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**5.100 REGULATIONS PERTAINING TO CONSTRUCTION AND OPERATION OF NET METERING SYSTEMS**

**5.101 Purpose and Scope**

- (A) This rule governs the application for, and issuance, amendment, transfer, or revocation of, a certificate of public good for net metering systems under the provisions of 30 V.S.A §§ 248, 8002, and 8010. In addition, this rule governs the terms upon which any electric company shall offer net metering service within its service territory.
- (B) This rule applies to all net metered installations in Vermont and applies to every person, firm, company, corporation, and municipality engaged in the site preparation, construction, ownership, or operation of any net metering system that is subject to the jurisdiction of this Board.

**5.102 Definitions**

For the purposes of this rule, the following definitions apply:

"Account" means a unique identifier assigned by the electric company to a customer for billing purposes. A customer account may include one or more meters.

"Adjoining Landowner" means a person who owns land in fee simple that:

- (1) shares a property boundary with the tract of land on which a net metering system is located; or
- (2) is adjacent to that tract of land and the two properties are separated only by a river, stream, railroad line, or public highway.

"Applicant" means the entity that is seeking authorization to construct and operate a net metering system. The Applicant shall have legal control of the net metering system.

"Billing Meter" means an electric meter that measures the consumption of electricity by a customer.

"Board" means the Public Service Board of the State of Vermont.

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"Capacity" means the rated electrical nameplate for a plant, except that, in the case of a solar energy plant, the term shall mean the aggregate AC nameplate capacity of all inverters used to convert the plant's output to AC power.

"Category I Net Metering System" means:

- (1) a net metering system installed on a new or existing structure where the primary purpose of such structure is not the generation of electricity; or
- (2) a net metering system with a capacity of 15 kW or less installed as a new, stand-alone structure(s).

"Category II Net Metering System" means a net metering system with a capacity of more than 15 kW and less than 150 kW installed as a new, stand-alone structure(s).

"Category III Net Metering System" means a net metering system with a capacity of 150 kW and up to 500 kW installed as a new, stand-alone structure(s).

"Certificate Holder" means one who holds a CPG issued pursuant to 30 V.S.A. §§ 248 and 8010. The certificate holder shall be the owner of the net metering system.

"Conditional Waiver of a Criterion of 30 V.S.A. § 248" means that the requirements for the presentation of evidence under the criterion, a specific review of the project by the Board under the criterion, and the development of specific findings of facts for the criterion by the Board is waived unless the Board finds that the application raises a significant issue under the criterion.

"Commissioned" or "Commissioning" means the first time a plant is put into operation following initial construction of the plant.

"CPG" means a certificate of public good issued by the Board pursuant to 30 V.S.A. §§ 248 and 8010.

"Customer" means a retail electric consumer. For the purposes of this rule, an entity whose primary purpose is the generation of electricity is not a customer.

"Department" means the Department of Public Service of the State of Vermont, unless the context clearly indicates otherwise.

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"Electric Company" means the utility company serving the net metering customer or the company that would serve an applicant seeking authorization to construct and operate a net metering system, as context indicates.

"Environmental Attributes" means the characteristics of a plant that enable the energy it produces to qualify as renewable energy and include any and all benefits of the plant to the environment such as avoided emissions or other impacts on air, water, or soil that may occur through the plant's displacement of a non-renewable energy source.

"Excess Generation" means the number of kWh produced by a customer's net metering system in excess of the kWh delivered by the electric company to the customer during a billing period. Excess generation also means the kWh allocated to a member of a net metering group that exceed that group member's individual kWh consumption for that billing period.

"File" means the submission of documents, exhibits, plans, information, or other materials to the Board through the Board's electronic filing system or otherwise in accordance with the Board's rules of practice in effect at the time of the filing.

"Group Net Metering" means a group of customers, or a single customer with multiple electric meters, located within the same electric company service territory and within 10 miles of the net-metering system, where the customer or customers have elected to combine meters in order to offset that billing against a net-metered system.

"kW" means kilowatt or kilowatts (AC).

"kWh" means kilowatt hours.

"Major Amendment" means one or more of the following changes to the physical plans or design of a net metering system:

- (1) Increasing the nameplate capacity of the net metering system by more than 5%;
- (2) Moving the boundary or location of the net metering system by more than 50 feet;
- (3) Changing the fuel source of the net metering system;
- (4) Any other change that the Board, in its discretion, determines is likely to have a significant impact under one or more of the criteria of Section 248 applicable to the net metering system.

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“Minor Amendment” means one or more of the following changes to the physical plans or design of a net metering system:

- (1) Replacement of system components with like or equivalent components;
- (2) Reducing the capacity of the generator;
- (3) Reducing the height, length, or area of the net metering system;
- (4) Changing the net metering system’s status as an individual or group system;
- (5) Any other change to the physical plans or design of the system that is not a major amendment.

"Net Metering" means the process of measuring the difference between the electricity supplied to a customer and the electricity fed back by a net metering system(s) during the customer's billing period:

- (1) using a single, non-demand meter or such other meter that would otherwise be applicable to a customer's usage but for the use of net metering; or
- (2) if the system serves more than one customer, using multiple meters. The calculation shall be made by converting all meters to a non-demand, non-time-of-day meter, and equalizing them to the tariffed kWh rate.

"Net Metering System" means a plant, as defined in this Rule, that is:

- (1) no more than 500 kW capacity; operates in parallel with facilities of the electric distribution system, is intended primarily to offset part or all of a net metering customer's or group's own electricity consumption, is located on a net metering customer's premises, and employs a renewable energy source produced using a technology that relies on a resource that is being consumed at a harvest rate at or below its natural regeneration rate pursuant to 30 V.S.A. § 8002(2); or
- (2) is a qualified micro-combined heat and power system of 20 kW or less that meets the definition of combined heat and power in 30 V.S.A. § 8015(b) and uses any fuel source that meets air quality standards.

