

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

CASE NO. 22-3947-TF

Scheduling Conference

December 2, 2022

2:34 p.m.

via Microsoft Teams

Scheduling Conference held before
Hearing Officer Elizabeth Schilling, via
videoconference, on December 2, 2022, beginning at
2:34 p.m.

P R E S E N T:

HEARING OFFICER: Elizabeth Schilling

CAPITOL COURT REPORTERS, INC.
P.O. BOX 329
BURLINGTON, VERMONT 05402-0329
(802) 863-6067
EMAIL: info@capitolcourtreporters.com

A P P E A R A N C E S

Elizabeth Schilling (VT Public Utilities Commission)

Alexander Wing (Department of Public Service)

William Ellis (Burlington Electric Department)

James Gibbons (Burlington Electric Department)

Jonathan Dowds (Renewable Energy Vermont)

Christine Peterson

P R O C E E D I N G S

MS. SCHILLING: This is a scheduling conference in Case No. 22-3947-TF, Tariff filing of the City of Burlington Electric Department, effective October 1st, 2022.

My name is Elizabeth Schilling, and I have been appointed to be the hearing officer for this case.

I'd like to started by taking appearances. The Department?

MR. WING: Yes, thank you. Good afternoon. I'm Alex Wing. I am appearing on behalf of the Department of Public Service.

MS. SCHILLING: Thank you.

Bill Ellis, go ahead.

MR. ELLIS: Bill Ellis; McNeil, Leddy & Sheahan, on behalf of the Burlington Electric Department.

And on the meeting here today is James Gibbons of staff, Burlington Electric Department.

MS. SCHILLING: Okay. Thank you.

And then Renewable Energy Vermont.

1 MR. DOWDS: Thanks. Jonathan Dowds,
2 Renewable Energy Vermont.

3 MS. SCHILLING: So the primary purpose
4 today is to discuss the schedule in this
5 proceeding.

6 Before we went on the record the parties
7 did communicate to me that they have begun
8 discussing a schedule but haven't necessarily
9 come to a complete agreement or finalized that
10 schedule.

11 Would the parties like to share more
12 detail about the schedule that they've been
13 discussing?

14 MR. WING: I suppose I could take the
15 lead here.

16 The Department circulated a proposed
17 schedule that hoped for as little process as
18 possible but anticipated full process.

19 BED, I will not speak on their behalf,
20 but they have provided a counter. It is my hope
21 that we would be able to either file a consensus
22 schedule or, if push came to shove, separate
23 schedules within no later than two weeks from
24 now.

25 I think at least from the Department's

1 perspective we would like probably a round of
2 questions or from some method for BED to provide
3 a greater explanation of what it maintains in
4 its tariff falls under which statute, or
5 subsection rather, of 1019 (A) and (Y). Because
6 I think we'd like to get our bearings a bit more
7 before really offering an opinion at this
8 juncture.

9 At the risk of speaking on behalf of BED,
10 I think that they would like to have some motion
11 in practice earlier within the process, and I
12 don't think exceptionally we're opposed to that.
13 It's just kind of how and making sure that what
14 we need to understand to be responsive to that
15 is made clear to us.

16 MS. SCHILLING: Okay. Thank you.

17 What would be Burlington's response?

18 MR. ELLIS: Sure, thank you.

19 From Burlington's perspective the issue
20 that's left after the decision back in -- or the
21 order that was issued in November is does
22 Section 5(F), 5 and 6 of BED's net metering
23 tariff comply with state statute as well as
24 Commission rule.

25 We believe that it does, and we don't

1 believe there will be any disputed facts with
2 respect to that.

3 So our proposed schedule envisions the
4 filing of a motion for summary judgment on the
5 issue of whether or not BED's tariff as written,
6 as was amended back to where it was originally
7 back in October -- in October it was amended to
8 go back to where it was before, which included
9 TF(5) and 6.

10 We believe that that statute comports
11 with or that tariff as written comports with
12 state statute as well as Commission rule. There
13 aren't any disputed facts with respect to why we
14 believe that, and that would at least address
15 the question as to whether or not our tariff
16 complies with the law.

17 The question that I think the Department
18 wants to get into is more of how it could
19 actually be implemented. And we understand that
20 the Department wants some information with
21 respect to that, and we are working towards
22 providing them that information.

23 And they can proceed on concurrent tracks
24 as opposed to consecutive tracks, but we really
25 believe that the issues can be narrowed by

1 having a motion for summary judgment upfront to
2 address compliance with the law.

