

Proposed Filing - Coversheet

Instructions:

In accordance with Title 3 Chapter 25 of the Vermont Statutes Annotated and the “Rule on Rulemaking” ([CVR 04-000-001](#)) adopted by the Office of the Secretary of State, this filing will be considered complete upon filing and acceptance of these forms and enclosures with the Office of the Secretary of State, and the Legislative Committee on Administrative Rules.

All forms shall be submitted to the Office of the Secretary of State, no later than 3:30 pm on the last scheduled day of the work week.

The data provided in text areas of Proposed Filing Coversheet will be used to generate a notice of rulemaking in the portal of “Proposed Rule Postings” online, and the newspapers of record. Publication of notices will be charged back to the promulgating agency.

**PLEASE REMOVE ANY COVERSHEET OR FORM NOT
REQUIRED WITH THE CURRENT FILING BEFORE DELIVERY!**

Certification Statement: As the adopting Authority of this rule (see 3 V.S.A. § 801 (b) (11) for a definition), I approve the contents of this filing entitled:

**5.100 Rule Pertaining to Construction and Operation of
Net-Metering Systems (the "Net-Metering Rule")**

s/ Anthony Z. Roisman , on 5/15/2023
(signature) (date)

Printed Name and Title:

Anthony Roisman, Chair
Vermont Public Utility Commission

RECEIVED BY: _____

- ☐ Coversheet
- ☐ Adopting Page
- ☐ Economic Impact Analysis
- ☐ Environmental Impact Analysis
- ☐ Strategy for Maximizing Public Input
- ☐ Scientific Information Statement (if applicable)
- ☐ Incorporated by Reference Statement (if applicable)
- ☐ Clean text of the rule (Amended text without annotation)
- ☐ Annotated text (Clearly marking changes from previous rule)
- ☐ ICAR Filing Confirmed

1. TITLE OF RULE FILING:

**5.100 Rule Pertaining to Construction and Operation
of Net-Metering Systems (the "Net-Metering Rule")**

2. ADOPTING AGENCY:

Vermont Public Utility Commission

3. PRIMARY CONTACT PERSON:

(A PERSON WHO IS ABLE TO ANSWER QUESTIONS ABOUT THE CONTENT OF THE RULE).

Name: Jake Marren

Agency: Vermont Public Utility Commission

Mailing Address: 112 State St., Montpelier, VT 05602

Telephone: 802-828-2358 Fax:

E-Mail: jake.marren@vermont.gov

Web URL *(WHERE THE RULE WILL BE POSTED)*:

<https://puc.vermont.gov/about-us/statutes-and-rules>

4. SECONDARY CONTACT PERSON:

(A SPECIFIC PERSON FROM WHOM COPIES OF FILINGS MAY BE REQUESTED OR WHO MAY ANSWER QUESTIONS ABOUT FORMS SUBMITTED FOR FILING IF DIFFERENT FROM THE PRIMARY CONTACT PERSON).

Name: Elizabeth Schilling

Agency: Vermont Public Utility Commission

Mailing Address: 112 State St., Montpelier, VT 05602

Telephone: 802-828-2358 Fax:

E-Mail: elizabeth.schilling@vermont.gov

5. RECORDS EXEMPTION INCLUDED WITHIN RULE:

(DOES THE RULE CONTAIN ANY PROVISION DESIGNATING INFORMATION AS CONFIDENTIAL; LIMITING ITS PUBLIC RELEASE; OR OTHERWISE, EXEMPTING IT FROM INSPECTION AND COPYING?) No

IF YES, CITE THE STATUTORY AUTHORITY FOR THE EXEMPTION:

PLEASE SUMMARIZE THE REASON FOR THE EXEMPTION:

6. LEGAL AUTHORITY / ENABLING LEGISLATION:

(THE SPECIFIC STATUTORY OR LEGAL CITATION FROM SESSION LAW INDICATING WHO THE ADOPTING ENTITY IS AND THUS WHO THE SIGNATORY SHOULD BE. THIS SHOULD BE A SPECIFIC CITATION NOT A CHAPTER CITATION).