"Party" means the applicant, the Department of Public Service, the Agency of Natural Resources, and any person who has obtained permission from the Board to intervene in the review of an application under Section 5.116 of this rule.

"Plant" means an independent technical facility that generates electricity from renewable energy. A group of facilities, such as wind turbines, shall be considered one plant if the group is

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part of the same project and uses common equipment and infrastructure such as roads, control facilities, and connections to the electric grid. Common ownership, control, contiguity in time of construction, and proximity of facilities to each other shall be relevant to determining whether a group of facilities are part of the same project.

"Production Meter" means an electric meter that measures the amount of kWh produced by a net-metering system.

"Time-of-Use Meter" means an electric meter that measures the consumption of electricity at the time it is consumed.

"TOU" means time-of-use.

"Tradeable Renewable Energy Credit" means all of the environmental attributes associated with a single unit of energy generated by a renewable energy source where:

- (1) those attributes are transferred or recorded separately from that unit of energy;
- (2) the party claiming ownership of the tradeable renewable energy credits has acquired the exclusive legal ownership of all, and not less than all, the environmental attributes associated with that unit of energy; and
- (3) exclusive legal ownership can be verified through an auditable contract path or pursuant to the system established or authorized by the Board or any program for tracking and verification of the ownership of environmental attributes of energy legally recognized in any state and approved by the Board.

### **5.103 Electric Company Tariffs**

(A) Tariffs. Pursuant to 30 V.S.A. § 225, an electric company shall propose to the Board a rate schedule to implement a net metering program in its service territory pursuant to this Rule to take effect on January 1, 2017.

(B) Grandfathering of Existing Net Metering Customers. Customers who commissioned their net metering systems prior to January 1, 2017, shall, for a period of 10 years from the date of commissioning, continue to take service pursuant to the terms of the electric company's approved net metering tariff on file with the Board on December 31, 2016. After such 10-year period runs, such customers shall take service pursuant to the electric company tariff on file with

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the Board at that time. Customers shall not be grandfathered under this subsection if they use a net metering system that was commissioned or amended after January 1, 2017. Customers who begin net metering after the January 1, 2017, shall not be grandfathered under this subsection.

**5.104 Energy Measurement for Net Metering Systems**

Electric energy measurement for net metering systems shall be calculated in the following manner:

- (1) The electric company that serves the customer or group shall measure the net electricity produced or consumed during a billing period, in accordance with normal metering practices.
- (2) If, at the end of a billing period, the electricity supplied by the electric company exceeds the electricity generated and fed back to the electric distribution system during the billing period, the customer or group shall be billed for the net electricity supplied by the electric company, net of any credit accumulated in the preceding 12 months, in accordance with normal metering practices.
- (3) If, at the end of a billing period, the electricity generated by a net metering system exceeds the electricity supplied by the electric company, the electric company shall calculate a bill credit to the customer pursuant to the billing procedures set forth in Section 5.105.
- (4) Any accumulated bill credit shall be used within 12 months from the month it is earned, or it shall revert to the electric company without any compensation to the net metering system customer.
- (5) For net metering systems using time-of-day, demand, or other types of metering, the customer shall install a production meter at their own expense. All kWh produced by the net metering system shall be credited to the customer's account at the residential retail rate. The calculation of any credits for excess generation, siting incentive credits, or tradeable renewable energy credits under

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Section 5.105 shall be made by netting the customer's production and consumption during the applicable billing period and, in the case of credits for excess generation, using the residential retail rate.

**5.105 Billing Standards and Procedures**

- (A) Customer Billing Requirements. The bill of a net metering customer shall include the dollar amount of any credits carried forward from the previous months, the dollar amount of credits that have expired in the current month, the dollar amount of credits generated in the current month, the dollar amount of credits remaining, the total kWh generated by the net metering system (if separately metered), and the total kWh allocated to a group net metering customer (if applicable).
- (B) Membership in Multiple Net Metering Groups. Individual customer accounts may be enrolled in only one net metering group at one time. Customers with multiple accounts may enroll each account in a separate net metering group. In addition, more than one net metering system may be attributed to one group. A net metering group may increase the capacity of existing generation attributed to the group, and may merge with other groups.
- (C) Group Member Allocations. Where the customer has, at their own expense, provided a separate meter for measuring production, the kWh produced by a net metering system may be allocated on a percentage basis to the accounts of a single customer or the accounts of group members, or the kWh may be allocated in order of priority for offsetting the bills of accounts belonging to a single customer or the accounts of members of a group. Where there is no separate production meter, the excess generation may be allocated in order of priority for offsetting the bills of accounts belonging to a single customer or the accounts of members of a group.
- (D) Siting Incentive Credits. A net metering customer shall receive a siting incentive credit of \$.02 for each kWh of excess generation produced by the net metering

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system if that system is sited:

(1) On a new or existing structure that has a primary purpose other than the generation of electricity;

(2) On a brownfield. For purposes of this subsection, “brownfield” means real property, the expansion, redevelopment, or reuse of which may be complicated by the release or threatened release of a hazardous material. Applicants seeking to receive this credit must file as part of their application for authorization to construct the net metering system a letter from the Agency of Natural Resources confirming that the net metering system is located on a brownfield;

(3) On a sanitary landfill, as defined in 10 V.S.A. §6602;

(4) Over a parking lot; or

(5) In the disturbed portion of a gravel pit.

- (E) Tradeable Renewable Energy Credits. All tradeable renewable energy credits shall be transferred to the electric company unless the customer elects to retain ownership of such credits. An applicant must make this election at the time an application for authorization to construct the net metering system is filed with the Board.
- (F) Credits for Excess Generation. Where the electricity generated by a customer’s net metering system exceeds the electricity supplied by the electric company, the electric company shall calculate a bill credit. If the electric company owns renewable energy credits generated by a net metering system, the customer shall receive a credit equal to the customer's applicable retail rate plus \$.03 per kWh of excess generation. If the customer retains ownership of the tradeable renewable energy credits, the customer shall receive a credit equal to the retail rate per kWh of excess generation.

