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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	

RESPONSE OF BURLINGTON ELECTRIC DEPARTMENT TO THE DEPARTMENT OF PUBLIC SERVICE'S FIRST SET OF INFORMATION REQUESTS

NOW COMES City of Burlington Electric Department ("BED") and pursuant to Vt. P.U.C. Rule 2.214, hereby responds to the Department of Public Service ("DPS")'s First Set of Information Requests to Burlington Electric Department dated January 17, 2023 ("Discovery Requests") as follows:

GENERAL OBJECTIONS

1. BED objects to any request for information or production of documents that is or are subject to the attorney-client privilege, that constitute work product, that are protected under federal or state law, or that are proprietary, competitively sensitive, or confidential.

2. BED objects to requests to the extent that they (a) are overbroad or unduly burdensome; (b) are cumulative; (c) call for the production of documents not in the possession, custody, or control of BED or its expert witnesses; (d) call for the review, compilation, or production of publicly available documents that could be obtained by the requesting party in a less burdensome manner; (e) are vague and/or ambiguous; (f) seek information not reasonably calculated to lead to the discovery of admissible evidence; and/or (g) call for the review, compilation, and/or production of a voluminous number of documents at great expense to BED.

3. BED does not hereby waive any objections, and reserves the right to later raise any additional, available objection.

INTERROGATORIES AND REQUESTS TO PRODUCE

Q.DPS.BED – 1-1: Please cite the section(s) of BED's tariff that implements 30 V.S.A. § 219a(e) and explain.

Objection: This interrogatory calls for a legal conclusion which is beyond the scope of permissible discovery. Without waiving the foregoing or any other objection, BED responds as follows:

Response:

The information submitted in BED's October 14, 2022, letter in this Case provides essential context for all of BED's responses to the DPS's January 17, 2023, interrogatories as they relate to Section V and "Pre-Existing Net Metering Systems."[1]

In the October 14th letter, BED provided a historical overview of its net-metering tariff provision that provides for cash outs for solar credit balances of $100 or more and carryovers of these credits from year to year, as specified in Section V.F.(5) of its currently effective net-metering tariff:

> "In the event that the aggregate value of the amount calculated under (3) of this subsection above is a credit, BED will carry that credit forward to the next billing period and this credit may be carried over from year to year. At any time that this credit equals or exceeds $100, the customer may request that BED pay the customer the value of the credit and set the carry forward amount back to $0. BED may, at any time, elect to pay the customer the value of the credit and set the carry forward amount back to $0. Amounts owed to the customer pursuant to this tariff will not accrue interest during any period prior to their being paid to the customer."

As described in BED's letter of October 14, the Commission directly considered and expressly authorized this provision as consistent with 30 V.S.A. § 219a in the Commission's September 8, 2011, Order in Docket No. 7629.[2]

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[1] In addition, BED would like to call the DPS's attention to BED's response to Public Utility Commission Information Request No. 1 in this Case wherein BED indicates that limiting the carry-forward and cash-out provisions to only apply to the solar incentive was not an intentional change.

[2] From page 6 of the Commission's September 8, 2011, Order in Docket #7629: "On June 23, 2011, BED filed a response to the memorandum and also filed a request that the Board approve its proposed Renewable Energy Resource Tariff Rider based upon recent statutory changes to 30 V.S.A. § 219a, pursuant to Act No. 47. On August 19, 2011, the Department filed a letter with the Board recommending that the tariff be approved by the Board. We conclude that in light of the statutory change, we should approve BED's proposed tariff. Act No. 47 modified the provisions of 30 V.S.A. § 219a to include § 219a(h)(1)(J) which provides that an electric company: [m]ay in its rate schedules offer credits or other incentives that may include monetary payments to net metering customers. These credits or incentives shall not displace the benefits provided to such customers under subsections (e) and (f) of this section. Act No. 47's statutory revisions to 219a followed the issuance of the Hearing Officer's proposal for decision. The new statutory language clearly authorizes BED's proposed tariff and, therefore, we approve the tariff pursuant to § 219a(h)(1)(J)."

Since the Commission's approval of BED's net-metering tariff in Docket No. 7629, the Commission has approved this provision in all subsequent reviews of BED's net-metering tariff to date.[3,4,5,6]

Further, Commission Rule 5.125(C) provides that "customers using pre-existing net-metering systems shall, for a period of 10 years from the date of the net-metering system's commissioning, be credited for generation according to the rates and incentives provided for in 30 V.S.A. § 219a, as the statute existed on December 31, 2016, and the Commission's rules implementing that statute."

30 V.S.A. § 219a(e) sets requirements for net-metering billing terms that are implemented by sections located throughout BED's Self-Generation and Net-Metering Tariff ("Net-Metering Tariff") or ("the Tariff"), including Section IV. Monthly Bill, Section V. Pre-Existing Net-Metering Systems, and Section VI. Individual Net-Metering Systems.