30 V.S.A. § 8010(c)

7. EXPLANATION OF HOW THE RULE IS WITHIN THE AUTHORITY OF THE AGENCY:

Section 8010(c) of Title 30 of the Vermont Statutes Annotated directs the Vermont Public Utility Commission to adopt rules that govern the installation and operation of net-metering systems.

8. CONCISE SUMMARY (150 WORDS OR LESS):

This rulemaking involves amendments to the Net-Metering Rule, including changes to the definition of the term "preferred site"; limits on the amount of forest clearing associated with projects on "preferred sites"; updates to the registration and application processes for net-metering systems; changes to project amendment processes and requirements; clarifications regarding the rates applicable to expanded net-metering systems; updates to the transfer and extension requirements for net-metering system certificates of public good; the addition of language authorizing utilities to propose tariffs assessing locational adjustor fees for constrained areas of the grid; changes to update the Rule consistent with state statute and other Commission rules, including the Commission's Rules of Practice and Interconnection Rule; changes acknowledging the use of ePUC - the Commission's electronic filing system; and other changes to otherwise improve, clarify, and streamline the Rule.

9. EXPLANATION OF WHY THE RULE IS NECESSARY:

The Rule is necessary to implement Vermont's net-metering program. The Rule was originally adopted on March 1, 2001, and has been updated five times since then. The current set of updates to the Rule are necessary to address issues with the "preferred site" framework; ensure the Rule is consistent with state statute and other Commission rules; and make various changes to update, improve, clarify, and streamline the Rule based on the Commission's experience implementing the Rule and stakeholders' comments.

10. EXPLANATION OF HOW THE RULE IS NOT ARBITRARY AS DEFINED IN 3 V.S.A. § 801(b)(13)(A):

This rulemaking effort began in December 2017 in response to a request for guidance regarding the definition of "preferred site" from the Department of

Public Service, the Agency of Natural Resources, and the Natural Resources Board. In opening the Rule for changes, the Commission and stakeholders also identified other sections of the Rule to amend, many of which have been raised as practical issues by stakeholders since 2017.

During the informal rulemaking process, the Commission circulated three proposed drafts of amendments to the Rule, conducted three workshops in 2021, and solicited rounds of written comments on each rule draft and after the workshops. The Commission has given careful consideration to the voluminous record of comments filed during the informal rulemaking process and those comments have informed the proposed changes to the Rule. Additionally, in Case No. 19-0855-RULE, the Commission issued orders explaining its proposed changes to the Rule on 4/16/2019, 4/29/2022, and 12/2/2022.

11. LIST OF PEOPLE, ENTERPRISES AND GOVERNMENT ENTITIES AFFECTED BY THIS RULE:

The Net-Metering Rule affects:

- all Vermont electric utility customers and all Vermont retail electric utilities,
- all individuals and entities that own and operate net-metering systems or wish to do so,
- businesses that sell, install, develop, and construct net-metering systems and other renewable energy projects,
- State agencies, including the Department of Public Service; the Agency of Natural Resources; the Agency of Agriculture, Food and Markets; the Division for Historic Preservation; and the Natural Resources Board,
- municipalities and municipal and regional planning commissions,
- landowners, businesses, and members of the public potentially affected by the construction of net-metering systems, and
- environmental organizations, trade organizations, and other nonprofits and businesses concerned about climate change, natural resources, and renewable energy.

12. BRIEF SUMMARY OF ECONOMIC IMPACT (150 WORDS OR LESS):

The proposed amendments do not include substantive changes to the compensation framework for net-metering systems or change the rate of compensation that systems receive.

However, the proposed amendments clarify that net-metering systems that significantly expand (i.e., increase system capacity by more than 5% or 10 kW, whichever is greater) receive the same financial incentives available to new systems. This provision ensures that customers, especially residential customers, may make small increases to their systems to accommodate electric heating and transportation systems, while maintaining the current rate of compensation they relied on to install their existing system.

Other proposed changes to the Rule could have indirect economic impacts by increasing or decreasing the rate of net-metering development. Consistent with the requirements of 30 V.S.A. § 8010(c), the Commission has crafted the proposed changes to balance the costs and benefits of the net-metering program to the extent feasible.

13. A HEARING WILL BE SCHEDULED.

IF A HEARING WILL NOT BE SCHEDULED, PLEASE EXPLAIN WHY.