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**5.106 Group System Requirements**

- (A) In addition to any other requirements, 30 V.S.A. §§ 248, 8010, and any applicable Board rules, before a group system may be formed and served by an electric company, the group shall file the following information with the electric company:
- (1) The meters to be included in the group system, which shall be located within the same electric company service territory and located no more than 10 miles from the net metering system;
  - (2) A process for adding and removing meters in the group and an allocation that shall be used by the electric company to allocate any credits among the members of the group. This allocation arrangement may be changed only on written notice to the electric company by the person designated under 5.106(A)(3), and any such change may only apply on a prospective basis;
  - (3) The name and contact information for a designated person who shall be responsible for all communications from the group system to the serving electric company, except for communications related to billing, payment, and disconnection; and
  - (4) A binding process for resolving any disputes among the members of a group relating to the net metering system. This dispute resolution process shall not in any way require the involvement of the electric company, the Board, or the Department. This process does not apply to disputes between the electric company and individual group members regarding billing, payment, or disconnection.
- (B) The electric company shall implement appropriate changes to a net metering group within 30 days after receiving written notification of such changes from the

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person designated under subsection 5.106(A)(3). Written notification of a change in the person designated under subsection 5.106(A)(3) shall be effective upon receipt by the electric company. The electric company shall not be liable for the consequences from action based on such notification.

- (C) For each group member's customer account, the electric company shall bill that group member directly and send directly to that group member all communications related to billing, payment, and disconnection of that group member's customer account. Any volumetric charges for any account so billed shall be based on the individual meter for the account.

**5.107 Electric Company Requirements**

- (A) Generally. Electric companies:

(1) Unless ordered by the Board pursuant to Section (D), below, shall make net metering available to any customer using a net metering system or group net metering system on a first-come, first-served basis until the cumulative output capacity of net metering systems equals [intentionally blank] percent of the distribution company's peak demand during 1996, or the peak demand during the most recent full calendar year, whichever is greater;

(2) Shall allow net metering systems to be interconnected using a kWh meter capable of registering the flow of electricity in two directions or such other meter of comparable functionality that would otherwise be applicable to the customer's usage but for the use of net metering;

(3) May, with the written consent of the customer and at the customer's expense, install one or more additional meters to monitor the flow of electricity in each direction;

(4) Shall not apply any bill credits toward the customer's energy

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efficiency charge or energy assistance program fee;

(5) May charge a reasonable fee for interconnection, establishment, special meter reading, accounting, account correction, and account maintenance for a net metering system;

(6) May require a customer charge or other charges to capture the fixed costs necessary to support the electric company's infrastructure and the administrative costs associated with net metering. The electric company may choose whether a customer may apply any earned bill credits toward these charges;

(7) May, prior to interconnection, charge a reasonable fee to cover the cost of electric company distribution system improvements necessary to safely and reliably serve the net metering customer;

(8) May require that all meters included within a group system be read on the same billing cycle.

- (B) Tariff. All such requirements shall be governed by and administered pursuant to a tariff approved by the Board and any applicable Board rule or order.
- (C) Contracts. Notwithstanding the provisions of Section 5.104, an electric company may contract to purchase all or a portion of the output products from a net metering system pursuant to the provisions of Rule 4.100.
- (D) Altering the Net Metering Cap. After reaching the [intentionally blank] percent cap under Section (A) above, an electric company shall continue to accept net metering systems of 15 kW or less unless otherwise ordered by the Board. For net metering systems greater than 15 kW, the Board may alter the [intentionally blank] percent cap on its own motion or on petition from an electric company or the Department of Public Service, after an opportunity for hearing. In determining whether to alter the cap, the Board shall consider the following:

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- (1) the costs and benefits of net metering systems already connected to the system;
- (2) the potential costs and benefits of exceeding the cap, including potential short- and long-term impacts on rates, distribution system costs and benefits, reliability, and diversification costs and benefits; and
- (3) the environmental benefits and costs of altering the cap.

**5.108 Conditional Waiver of 30 V.S.A § 248(b) Criteria**

Pursuant to 30 V.S.A. § 8010, which provides that the Board may waive the requirements of 30 V.S.A. § 248(b) that are not applicable to net metering systems, the Board conditionally waives the following criteria:

- (A) For net metering systems that are installed on or in a new or existing structure that has a primary purpose other than the generation of electricity, all criteria under 30 V.S.A. § 248(b), with the exception of 30 V.S.A. § 248(b)(3) (stability and reliability).
- (B) For all other net metering systems: 30 V.S.A. § 248(b)(2) (need), (4) (economic benefit), (5) (water supply, transportation, educational services, municipal services, and public investments), (6) (consistency with least-cost plan); (7) (compliance with energy plan); and (9) (waste-to-energy facility).

**5.109 Aesthetic Evaluation of Net-Metered Projects**

- (A) Quechee Test. In determining whether a net metering system satisfies the aesthetics criterion contained in 30 V.S.A. § 248(b)(5), the Board applies the so-called “Quechee test” as described in the case *In Re Halnon*, 174 Vt. 515 (2002) (mem.), quoted below:

Under this test a determination must first be made as to whether a project will have an adverse impact on aesthetics and the scenic and natural beauty of an area

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because it would not be in harmony with its surroundings. If the answer is in the affirmative the inquiry then advances to the second prong to determine if the adverse impact would be "undue." Under the second prong an adverse impact is undue if any one of three questions is answered in the affirmative: 1) Does the project violate a clear, written community standard intended to preserve the aesthetics or scenic, natural beauty of the area? 2) Does the project offend the sensibilities of the average person? 3) Have the applicants failed to take generally available mitigating steps that a reasonable person would take to improve the harmony of the proposed project with its surroundings? An affirmative answer to any one of the three inquiries under the second prong of the Quechee test means the project would have an undue adverse impact.