Prepared by: Amber Widmayer and James Gibbons
Administrative unit: Policy & Planning
Date of response: February 10, 2023

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[3] Applicable language from BED's net-metering tariff, effective as of June 15, 2012: "In the event that the aggregate value of the amount calculated under 1-2 above is a credit, BED will carry that credit forward to the next billing period (and this credit may be carried over from year to year). At any time where the credit to be carried forward to a subsequent billing period equals or exceeds $100, the customer may request that BED pay the customer the value of the credit and set the carry forward amount back to $0. BED may, at any time, elect to pay the customer the value of the credit and set the carry forward back to $0. Amounts owed to the customer pursuant to this tariff will not accrue interest during any period prior to their being paid to customer."

[4] Applicable language from II.b.ii. on p. 2 of BED's net-metering tariff, effective January 1, 2017: "In the event that the aggregate value of the amount calculated under Section b. above is a credit, BED will carry that credit forward to the next billing period (and this credit may be carried over from year to year). At any time where the credit to be carried forward to a subsequent billing period equals or exceeds $100, the Customer may request that BED pay the Customer the value of the credit and set the carry forward amount back to $0. BED may, at any time, elect to pay the Customer the value of the credit and set the carry forward amount back to $0. Amounts owed to the Customer pursuant to this Tariff will not accrue interest during any period prior to their being paid to the Customer." The reference to "Section b" is to the solar incentive language.

[5] Applicable language is the same as in note 4 above in BED's net-metering tariff effective July 1, 2018.

[6] Applicable language from BED's net-metering tariff effective February 2, 2021, approved by PUC on January 11, 2021, in Case No. 20-3613-TF: "In the event that the aggregate value of the amount calculated under (3) of this subsection above is a credit, BED will carry that credit forward to the next billing period and this credit may be carried over from year to year. At any time that this credit equals or exceeds $100, the customer may request that BED pay the customer the value of the credit and set the carry forward amount back to $0. BED may, at any time, elect to pay the customer the value of the credit and set the carry forward amount back to $0. Amounts owed to the customer pursuant to this tariff will not accrue interest during any period prior to their being paid to the customer."

Q.DPS.BED – 1-2: Please cite the section(s) of BED's tariff that implements 30 V.S.A. § 219a(f) and explain.

Objection: This interrogatory calls for a legal conclusion which is beyond the scope of permissible discovery. Without waiving the foregoing or any other objection, BED responds as follows:

Response:
30 V.S.A. § 219a(f) sets requirements for group net-metering billing terms that are implemented by sections located throughout BED's Tariff, including Section VII. Group Net-Metering Systems: Consumption Offsetting and Section VIII. Group Net-Metering Systems: Direct Connect.

Prepared by: Amber Widmayer and James Gibbons
Administrative unit: Policy & Planning
Date of response: February 10, 2023

Q.DPS.BED – 1-3: Please cite the section(s) of BED's tariff that implements 30 V.S.A. § 219a(h)(1)(K) and explain.

Objection: This interrogatory calls for a legal conclusion which is beyond the scope of permissible discovery. Without waiving the foregoing or any other objection, BED responds as follows:

Response:
30 V.S.A. § 219a(h)(1)(K) corresponds with and is implemented by BED's solar incentive provision in Section V.F.(3) of BED's Tariff.

Prepared by: Amber Widmayer and James Gibbons
Administrative unit: Policy & Planning
Date of response: February 10, 2023

Q.DPS.BED – 1-4: Please cite and describe the basis and history of any section(s) of BED's tariff which it maintains corresponds to § 219a(h)(1)(J).

Objection: This interrogatory calls for a legal conclusion which is beyond the scope of permissible discovery. Without waiving the foregoing or any other objection, BED responds as follows:

Response:
As referenced in BED's response to Q.DPS.BED--1-1 above, the Commission cited 30 V.S.A. § 219a(h)(1)(J) in its September 8, 2011 Order in Docket No. 7629, Investigation into City of Burlington Electric Department's proposed Energy Resource Tariff Rider tariff, filed to take effect on a service-rendered basis as of July 10, 2010, as its basis for finding that BED's net-metering tariff complied with Act 47 of 2011:

> We conclude that in light of the statutory change, we should approve BED's proposed tariff. Act No. 47 modified the provisions of 30 V.S.A. 219a to include § 219a(h)(1)(J) which provides that an electric company: [m]ay in its rate schedules offer credits or other incentives that may include monetary payments to net metering customers. These credits or incentives shall not displace the benefits provided to such customers under subsections (e) and (f) of this section. Act No. 47's statutory revisions to 219a followed the issuance of the Hearing Officer's proposal for decision. The new statutory language clearly authorizes BED's proposed tariff and, therefore, we approve the tariff pursuant to § 219a(h)(1)(J).