14. HEARING INFORMATION

(THE FIRST HEARING SHALL BE NO SOONER THAN 30 DAYS FOLLOWING THE POSTING OF NOTICES ONLINE).

IF THIS FORM IS INSUFFICIENT TO LIST THE INFORMATION FOR EACH HEARING, PLEASE ATTACH A SEPARATE SHEET TO COMPLETE THE HEARING INFORMATION NEEDED FOR THE NOTICE OF RULEMAKING.

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

Date:

Time: AM

Street Address:

Zip Code:

URL for Virtual:

15. DEADLINE FOR COMMENT (NO EARLIER THAN 7 DAYS FOLLOWING LAST HEARING):

16. KEYWORDS (PLEASE PROVIDE AT LEAST 3 KEYWORDS OR PHRASES TO AID IN THE SEARCHABILITY OF THE RULE NOTICE ONLINE).

Net-metering

Distributed Generation

Solar

Wind

Rule 5.100

Adopting Page

Instructions:

This form must accompany each filing made during the rulemaking process:

Note: To satisfy the requirement for an annotated text, an agency must submit the entire rule in annotated form with proposed and final proposed filings. Filing an annotated paragraph or page of a larger rule is not sufficient. Annotation must clearly show the changes to the rule.

When possible, the agency shall file the annotated text, using the appropriate page or pages from the Code of Vermont Rules as a basis for the annotated version. New rules need not be accompanied by an annotated text.

1. TITLE OF RULE FILING:

5.100 Rule Pertaining to Construction and Operation of Net-Metering Systems (the "Net-Metering Rule")

2. ADOPTING AGENCY:

Vermont Public Utility Commission

3. TYPE OF FILING (*PLEASE CHOOSE THE TYPE OF FILING FROM THE DROPDOWN MENU BASED ON THE DEFINITIONS PROVIDED BELOW*):

- **AMENDMENT** - Any change to an already existing rule, even if it is a complete rewrite of the rule, it is considered an amendment if the rule is replaced with other text.
- **NEW RULE** - A rule that did not previously exist even under a different name.
- **REPEAL** - The removal of a rule in its entirety, without replacing it with other text.

This filing is **AN AMENDMENT OF AN EXISTING RULE** .

4. LAST ADOPTED (*PLEASE PROVIDE THE SOS LOG#, TITLE AND EFFECTIVE DATE OF THE LAST ADOPTION FOR THE EXISTING RULE*):

#17-036, 5.100 Rule Pertaining to Construction and Operation of Net-Metering Systems, July 1, 2017

Economic Impact Analysis

Instructions:

In completing the economic impact analysis, an agency analyzes and evaluates the anticipated costs and benefits to be expected from adoption of the rule; estimates the costs and benefits for each category of people enterprises and government entities affected by the rule; compares alternatives to adopting the rule; and explains their analysis concluding that rulemaking is the most appropriate method of achieving the regulatory purpose. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Rules affecting or regulating schools or school districts must include cost implications to local school districts and taxpayers in the impact statement, a clear statement of associated costs, and consideration of alternatives to the rule to reduce or ameliorate costs to local school districts while still achieving the objectives of the rule (see 3 V.S.A. § 832b for details).

Rules affecting small businesses (excluding impacts incidental to the purchase and payment of goods and services by the State or an agency thereof), must include ways that a business can reduce the cost or burden of compliance or an explanation of why the agency determines that such evaluation isn’t appropriate, and an evaluation of creative, innovative or flexible methods of compliance that would not significantly impair the effectiveness of the rule or increase the risk to the health, safety, or welfare of the public or those affected by the rule.