- (B) Screening. An applicant seeking authorization to construct a ground-mounted solar net metering system with a capacity of more than 99 kW shall include in any application a proposal for aesthetic mitigation to harmonize the facility with its surroundings. Screening includes new and existing landscaping, vegetation, fencing, structures, and topographic features. Screening does not have to hide a net metering system completely from view.
- (C) Setbacks. Applicants seeking authorization to construct a ground-mounted net metering system shall comply with the following minimum setback requirements:
- (1) From a state or municipal highway, measured from the edge of the traveled way:
    - (a) 100 feet for a solar facility with a plant capacity exceeding 150 kW; and
    - (b) 40 feet for a solar facility with a plant capacity less than or equal to 150 kW but greater than 15 kW.
  - (2) From each property boundary that is not a state or municipal highway:
    - (a) 50 feet for a solar facility with a plant capacity exceeding 150 kW; and
    - (b) 25 feet for a solar facility with a plant capacity less than or

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equal to 150 kW but greater than 15 kW.

(3) This subsection does not require a setback for a solar facility with a plant capacity equal to or less than 15 kW.

(4) In the case of a net metered wind turbine, the facility shall be set back from all property boundaries and public rights-of-way by a distance equal to at least twice the height of the turbine, as measured from the tip of the blade.

(5) On review of an application, the Board may either require a larger setback than this subsection requires; or approve an agreement to a smaller setback among the applicant, the municipal legislative body, and each owner of property adjoining the smaller setback.

- (D) Lot Coverage. Solar net metering systems shall be subject to the following lot coverage limitations: 30% in rural, residential, and agricultural zones and 75% in industrial and commercial zones. The Board may approve a net metering system that does not conform with this requirement for good cause shown by the applicant or where the host municipality has consented to the nonconforming net metering system.
- (E) Adverse Aesthetic Impact. In order to determine that a project would have an adverse impact on aesthetics and the scenic and natural beauty under subsection (A), above, the Board must find that a project would be out of character with its surroundings. Specific factors used in making this evaluation include the nature of the project's surroundings, the compatibility of the project's design with those surroundings, the suitability of the project's colors and materials with the immediate environment, the visibility of the project, and the impact of the project on open space.
- (F) Wind Turbines. With respect to the Board's review of an application for a single wind turbine under 150 feet in height, there shall be a rebuttable presumption that

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the wind turbine does not have an undue adverse aesthetic impact.

**5.110 Computation of Time**

- (A) Computation. In computing any period of time prescribed or allowed by this rule, by order of the Board, or by any applicable statute, the day from which the designated period of time begins to run shall not be counted. The last day of the period shall be counted, unless it is a Saturday, a Sunday, or a state or federal legal holiday, or a day on which weather or other conditions have made the Board's office or the Board's electronic filing system is unavailable, in which event the period runs until the end of the next day that is not one of the aforementioned days. Intermediate Saturdays, Sundays, and legal holidays shall not be counted when the period of time prescribed or allowed is less than 11 days.
- (B) Enlargement. The Board for cause shown may at any time in its discretion:
- (1) grant an extension of time if it is requested before the expiration of the period originally prescribed, or
  - (2) upon request made after the expiration of the specified period grant an extension where the failure to act was the result of excusable neglect.

**5.111 Certificates of Public Good**

- (A) No person shall commence site preparation for or construction of a net metering system or convert an existing plant into a net metering system without first obtaining a CPG under this rule.
- (B) Procedures Applicable to the Review of Net Metering Applications. The following provisions of Board Rule 2.200 (Procedures Generally Applicable) shall not apply to the review of a net metering application or a hearing thereon: Board

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Rules 2.202, 2.204(D)-(G), 2.205, 2.213, 2.214, 2.216(A)-(C).

A hearing held under Section 5.111 shall be conducted pursuant to the provisions of 3 V.S.A §§ 809 and 810. The hearing shall include an opportunity for all parties to present evidence and argument on all issues involved. Parties may present live testimony during the hearing and may present such exhibits as are relevant and helpful to the Board in understanding that party's position. Parties are strongly encouraged to prefile testimony or exhibits in writing at least 48 hours prior to the hearing, and to provide copies of such filings to the applicant and other parties. The hearing shall be transcribed and a transcript shall be made available to the public by the Board.

(C) Registration of Category I Net Metering Systems.

(1) Form and Content. A net metering system under this subsection shall be registered with the Board in accordance with the filing procedures and registration form prescribed by the Board and shall contain all of the information required by the instructions for completing that form.

(2) Timeframes. Unless a letter raising interconnection issues is timely filed with the Board by the interconnecting utility, a CPG shall be deemed issued by the Board without further proceedings, findings of fact, or conclusions of law, and the applicant may commence construction of the system according to the following timeframes:

(a) in the case of a Category I net metering system with a capacity of less than 100 kW, the eleventh business day following the filing of the form; and

(b) in the case of a Category I net metering system with a capacity of 100 kW or more, the thirty-first day following the filing of the form.

(3) Service. Upon filing the net metering registration form with the Board, the applicant must also cause a copy of the form to be sent to the serving electric

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company and the Department via the Board's electronic filing system, unless the applicant is making a paper filing in accordance with the Board's rules or practice, in which case service shall be made by certified mail. The applicant shall ensure that the form is complete and includes all required information.

(4) Incomplete Registration Forms. If the form is found to be incomplete, the Clerk of the Board will inform the applicant of the deficiencies, and the applicant will be required to resubmit a complete form. A registration form that has been submitted to the Board shall not be deemed to be filed until that form has been determined to be complete.