The sections of BED's net-metering tariff that the Commission specifically considered in light of 30 V.S.A. § 219a(h)(1)(J) are the same that the Commission is considering at this time in this investigation, now identified in BED's Tariff as Section V.F.(5), with some difference in applicability over time.

Prepared by: Amber Widmayer and James Gibbons
Administrative unit: Policy & Planning
Date of response: February 10, 2023

Q.DPS.BED – 1-5: Please describe which of the sections above is subject to the rollover and cash payment provisions of BED's net-metering tariff.

Response:
None of the statutory sections referenced in the Department's interrogatories are subject to the Section V. F.(5) rollover and cash payment provisions of BED's net-metering tariff. Other than the statutory sections referenced in DPS' interrogatories, it is unclear what sections DPS is referencing in this question.

Prepared by: Amber Widmayer and James Gibbons
Administrative unit: Policy & Planning
Date of response: February 10, 2023

Q.DPS.BED – 1-6: To the extent that BED maintains that one or more sections of BED's tariff corresponds to one or more of the above captioned statutes, please identify which, and describe the basis and history of that applicability.

Response:
See above responses.

Prepared by: Amber Widmayer and James Gibbons
Administrative unit: Policy & Planning
Date of response: February 10, 2023

Q.DPS.BED – 1-7: Please cite and describe the basis and history of any section(s) of BED's tariff that corresponds to 30 V.S.A. § 219a(h)(1)(J).

Response:
See BED's response to Q.DPS.BED–1-4.

Prepared by: Amber Widmayer and James Gibbons
Administrative unit: Policy & Planning
Date of response: February 10, 2023

Q.DPS.BED – 1-8: Please provide example of a customer bill, or bills, which is either generic or which has any personal identifying information redacted, of personal indicating the amount and type of credit being rolled over beyond 12 months or cashed out.

Response:
BED has provided an example of a customer bill as Exhibit Response DPS.BED 1-8.

Prepared by: Amber Widmayer and James Gibbons
Administrative unit: Policy & Planning
Date of response: February 10, 2023

Q.DPS.BED – 1-9: Please cite the language in 30 V.S.A. § 219a and/or Rule 5.100 that authorizes rollover of net-metering credits beyond 12 months or cashing out of those credits.

Objection: This interrogatory calls for a legal conclusion which is beyond the scope of permissible discovery. Without waiving the foregoing or any other objection, BED responds as follows:

Response:
See above responses.

Prepared by: Amber Widmayer and James Gibbons
Administrative unit: Policy & Planning
Date of response: February 10, 2023

Q.DPS.BED – 1-10: Please cite any other authorization BED has obtained to roll over net-metering credits beyond 12 months and/or cash out those credits and describe how it is compatible with 30 V.S.A. §§ 219a(e)(3)(C), and/or § 219a(h)(1)(K)(ii), and/or Rule 5.100.

Objection: **This interrogatory calls for a legal conclusion which is beyond the scope of permissible discovery. Without waiving the foregoing or any other objection, BED responds as follows:**

Response:
See above responses.

Prepared by: Amber Widmayer and James Gibbons
Administrative unit: Policy & Planning
Date of response: February 10, 2023

Q.DPS.BED – 1-11: Please provide a summary of the total number of customers who have received cash payments of credits and the amount that has been paid to those customers.

Response:
BED has provided approximately $146,833.19 in cash-out payments to approximately 89 customers who had balances of $100 or more since 2013.

Prepared by: Andi Higbee
Administrative unit: Customer Care
Date of response: February 10, 2023

Q.DPS.BED – 1-12: Please provide an estimate of the remaining amount BED anticipates paying out under this provision and why.

Response:
BED's Tariff allows for cash-out payments upon either customer request (if the credit equals or exceeds $100) or at BED's election. BED has no way of estimating how many customers may request cash-out payments in the time remaining until their systems hit the ten-year date since commissioning. To date, BED has not proactively elected to issue cash-out payments pursuant to its Tariff and has no plans to do so at the time of this filing. As noted in BED's October 14, 2022, letter in this case, the latest commissioning date for any customer receiving a solar incentive appears to be March 9, 2018 (the permit application was filed on December 28, 2016) so the cash-out and carry over provisions of Section V. F. (5) will have expired for all customers by early 2028.

Prepared by: Amber Widmayer and James Gibbons
Administrative unit: Policy & Planning
Date of response: February 10, 2023

Pursuant to V.R.C.P. 26 (g):

/s/ William F. Ellis________
William F. Ellis, Esq.

cc: ePUC Service List