1. TITLE OF RULE FILING:

**5.100 Rule Pertaining to Construction and Operation of
Net-Metering Systems (the "Net-Metering Rule")**

2. ADOPTING AGENCY:

Vermont Public Utility Commission

3. CATEGORY OF AFFECTED PARTIES:

*LIST CATEGORIES OF PEOPLE, ENTERPRISES, AND GOVERNMENTAL ENTITIES POTENTIALLY
AFFECTED BY THE ADOPTION OF THIS RULE AND THE ESTIMATED COSTS AND BENEFITS
ANTICIPATED:*

The Net-Metering Rule affects:

- all Vermont electric utility customers and all Vermont retail electric utilities,
- all individuals and entities that own and operate net-metering systems or wish to do so,

- businesses that sell, install, develop, and construct net-metering systems and other renewable energy projects,
- State agencies, including the Department of Public Service; the Agency of Natural Resources; the Agency of Agriculture, Food and Markets; the Division for Historic Preservation; and the Natural Resources Board,
- municipalities and municipal and regional planning commissions,
- landowners, businesses, and members of the public potentially affected by the construction of net-metering systems, and
- environmental organizations, trade organizations, and other nonprofits and businesses concerned about climate change, natural resources, and renewable energy.

The proposed amendments do not include substantive changes to the compensation framework for net-metering systems or change the rate of compensation that systems receive. However, the proposed amendments clarify that when a net-metering system significantly expands (i.e., increases system capacity by more than 5% or 10 kW, whichever is greater) the entire system will receive the same financial incentives available to a new system. This provision ensures that customers, especially residential customers, may make small increases to their systems to accommodate electric heating and transportation systems, while maintaining the current rate of compensation they relied on to install their existing system.

Any of the other proposed changes to the Rule could have indirect economic impacts by leading to increases or decreases in the rate of net-metering development. Many of the changes improve, clarify, and streamline the Net-Metering Rule in an effort to make things more efficient and less costly for all parties involved. However, some stakeholders may argue that the proposed limit on "significant forest clearing," could affect developers who want to clear more than three acres of forest and still qualify for preferred site status under the net-metering program. Additionally, some

stakeholders may argue that the Commission's clarification regarding the rates applicable to expanded net-metering systems could discourage system expansions. Detailed discussions of these two proposed changes are included in sections A. and I. of the Order issued on [Month] [Day], 2023.

While it is difficult, if not impossible, to predict the ultimate effect of the proposed Rule changes on the rate of development of large-scale net-metering projects, it is important to remember that the pace of net-metering development does not affect progress toward achieving Vermont's renewable energy requirements. Under the Vermont Renewable Energy Standard, electric utilities are required to obtain a certain amount of power from small, in-state renewable generators under 5 MW in size. This requirement is known as "Tier II." Net-metering projects are just one means for utilities to satisfy Tier II. Another option for complying with Tier II is for utilities to enter power purchase agreements with businesses that develop small in-state renewable generation up to 5 MW in size. In fact, the Commission is currently seeing a significant increase in these types of projects because of expanded tax incentives available under the federal Inflation Reduction Act.

4. IMPACT ON SCHOOLS:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON PUBLIC EDUCATION, PUBLIC SCHOOLS, LOCAL SCHOOL DISTRICTS AND/OR TAXPAYERS CLEARLY STATING ANY ASSOCIATED COSTS:

As directed by Act 81 of 2019, the proposed Rule includes amendments to Section 5.129 providing that schools and school districts, except for consolidated school districts, have a 1 MW net-metering capacity limit, rather than the generally applicable 500 kW net-metering capacity limit per customer. Consolidated school districts may have a net-metering capacity limit of greater than 1 MW, if the cumulative capacity of the school districts' net-metering systems was greater than 1 MW before they consolidated.

5. ALTERNATIVES: *CONSIDERATION OF ALTERNATIVES TO THE RULE TO REDUCE OR AMELIORATE COSTS TO LOCAL SCHOOL DISTRICTS WHILE STILL ACHIEVING THE OBJECTIVE OF THE RULE.*

The Net-Metering Rule does not directly regulate public education.

The provision expanding schools' net-metering capacity limit, discussed immediately above, may allow a school to build a larger net-metering project than would have been allowed previously, which could result in greater potential long-term savings on the school's energy bills. This change to the Rule is required by statute.

6. IMPACT ON SMALL BUSINESSES:

INDICATE ANY IMPACT THAT THE RULE WILL HAVE ON SMALL BUSINESSES (EXCLUDING IMPACTS INCIDENTAL TO THE PURCHASE AND PAYMENT OF GOODS AND SERVICES BY THE STATE OR AN AGENCY THEREOF):

The Commission does not anticipate the proposed amendments having any negative impact on the rate of deployment of renewable energy projects developed by small businesses. The Commission's intent with many of the changes is to improve, clarify, and streamline the Net-Metering Rule to make things more efficient and less costly for all parties involved, including small businesses that develop net-metering projects.