(5) Interconnection. If the interconnecting electric company believes that the interconnection of the net metering system raises concerns, the electric company must convey these concerns in writing to the applicant and the Board within ten days of receiving a complete form, except that in the case of Category I net metering systems with capacities of greater than 100 kW, the electric company shall have 30 days to make this filing with the Board. The electric company's filing must include a recommendation as to how the interconnection issues could be resolved by the applicant. The company must also convey a copy of the letter to the installer of the system named on the form. If an objection to the interconnection has been timely filed by the interconnecting electric company, the applicant shall not commence construction of the project until the interconnection issues have been resolved.

(D) Applications for Category II Net Metering Systems.

(1) Pre-Application Information Session and Consultation. Prior to filing an application under this subsection, the applicant shall conduct a public information session in the town where the net metering system would be located. Notice of the time, date, and location of the session shall be provided to the municipal

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legislative body and planning commission and to all adjoining landowners no less than fifteen days before the public information session. The notice shall also state that the applicant intends to file a Section 8010 application, identify the location of the project site, and provide a description of the proposed project that contains sufficient detail about the proposed project to afford the recipient reasonable notice of the nature of the project so that the recipient is able to make an informed judgment as to any potential impact the construction or operation of the project may have on any interest of the recipient that is within the Board's jurisdiction to address.

As part of the public information session, the applicant shall solicit recommendations regarding the siting of the net metering system.

(2) Form and Content. An application for a CPG under this subsection shall be filed with the Board in accordance with the Board's current filing procedures, using the application form prescribed by the Board, and shall contain all of the information required by the instructions for that form.

(3) Service of Applications. The applicant shall provide by certified mail copies of the completed application form to the following persons and organizations:

- (a) all adjoining landowners; and
- (b) the municipal legislative bodies and municipal and regional planning commissions in the communities where the project will be located.

The applicant shall cause a copy of the completed application form to be transmitted to the following entities using the Board's electronic filing system, unless the applicant is making a paper filing in accordance with the Board's rules, in which case service shall be by certified mail:

- (a) the Department of Public Service;
- (b) the Agency of Natural Resources;

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(c) the Division for Historic Preservation; and

(d) the electric company.

With permission of the intended recipient, the applicant may serve a copy of the completed application form via electronic mail. All certified mail shall be postmarked on the same day the application is deemed complete by the Board.

The Board shall liberally grant extensions of time for the above-listed entities to file comments when the applicant fails to cause timely service of the application.

(4) Incomplete Application Forms. If the form is found to be incomplete, the Clerk of the Board will inform the applicant of the deficiencies, and the applicant will be given an opportunity to cure the deficiency. An application form that has been submitted to the Board shall not be deemed to be filed until that form has been determined to be complete. If a deficiency is material to the Board's review under the applicable Section 248 criteria, then the applicant shall be required to serve a complete application on all recipients entitled to notice of the application.

(5) Submission of Comments. All comments concerning an application must be filed with the Board, with a copy to the applicant, within 30 days from the date the application was deemed complete. The applicant shall file a response to all timely filed comments within 15 calendar days of the close of the 30-day comment period.

(6) Requests for Hearing. A request for a hearing must be filed within 30 days from the date the application was deemed complete. The request shall identify the issues to be resolved through the hearing. Unless the request is made by the Department of Public Service, the Agency of Natural Resources, or the applicant, a request for a hearing must be accompanied by a motion to intervene made pursuant to Board Rule 5.116.

(7) Hearings. In cases where a hearing is requested by a party, the Board shall

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convene a hearing prior to issuing a final decision on the application. Unless the Board determines otherwise, the scope of any such hearing shall be limited to the issues that were described in the hearing request. To participate in a hearing, a participant must be a party to the proceeding.

(8) Approval. In cases where there are no objections or requests for hearing and the Board determines that the application does not raise a significant issue, the Board will issue a certificate of public good without further proceedings, findings of fact, or conclusions of law, following the 30-day comment period.

(E) Applications for Category III Net Metering Systems.

(1) Notice Requirements. The applicant must provide written notice by certified mail, at least 45 days in advance of filing a Section 8010 application, to the following entities:

- (a) the municipal legislative bodies and municipal and regional planning commissions in the communities where the project will be located; and
- (b) all adjoining landowners.

The applicant shall cause a copy of the completed application form to be transmitted to the following entities using the Board's electronic filing system, unless the applicant is making a paper filing in accordance with the Board's rules, in which case service shall be by certified mail:

- (a) the Department of Public Service;
- (b) the Agency of Natural Resources;
- (c) the Division for Historic Preservation; and
- (d) the electric company.

With permission from the intended recipient, any applicant may serve a copy of the notice via electronic mail. The notice shall state that the applicant intends to file a Section 8010 application, identify the location of the project site, and

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provide a description of the proposed project that contains sufficient detail about the proposed project to afford the recipient reasonable notice of the nature of the project so that the recipient is able to make an informed judgment as to any potential impact the construction or operation of the project may have on any interest of the recipient that is within the Board's jurisdiction to address. The notice shall provide contact information and state that the recipient may file inquiries or comments with the applicant about the project and that the recipient will also have an opportunity to file comments with the Board once the application is filed. If, within 180 days of the date of the advance notice, the applicant has not filed a complete application for the project that fully complies with the filing requirements of this rule, the notice shall be treated as withdrawn without further action required by the Board.

(2) Pre-Application Information Session and Consultation. Prior to filing, the Applicant shall conduct a public information session in the town where the net metering system would be located. Notice of the time, date, and location of the session shall be included in the applicant's 45-day advance notice under (1), above. As part of the public information session, the applicant shall solicit recommendations regarding the siting of the net metering system.

(3) Service of Applications. Upon filing an application with the Board, the applicant shall provide by certified mail copies of the completed application to the municipal legislative bodies and the municipal and regional planning commissions where the net metering system will be located. In addition, the applicant shall provide notice by certified mail to all adjoining landowners that the application has been filed with the Board.

The applicant shall cause a copy of the completed application to be transmitted to the following entities using the Board's electronic filing system,

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unless the applicant is making a paper filing in accordance with the Board's rules, in which case service shall be by certified mail:

- (a) the Agency of Natural Resources;
- (b) the Department of Public Service;
- (c) the Division for Historic Preservation; and
- (d) the electric company.