3 Implementation is a separate issue. How
4 it's been actually implemented is where I think
5 that the Department is entitled to get some
6 discovery and to further understand how the
7 tariff is being implemented.

8 MS. SCHILLING: Okay. That's helpful.
9 And I think -- oh, sure, go ahead.

10 MR. ELLIS: And so if I may, just to add
11 on the last discussion or exchange I've had with
12 the Department is that they would like some
13 discovery, which is understandable, and we would
14 be amenable to having some sort of an informal
15 or a rolling period, but the focus should be at
16 this point on does the tariff comply as
17 presently submitted.

18 And then if there are issues about
19 implementation, we either deal with that in a
20 second phase of this proceeding or in a separate
21 proceeding. But I think -- I think we'll be
22 able to establish that it complies with the law
23 at this point, as written.

24 MS. SCHILLING: So thank you both, to the
25 Department and to BED, for explaining what

1 you're thinking about the schedule.

2 One thing, there's at least one
3 clarifying question or two that I have, so if an
4 opportunity for Commission information requests
5 could be included in the proposed schedule, that
6 would be helpful from my perspective. I don't
7 have extensive questions but at least a couple
8 of clarifying questions.

9 And I do concur that these are largely
10 legal issues that should ultimately be resolved
11 through a motion practice or legal briefing, but
12 I also understand that the Department, like me,
13 may have some additional questions or discovery.

14 So with that, the Department said that
15 they would need or possibly able to file a
16 proposed schedule in two weeks, you said?

17 MR. ELLIS: That should be plenty of
18 time, I would think.

19 MR. WING: I agree. I think we'll
20 certainly aim for sooner and, also, if it
21 becomes clear we cannot agree sooner, I'd also
22 intend to both file and encourage the other
23 parties to file separate proposed schedules for
24 PUC determination, if they don't seem to come
25 together. But it looks like they probably if

1 not likely will, so that's the hope.

2 MS. SCHILLING: Okay. Okay, that sounds
3 good then.

4 Let's see if there's anything else I want
5 to cover while we're on the call today.

6 I guess one other thing. It sounded as
7 though the Department is interested in trying to
8 do some limited discovery. I think the
9 Commission would have an interest in having
10 whatever discovery is filed, whatever discovery
11 is produced, also have that filed in EPUC.

12 MR. WING: To clarify, by that do you
13 mean you would like the questions filed or --

14 MS. SCHILLING: Yes, both set of
15 questions.

16 MR. WING: But not always in PUC
17 practice, would you like the answered filed as
18 well?

19 MS. SCHILLING: Both the questions and
20 the answers. You made reference to informal
21 discovery, and I just want to be clear from our
22 perspective it would be helpful to see whatever
23 is asked and answered.

24 MR. ELLIS: I think that would be fine.
25 I don't foresee a situation like we've had in

1 late cases where there are spreadsheets upon
2 spreadsheets upon spreadsheets, and trying to
3 file those in EPUC is not good for anybody. And
4 I then was told that you don't need to do that
5 in EPUC, but I don't foresee that we'll have
6 that type of spreadsheet issue in this -- in
7 this matter.

8 MS. SCHILLING: Okay.

9 Okay, well, with that then let's say that
10 proposed schedules will be filed by
11 December 16th at the latest.

12 Okay, so does anyone have anything
13 further today?

14 MR. ELLIS: Nothing further from
15 Burlington, I don't believe, unless James has
16 anything.

17 MR. WING: Nothing, not from the
18 Department at this time.

19 MS. SCHILLING: Okay.

20 Thanks to all for attending this
21 afternoon, and we are adjourned.

22 (Proceedings concluded at 2:45 p.m.)

23 * * *

C E R T I F I C A T E

I, SARAH M. BENTLEY, Certified Court Reporter, Registered Professional Reporter, and Notary Public, do hereby certify that the said proceedings were taken in machine shorthand by me at the time and place aforesaid and were thereafter reduced to typewritten form under my direction, Pages 1 - 11; that the foregoing is a true, complete, and correct transcript of said proceedings.

I further certify that I am not employed by, related to, nor counsel for any of the parties herein, nor otherwise interested in the outcome of this matter.

IN WITNESS WHEREOF, I have affixed my signature and seal this 9th day of December, 2022.

SARAH M. BENTLEY, CCR-B-1745