While some stakeholders may argue that the limit on "significant forest clearing" will harm small businesses that develop renewable projects, the Commission contends that a project involving more than three acres of forest clearing may be redesigned or relocated or, rather than seeking to participate in the net-metering program, may seek to enter a power purchase agreement with a local utility.

7. SMALL BUSINESS COMPLIANCE: *EXPLAIN WAYS A BUSINESS CAN REDUCE THE COST/BURDEN OF COMPLIANCE OR AN EXPLANATION OF WHY THE AGENCY DETERMINES THAT SUCH EVALUATION ISN'T APPROPRIATE.*

Through this rulemaking, the Commission is seeking to make changes that will improve, clarify, and streamline the Net-Metering Rule to make things more efficient and less costly for all parties involved, including small businesses that develop net-metering projects and small

businesses that have or wish to have a net-metering system.

Regardless of whether the applicant is a private individual, small business, large business, or other entity, compliance with the proposed Rule is the most appropriate way to ensure that all net-metering systems meet the requirements of 30 V.S.A. §§ 248 and 8010, including ensuring adequate public process and that systems will not have undue adverse effects on the public health and safety and the natural environment. Therefore, the Commission has not included alternative methods of compliance specific to small businesses only as a part of the proposed Rule.

8. COMPARISON:

COMPARE THE IMPACT OF THE RULE WITH THE ECONOMIC IMPACT OF OTHER ALTERNATIVES TO THE RULE, INCLUDING NO RULE ON THE SUBJECT OR A RULE HAVING SEPARATE REQUIREMENTS FOR SMALL BUSINESS:

State statute directs the Commission to adopt and implement rules governing the installation and operation of net-metering systems. Therefore, not having a Net-Metering Rule is not an option.

As to separate requirements for small businesses, net-metering systems must meet the requirements of 30 V.S.A. §§ 248 and 8010 irrespective of whether the applicant is a small business or other entity. Thus, the Rule does not include separate requirements for small businesses.

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

This economic impact statement complies with the requirements of 3 V.S.A. § 838(b). The analysis is based upon the proposed amendments to the Net-Metering Rule and did not rely upon any specific internal or external documents.

Environmental Impact Analysis

Instructions:

In completing the environmental impact analysis, an agency analyzes and evaluates the anticipated environmental impacts (positive or negative) to be expected from adoption of the rule; compares alternatives to adopting the rule; explains the sufficiency of the environmental impact analysis. If no impacts are anticipated, please specify “No impact anticipated” in the field.

Examples of Environmental Impacts include but are not limited to:

- Impacts on the emission of greenhouse gases
- Impacts on the discharge of pollutants to water
- Impacts on the arability of land
- Impacts on the climate
- Impacts on the flow of water
- Impacts on recreation
- Or other environmental impacts

1. TITLE OF RULE FILING:

5.100 Rule Pertaining to Construction and Operation of Net-Metering Systems (the "Net-Metering Rule")

2. ADOPTING AGENCY:

Vermont Public Utility Commission

3. GREENHOUSE GAS: *EXPLAIN HOW THE RULE IMPACTS THE EMISSION OF GREENHOUSE GASES (E.G. TRANSPORTATION OF PEOPLE OR GOODS; BUILDING INFRASTRUCTURE; LAND USE AND DEVELOPMENT, WASTE GENERATION, ETC.):*

The Rule governs the installation and operation of net-metering systems that produce electricity using renewable resources. These renewable facilities may displace the use of fossil fuels and thereby reduce greenhouse gas emissions. The construction of net-metering facilities results in greenhouse gas emissions to transport materials, equipment, and workers to project sites and to power equipment to build the projects. However, these emissions are in line with other similar-sized construction projects.

4. **WATER: EXPLAIN HOW THE RULE IMPACTS WATER (E.G. DISCHARGE / ELIMINATION OF POLLUTION INTO VERMONT WATERS, THE FLOW OF WATER IN THE STATE, WATER QUALITY ETC.):**

Except for projects that qualify for the net-metering registration form, the Commission reviews all net-metering projects to ensure they will not have undue adverse effects on water. The Commission considers information about potential impacts on headwaters, groundwater, floodways and river corridors, streams, shorelines, wetlands, stormwater, and outstanding resource waters.