All certified mail shall be postmarked on the same day the application is deemed complete by the Board. With permission from the intended recipient, any applicant may serve a copy of the completed application form via electronic mail, in which case the date the electronic mail is sent shall be the same date the application is filed with the Board. The Board shall liberally grant extensions of time for the above-listed entities to file comments where the applicant fails to cause timely service of the application.

(4) Filing Requirements. Category III applications shall contain the following information. Failure to provide any required information will result in the application being deemed incomplete:

- (a) Applicant name. The application shall include the name, contact information, business registration number, and a description of the company or person making the application. For example:

ABC Solar, LLC, a Vermont Corporation  
Headquarters at 123 Maple Lane, Anytown VT 05600  
Service Agent: Jane Doe, Esq.  
VT Business ID#: 12345

- (b) Host customer. The application shall include the name and address of the customer on whose premises the proposed net metering system would be built.

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(c) Adjoining landowners. The application shall include the names and addresses of all adjoining landowners. This information shall be obtained from the most recent version of the town's grand list.

(d) Certification that notice requirements have been met. The applicant shall certify that it has complied with the advance notice requirements listed above.

(e) Site plans. The applicant shall provide a site plan for each project. A site plan shall include:

(i) Proposed facility locations and any incidental project features;

(ii) Approximate property boundaries and setback distances from those boundaries to the nearest corners of each related structure, approximate distances to any nearby residences, and dimensions of all proposed improvements;

(iii) Proposed utilities, including approximate distance from source of power, sizes of service available and required, and approximate locations of any proposed utility or communication lines;

(iv) A description of any areas where vegetation is to be cleared or altered and a description of any proposed direct or indirect alterations to or impact on wetlands or other natural resources protected under 30 V.S.A. § 248(b)(5), including the limits of earth disturbance and the total acreage of any disturbed area;

(v) Detailed plans for any drainage of surface and/or sub-surface water and plans to control erosion and sedimentation both during construction and as a permanent measure;

(vi) Locations and specific descriptions of proposed screening, landscaping, groundcover, fencing, exterior lighting, and signs;

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(vii) Plans of any proposed access driveway, roadway, or parking area at the project site, including grading, drainage, and traveled width, as well as a cross-section of the access drive indicating the width, depth of gravel, paving, or surface materials; and

(viii) The latitude and longitude coordinates for each proposed project.

(f) Elevation drawings

(i) For each proposed structure, the applicant shall provide elevation drawings.

(ii) The elevation drawings shall be to appropriate scales but no smaller than 1"/20'.

(iii) The applicant shall include two elevation drawings of the proposed structures drawn at right angles to each other, showing the ground profile to at least 100 feet beyond the edge of any proposed clearing, and showing any guy wires or supports. The elevation drawing shall show height of the structure above grade at the base, and describe the proposed finish of the structure.

(iv) The elevation drawing shall indicate the relative height of the facility to the tops of surrounding trees as they presently exist.

(v) Each plan sheet shall be clearly labeled with the project title, date, revision date(s), scale, and name of the person or firm that prepared the plan.

(g) Testimony, exhibits, proposed findings, and proposed CPG. The applicant shall address each of the applicable Section 248 criteria through testimony and exhibits. To the extent that the proposal will result in an adverse impact affecting any of these criteria, the applicant shall describe

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what measures, if any, will be taken to minimize any such impact.

Any witness sponsoring an exhibit or testimony must file a notarized affidavit stating that the information provided is accurate to the best of the witness's knowledge. All exhibits shall be sponsored by a witness. The witness must further attest to having personal knowledge to be able to testify as to the validity of the information contained in the exhibit or testimony. The applicant shall file proposed findings of fact and a proposed CPG with the application.

(h) Local and regional plans. The applicant shall provide copies of the relevant sections of the Town Plans and Regional Plans in effect in the communities in which the proposed facilities will be located. The applicant shall include testimony describing how the project complies with or is inconsistent with the land conservation measures in those plans.

(i) Wetland delineation. The applicant shall provide either a wetland delineation prepared by a qualified professional or a letter from the district wetland ecologist stating that no delineation is necessary because the net metering system will not be proximate to any significant wetlands.

(j) Interconnection. The applicant shall file as part of the application a letter from the electric company stating that the proposed net metering system may be safely interconnected with the company's distribution grid without having an impact on system stability or reliability. The letter shall also describe all improvements to the grid necessary to interconnect the net metering system.

(k) Response to recommendations of municipalities and adjoining landowners. The application shall file a document summarizing the comments and recommendations received in response to the 45-day notice

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and those received at the public information session. The document shall respond to the issues raised in those comments and recommendations and shall state what steps the applicant has taken to address those issues or why the applicant is unable to do so.

(5) Incomplete Applications. If the application is found to be incomplete, the Clerk of the Board will inform the applicant of the deficiencies, and the applicant will be provided an opportunity to cure the deficiency. An application that has been submitted to the Board shall not be deemed to be filed until that application has been determined to be complete. If a deficiency is material to the Board's review under the applicable Section 248 criteria, then the applicant shall be required to serve a complete application on all recipients entitled to receive notice of the application.

(6) Submission of Comments. All comments concerning an application must be filed with the Board within 30 days from the date the application is deemed complete.

(7) Requests for Hearing. A request for a hearing must be filed within 30 days from the date the application was deemed complete. The request shall identify the issues to be resolved through the hearing. Unless the request is made by the Department of Public Service, the Agency of Natural Resources, or the applicant, a request for a hearing must be accompanied by a motion to intervene made pursuant to Board Rule 5.116.

(8) Hearings. In cases where a hearing is requested by a party, the Board shall convene a hearing prior to issuing a final decision on the application. Unless the Board determines otherwise, the scope of any such hearing shall be limited to the issues that were described in the hearing request. To participate in a hearing, a participant must be a party to the proceeding.

