

[8] Gibbons pf. at 4.

[9] Gibbons pf. at 4.

[10] 30 V.S.A. §§ 219a(h)(1)(K)(i)(IV), (iii)(III), and (vi) (2015).

BED's solar incentive from $0.041185 to $0.052265, effective October 1, 2022.[11] The Commission also approves the other corrections to BED's Net-Metering Tariff, except for the deletion of Section V.F.(5) and (6). The Commission directs BED to file a compliance tariff including all the changes, except for the proposed changes to Section V.F.(5) and (6), by October 7, 2022.

Section V.F.(5) of BED's Net-Metering Tariff provides that pre-existing net-metering customers may carry forward unused net-metering credits from year to year. The section also provides that a customer may request payment for the value of accumulated credits when the value exceeds $100 and further allows BED to pay a customer for the value of credits at any time. While this provision contravenes statute and rule, which require that accumulated net-metering credits be used within 12 months, the Commission is not yet prepared to approve the proposed change for the following reasons.[12] Affected customers would experience the change as a rate increase and BED's filing does not discuss or explain the change, as required by Commission rule; BED's customer notice does not identify the change; and the Department's comments did not address this change.[13] The foregoing issues must be remedied before the Commission can rule on this proposed revision to BED's Net-Metering Tariff. Therefore, the Commission requests that by October 14, 2022, BED supplement the record to explain the change, submit a revised customer notice that explains the change, and explain when and how affected customers will receive the notice.[14] Rather than using the proposed notice submitted by the Department, BED's notice should reflect that the Commission has approved the change to the solar incentive and the change to Section V.F.(5) and (6) is delayed, pending further process as described above. The Commission requests that the Department file its comments on the proposed change to Section V.F.(5) and (6) by October 21, 2022, and include in its comments whether BED's proposed notice is sufficient.

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[11] Because this change will increase pre-existing net-metering customers compensation, the Commission interprets this change as a rate decrease which "may be made upon five days' notice to the Commission and the Department of Public Service." 30 V.S.A. § 225(a).

[12] 30 V.S.A. 219a(h)(1)(K)(ii) and (e)(3)(C) and Commission Rule 5.129(B).

[13] Amendments to tariffs must be "accompanied by a concise, narrative description of their nature and effect, stated in terminology which is comprehensible to the general public." Commission Rule 2.401(A).

[14] Because the changes to Section V.F.(5) and (6) were not properly filed in accordance with statutory and regulatory requirements, the 45-day review period for those changes has not yet begun. Once BED files the requested documents, the 45-day review period will commence. 30 V.S.A. § 225(a).

As to the refund related to the solar incentive, the Department has yet to comment on BED's proposal, as previously requested on September 19, 2022. The Commission requests that the Department comment on whether BED has sufficiently supplemented the record regarding its proposed refund to affected customers or whether the Department seeks additional information from BED regarding the refund. If BED has already sufficiently supplemented the record, the Commission requests that the Department comment on whether it supports or opposes the proposed refund. The Commission requests that the Department also file its comments on the refund on or before October 21, 2022.

Additionally, the Commission sets October 14, 2022, as the deadline for responses to REV's request to intervene in this proceeding.

SO ORDERED.

SO ORDERED.

Dated at Montpelier, Vermont, this 30th day of September, 2022.

Anthony Z. Roisman	)	PUBLIC UTILITY
	)	
Margaret Cheney	)	COMMISSION
	)	
J. Riley Allen	)	OF VERMONT

OFFICE OF THE CLERK

Filed: September 30, 2022

Attest: ______________________________
Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

PUC Case No. 22-3947-TF - SERVICE LIST

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