5. **LAND: EXPLAIN HOW THE RULE IMPACTS LAND (E.G. IMPACTS ON FORESTRY, AGRICULTURE ETC.):**

Except for projects that qualify for the net-metering registration form, the Commission reviews all net-metering projects to ensure they will not have undue adverse effects on certain land-related issues. The Commission considers information about potential impacts on orderly development, historic sites, aesthetics, necessary wildlife habitat, rare and irreplaceable natural areas, primary agricultural soils, and the natural environment generally. Additionally, the Rule requires large-scale net-metering systems greater than 150 kW in size to be sited on "preferred sites," which include new or existing buildings, parking lots, previously developed sites, brownfields, landfills, extraction sites, Superfund sites, and other preferred locations. In recent years, the Commission has been concerned about the amount of forest that has been cleared to make space for certain large net-metering projects on preferred sites. To address this concern, the Commission is proposing to limit forest clearing to no more than three acres of clearing for projects located on preferred sites. A full discussion of this issue is included in section A. of the Order issued on [Month] [Day], 2023. Additionally, based on extensive stakeholder comments, the Commission has included other proposed amendments to the "preferred site" definition in an effort to further clarify and improve upon this definition and ensure that large-scale net-metering projects are well-sited.

6. RECREATION: *EXPLAIN HOW THE RULE IMPACTS RECREATION IN THE STATE:*

Except for projects that qualify for the net-metering registration form, the Commission reviews all net-metering projects to ensure they will not have undue adverse effects on public investments. Public investments may include recreation facilities.

7. CLIMATE: *EXPLAIN HOW THE RULE IMPACTS THE CLIMATE IN THE STATE:*

The Rule governs the installation and operation of net-metering systems that produce electricity using renewable resources. These renewable facilities may displace the use of fossil fuels and thereby reduce greenhouse gas emissions. However, the Vermont Renewable Energy Standard, not the Net-Metering Rule, sets the renewable energy requirements that Vermont's retail electric utilities must satisfy, and while net-metering is used to satisfy those requirements, it is just one of a number of different ways utilities can meet their Renewable Energy Standard requirements.

8. OTHER: *EXPLAIN HOW THE RULE IMPACT OTHER ASPECTS OF VERMONT'S ENVIRONMENT:*

9. SUFFICIENCY: *DESCRIBE HOW THE ANALYSIS WAS CONDUCTED, IDENTIFYING RELEVANT INTERNAL AND/OR EXTERNAL SOURCES OF INFORMATION USED.*

The changes to the "preferred site" definition, including the new "significant forest clearing" definition, were based upon the extensive comment provided by stakeholders, including the Vermont Agency of Natural Resources, the Vermont Department of Public Service, the Vermont Association of Planning and Development Agencies, and Renewable Energy Vermont, amongst many others.

Public Input Maximization Plan

Instructions:

Agencies are encouraged to hold hearings as part of their strategy to maximize the involvement of the public in the development of rules. Please complete the form below by describing the agency's strategy for maximizing public input (what it did do, or will do to maximize the involvement of the public).

This form must accompany each filing made during the rulemaking process:

1. TITLE OF RULE FILING:

5.100 Rule Pertaining to Construction and Operation of Net-Metering Systems (the "Net-Metering Rule")

2. ADOPTING AGENCY:

Vermont Public Utility Commission

3. PLEASE DESCRIBE THE AGENCY'S STRATEGY TO MAXIMIZE PUBLIC INVOLVEMENT IN THE DEVELOPMENT OF THE PROPOSED RULE, LISTING THE STEPS THAT HAVE BEEN OR WILL BE TAKEN TO COMPLY WITH THAT STRATEGY:

In April 2019, the Commission issued an order opening a rulemaking to begin a review of the Net-Metering Rule. The Commission opened the rulemaking in response to a request for guidance regarding the definition of "preferred site" filed by the Vermont Department of Public Service, the Vermont Agency of Natural Resources, and the Natural Resources Board. In opening up the Rule for changes, the Commission and stakeholders also identified other sections of the Rule to amend, many of which have been raised as practical issues by State agencies and other participants since 2017, when the current Net-Metering Rule was implemented in Vermont.