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### **5.112 Amendments to Pending Applications**

(A) Minor Amendment. Applicants shall provide notice of all minor amendments to the Board, the Department of Public Service, the Agency of Natural Resources, and the electric company. The notice shall provide sufficient information so that the Board can understand the nature of the proposed change and its impact, if any, on any of the Section 248 criteria. The filing of a minor amendment shall not extend the applicable comment period for the application unless the Board determines that the proposed change constitutes a major amendment. The Board may request additional information from the Applicant regarding a proposed minor amendment at any time during the review of a net metering system.

(B) Major Amendment. Applicants seeking a major amendment shall refile the amended application in accordance with Rule 5.111, which governs the procedures for the applicable category of net metering system.

### **5.113 Amendments to Approved Net Metering Systems**

(A) Minor Amendments. A certificate holder shall provide notice of all minor amendments to the Board, the Department of Public Service, the Agency of Natural Resources, and any party to the proceeding in which the net metering system was granted a CPG. The notice shall provide sufficient information so that the Board can understand the nature of the proposed minor amendment and its impact, if any, on any of the Section 248 criteria. The certificate holder may implement the proposed minor amendments without further action by the Board unless a written objection is filed with the Board within 10 business days after the minor amendment notice. If an objection is filed by any of the entities specified in this subsection, the certificate holder shall not implement the proposed minor amendment until the objection has been withdrawn or resolved by the

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(B) Major Amendments. The procedure for obtaining authorization to implement a major amendment shall be the same as the application procedure for the category of net metering system applicable to the amended net metering system.

**5.114 Transfer and Abandonment of CPGs**

(A) Transfer. A CPG for a net metering system is deemed to be automatically transferred when the property hosting a net metering system is sold or legal title is otherwise conveyed to a new owner. The new owner may continue operating the net metering system provided that:

- (1) the new owner agrees to operate and maintain the net metering system according to all terms and conditions of the CPG and complies with this Rule 5.100; and
- (2) within 30 days after acquiring ownership of the system, the new owner completes and files an official Transfer Form with the Board, the Department of Public Service, the Agency of Natural Resources, and the electric company.

(B) Abandonment. Non-use of a CPG for a period of two years following the date the certificate is issued shall constitute an abandonment of the net metering system, and the CPG shall be considered revoked. For the purpose of this section, for a CPG to be considered used, the net metering system must be commissioned. An extension of the time for using a CPG shall only be granted for good cause shown. A certificate holder may abandon a CPG at any time upon written notice thereof to the Board, the Department, the Agency of Natural Resources, and the electric company.

**5.115 Compliance Proceedings**

In response to a public complaint or on its own motion, the Board may take any or all of the following steps to ensure that a net metering system is constructed and operated in compliance

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with the terms and conditions of the CPG issued for that net metering system and any related Board order:

- (A) Direct the certificate holder to provide the Board with an affidavit under oath or affirmation attesting that the person, company, or corporation or any facility or plant thereof is in compliance with the terms and conditions of the CPG pursuant to 30 V.S.A. 30(g);
- (B) Direct the certificate holder to provide additional information;
- (C) After notice and opportunity for hearing, amend or revoke any CPG for a net metering system, impose a penalty under 30 V.S.A. § 30, or order remedial activities for any of the following causes:
  - (1) the CPG or order approving the CPG was issued based on material information that was false or misleading;
  - (2) the system was not installed, or is not being operated, in accordance with the National Electric Code or applicable interconnection standards;
  - (3) the net metering system was not installed or is not being operated in accordance with the plans and evidence submitted in support of the application or registration form;
  - (4) the holder of the CPG has failed to comply with one or more of the CPG conditions, the order approving a CPG for the net metering system, or this rule; or
  - (5) other good cause as determined by the Board in its discretion.

**5.116 Party Status in Net Metering Proceedings**

Any person seeking to participate in a net metering proceeding as a party must file a motion to intervene either in accordance with Board Rule 2.209 or by filing a form developed by the Board for use under this rule. Any person who files a motion to intervene and is granted party status by the Board acquires all of the legal rights and obligations of a party in a Board

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proceeding. The filing of comments on an application and the consideration of such comments by the Board do not confer party status. Party status is conferred only upon issuance of an order from the Board granting a duly filed motion to intervene.

**5.117 Interconnection Requirements**

The interconnection of all net metering systems shall be governed by Board Rule 5.500. The applicant shall bear the costs of all equipment necessary to interconnect the net metering system to the distribution grid and any distribution system upgrades necessary to ensure system stability and reliability.

**5.118 Disconnection of a Net-Metered System**

The following procedures shall govern disconnection of a net-metering system from the electrical system. These procedures apply to net metering customers only and do not supplant Board Rules 3.300 and 3.400 relating to company disconnection in general.

- (A) A customer who initiates a permanent disconnection of a net metering system shall notify the electric company. The electric company shall notify the Board and the Department of the disconnection.
- (B) In the event the electric company must perform an emergency disconnection of a net metering system, the electric company must notify the customer within 24 hours after the disconnection. For the purpose of this section, the term “emergency” shall mean a situation in which continued interconnection of the net metering system is imminently likely to result in significant disruption of service or endanger life or property.
  - (1) If the emergency is not caused by the operation of the net metering system, the company shall reconnect the net metering system upon cessation of the

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emergency.

(2) If the emergency is caused by the operation of the net metering system, the electric company must communicate the nature of the problem to the customer within 5 days, and attempt to resolve the problem. If the problem has not been resolved within 30 days of an emergency disconnection, the electric company shall file a disconnection petition with the Board.