During the course of this rulemaking proceeding, the Commission has circulated three proposed drafts of amendments to Rule 5.100, conducted three workshops, solicited rounds of written comments on each rule draft and after the workshops, and received and reviewed over

Public Input

200 comment letters from stakeholders and the general public. At the workshops, the Commission heard from stakeholders on net-metering application and administrative processes and issues, tree clearing related to net-metering projects, how to address net-metering in the Sheffield-Highgate Export Interface and future constrained areas in Vermont, and net-metering compensation.

After the Rule receives approval from the Interagency Committee on Administrative Rules, the Commission plans to hold a virtual public hearing to receive verbal comments on the Rule and anticipates receiving further written comments on the Rule from stakeholders during the formal public comment period.

4. BEYOND GENERAL ADVERTISEMENTS, PLEASE LIST THE PEOPLE AND ORGANIZATIONS THAT HAVE BEEN OR WILL BE INVOLVED IN THE DEVELOPMENT OF THE PROPOSED RULE:

- Aegis Renewable Energy, Inc.
- Agency of Agriculture, Food and Markets
- Agency of Natural Resources
- AllEarth Renewables, Inc.
- Associated Industries of Vermont
- Chittenden County Regional Planning Commission
- Conservation Law Foundation
- Department of Public Service
- Encore Renewable Energy
- Energy Clinic at Vermont Law School
- Green Lantern Development, LLC
- MHG Solar, LLC
- Natural Resources Board
- Northwest Regional Planning Commission
- Norwich Solar Technologies
- private individuals
- Regulatory Assistance Project

Public Input

- Renewable Energy Vermont
- Sharon Energy Committee
- Solaflect
- Springfield Energy Committee
- Sunrun, Inc.
- Town of Colchester
- Triland Partners LP
- Two Rivers-Ottawaquechee Regional Commission
- VHB
- Vermont Association of Planning and Development Agencies
- the Vermont electric distribution utilities;
- Vermont Electric Power Company, Inc.
- Vermont Public Power Supply Authority
- Vermonters for a Clean Environment
- Vote Solar

Scientific Information Statement

THIS FORM IS ONLY REQUIRED IF THE RULE RELIES ON SCIENTIFIC INFORMATION FOR ITS VALIDITY.

PLEASE REMOVE THIS FORM PRIOR TO DELIVERY IF IT DOES NOT APPLY TO THIS RULE FILING:

Instructions:

In completing the Scientific Information Statement, an agency shall provide a summary of the scientific information including reference to any scientific studies upon which the proposed rule is based, for the purpose of validity.

1. TITLE OF RULE FILING:

5.100 Rule Pertaining to Construction and Operation of Net-Metering Systems (the "Net-Metering Rule")

2. ADOPTING AGENCY:

Vermont Public Utility Commission

3. BRIEF EXPLANATION OF SCIENTIFIC INFORMATION:

For purposes of the limitation on "significant forest clearing," the Commission had to decide upon a definition of "forest." The Commission relied upon the Vermont Agency of Natural Resources' recommendation that the Rule include the definition of forest used by the U.S. Forest Service. The Forest Inventory and Analysis Program of the U.S. Forest Service defines a forest as having at least 10% canopy cover and being at least one acre in size and 120 feet wide.

4. CITATION OF SOURCE DOCUMENTATION OF SCIENTIFIC INFORMATION:

See e.g., Vermont Forests Report 2017, United States Department of Agriculture, p. 7, available at: <https://fpr.vermont.gov/forest-inventory-and-analysis-fia>.

5. INSTRUCTIONS ON HOW TO OBTAIN COPIES OF THE SOURCE
DOCUMENTS OF THE SCIENTIFIC INFORMATION FROM THE AGENCY
OR OTHER PUBLISHING ENTITY:

The cited document is available at the link provided
above.