- (C) Non-emergency disconnections shall follow the same procedure as emergency disconnections in subsection B above, except that the electric company shall give written notice of the disconnection no earlier than 10 days and no later than 3 working days prior to the first date on which the disconnection of the net metering system is scheduled to occur. Such notice shall communicate to the customer the reason for disconnection and the expected duration of the disconnection. With written consent from the customer, an electric company may arrange to provide the customer with notice of non-emergency disconnections on terms other than those set forth in this rule, provided that the electric company first informs the customer of the provisions of this rule and that the customer may contact the Consumer Affairs and Public Information Division of the Vermont Department of Public Service. For group systems, such consent may be obtained from the person designated under Section 5.105(B).
- (D) A customer who is involuntarily disconnected may file a written complaint with the Board at any time following disconnection. The customer shall provide a copy of the complaint to the electric company and the Department. Within 30 days of the date the complaint is filed, the Board may hold a hearing to investigate the complaint. In the event of the filing of such a complaint, the electric company shall carry the burden of proof to demonstrate the reasonableness of disconnection.

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### **5.119 Tracking of Net-Metered Systems**

Each electric company with net-metered customers shall maintain current records of the cumulative capacity of net-metered generation installed within its service territory. Each electric company shall also keep current records regarding the number and capacity of installed net-metered systems and the number of disconnections of net-metered systems in its service territory.

### **5.120 Decommissioning**

Except for Category I net metering systems, all net metering systems shall be decommissioned within one year of ceasing operation. All applications for net metering systems with capacities greater than 150 kW shall demonstrate that the applicant possesses sufficient financial resources to decommission the net metering system.

### **5.121 Standard Conditions of Approval Applicable to Net Metering Systems**

(A) The following conditions of approval are hereby deemed to be incorporated into any certificate of public good for any net metering system issued or deemed issued pursuant to 30 V.S.A. § 8010. For good cause shown or on the recommendation of the Department of Public Service or the Agency of Natural Resources, the Board may alter or waive these conditions or impose additional conditions to ensure that a net metering system meets the criteria of Section 248 and will promote the general good of the state.

(1) Consistency with Plans and Evidence. The operation and maintenance of a net metering system shall be in accordance with the plans and evidence submitted to the Board and upon which the Board relied in authorizing the issuance of the CPG for the net metering system. Any material deviation from the plans and evidence or any substantial change in the net metering system is prohibited without prior Board approval. Failure to obtain advance approval from the Board for a material deviation from the approved plans

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and evidence or a substantial change to the net metering system may result in the assessment of a penalty pursuant to 30 V.S.A. §§ 30 and 247.

(2) Approvals and Permits. The certificate holder shall obtain all necessary permits and approvals prior to commencing site preparation and construction of a net metering system. The issuance of a CPG does not relieve an applicant of the duty to investigate the applicability of and to comply with all other applicable laws.

(3) Existing and Future Statutory Requirements. The certificate holder shall comply with applicable existing and future statutory requirements and Board rules and orders.

(4) Transfers. A CPG shall only be transferred in accordance with the procedures set forth in this rule.

(5) Waste Disposal. The certificate holder shall dispose of all waste resulting from the construction of the net metering system in accordance with all applicable Department of Environmental Conservation regulations.

(B) In addition to the conditions in (A), above, the following conditions of approval are hereby deemed to be incorporated into any certificate of public good for any ground-mounted net metering system issued or deemed issued pursuant to 30 V.S.A. § 8010. For good cause shown or on the recommendation of the Department of Public Service or the Agency of Natural Resources, the Board may alter or waive these conditions or impose additional conditions to ensure that a net metering system meets the criteria of Section 248 and will promote the general good of the state.

(1) Hours of Construction. The construction of a net metering system shall be restricted to the hours between 7:00 A.M. and 7:00 P.M. Monday through Friday and between 8:00 A.M. and 5:00 P.M. on Saturdays. No construction activities shall occur on Sundays or state or federal holidays.

(2) Oil Containment. All pad-mounted transformers serving a net metering

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system must have oil containment sufficient to accommodate 110% of the volume of coolant contained in the transformer plus five inches of rain.

(3) Indiana Bat Habitat. Where the Agency of Natural Resources determines that a net metering system is located within Indiana bat habitat, except with written permission from the Agency of Natural Resources, no tree measuring 12 inches or greater in diameter as measured at breast height may be cut or trimmed except between November 1 and March 31.

(4) Deer Wintering Areas. Where the Agency of Natural Resources determines that a net metering system is located near or within a deer wintering area, except with written permission from the Agency of Natural Resources, there shall be no construction between December 15 and April 15. Winter access shall be limited to routine maintenance no more than one occurrence per month, excepting emergency activities. In the case of emergency activities, the Department of Fish and Wildlife staff shall be contacted within 24 hours of the emergency and provided with details explaining why the response was necessary and the extent of personnel and equipment involved in the response.

(5) Soil Erosion. The net metering system must be constructed in accordance with the *Low Risk Site Handbook for Erosion Prevention and Sediment Control* (2006), and as may be amended from time to time, or in compliance with the terms of a general or individual construction stormwater permit, if applicable.

(6) Streams. All certificate holders shall maintain a 50-foot undisturbed buffer zone from all streams, as measured from the top of the stream bank. The following activities are prohibited in the buffer zone: construction; earth-moving activities; snowplowing; storage of materials; tree, shrub, or groundcover removal; and mowing.

(7) Wetlands. Where the Agency of Natural Resources determines that a net metering system is located near or in a jurisdictional wetland, prior to commencing site

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preparation or construction, a certificate holder shall submit a professionally prepared wetland delineation to the Agency of Natural Resources for review and approval or obtain a written confirmation from the Agency of Natural Resources that no delineation is required. The term "disturb" means activities that may cause or contribute to ground or vegetation disturbance or soil compaction, including but not limited to construction; driving upon; earthmoving activities; storage of materials; tree trimming or canopy removal; tree, shrub, or groundcover removal; plowing or disposal of snow; grazing; and mowing.

(8) Screening. All screening shall be maintained for the life of the net metering system. All dead or dying vegetation shall be replaced.