5.100 RULE PERTAINING TO CONSTRUCTION AND OPERATION OF NET-METERING SYSTEMS**TABLE OF CONTENTS**

PART I: GENERAL PROVISIONS.....	3
5.101 Purpose and Scope.....	3
5.102 Computation of Time	3
5.103 Definitions.....	4
PART II: REGISTRATIONS AND APPLICATIONS FOR CPGS.....	12
5.104 Eligibility.....	12
5.105 Registration of Hydroelectric Facilities, Ground-Mounted Photovoltaic Facilities of up to 15 kW in Capacity, and Roof-Mounted Photovoltaic Net-Metering Systems of Any Capacity Up to 500 kW	12
5.106 Applications for Ground-Mounted Photovoltaic Net-Metering Systems Greater Than 15 kW and Up to and Including 50 kW and for Facilities Using Other Technologies Up to and Including 50 kW.....	13
5.107 Applications for Net-Metering Systems Greater Than 50 kW That Are Not Roof- Error! Bookmark not defined.	
5.108 Amendments to Pending Registrations and Applications	21
5.109 Substantial Change to Approved Net-Metering Systems and Amendment of CPGs 22	
5.110 Transfer and Abandonment of CPGs	23
5.111 Substantive Criteria of 30 V.S.A. § 248(b) Applicable to Net-Metering CPG Registrations and Applications	24
5.112 Aesthetic Evaluation of Net-Metering Projects	25
5.113 Setbacks	27
PART III: PARTICIPATING IN THE REVIEW OF APPLICATIONS FOR CPGS.....	28
5.114 Obtaining Information About a Net-Metering CPG Application.....	28
5.115 Rules and Processes Applicable to the Review of Net-Metering CPG Applications 28	
5.116 Submission of Public Comments.....	28
5.117 Party Status in Net-Metering CPG Proceedings	28
5.118 Requests for Hearing.....	30
5.119 Circumstances When the Commission Will Grant a Request for Hearing	30
5.120 Prehearing Conferences and Status Conferences.....	31
5.121 Discovery..... Error! Bookmark not defined.	
5.122 Procedure for Hearings	31
5.123 Decisions	32
5.124 Appeals of Commission Decisions	32
PART IV: THE NET-METERING PROGRAM.....	33
5.125 Pre-Existing Net-Metering Systems	33
5.126 Energy Measurement for Net-Metering Systems	34
5.127 Determination of Applicable Rates and Adjustors.....	38

5.128	Biennial Update Proceedings.....	40
5.129	Billing Standards and Procedures.....	42
5.130	Group System Requirements	43
5.131	Interconnection Requirements.....	44
5.132	Disconnection of a Net-Metering System.....	45
5.133	Electric Company Requirements	46
5.134	[DELETED]	Error! Bookmark not defined.
5.135	Participation in Wholesale Markets	47
5.136	Mitigation Fee for Constrained Areas of the Grid.....	47
5.137	Energy Storage Facility Electrically Connected to a Net-Metering System.....	47
PART V:	COMPLIANCE PROCEEDINGS	49
5.138	Compliance Proceedings	49

PART I: GENERAL PROVISIONS**5.101 Purpose and Scope**

- (A) This Rule governs the terms upon which any electric company offers net-metering service within its service territory. In addition, this Rule governs the application for and issuance, amendment, transfer, and revocation of a certificate of public good for net-metering systems under the provisions of 30 V.S.A §§ 248, 8002, and 8010.
- (B) Except as modified by Section 5.125 (Pre-Existing Net-Metering Systems), this Rule applies to all net-metering systems 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 Commission.
- (C) No person may 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.
- (D) In the event that any portion of this Rule is found by a court of competent jurisdiction to be illegal or void, the remainder is unaffected and continues in full force and effect.

5.102 Computation of Time

- (A) Computation. Under this Rule, time is computed in accordance with Commission Rule 2.207.
- (B) Enlargement. The Commission 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 or other good cause.

5.103 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.

“Adjustor” means a positive or negative charge applied to production kWh based on factors related to site selection (Site Adjustor) and retention of tradeable renewable energy credits (REC Adjustor).

“Amendment” means a request for approval of a modification to a proposal that is either under review or has been approved by the Commission. The term amendment also includes requests to change the terms or conditions of a CPG issued by the Commission.

“Applicant” means the entity seeking authorization to construct and operate a net-metering system.

“Billing Meter” means an electric meter that measures either the consumption of electricity by a customer or the net of electric consumption by the customer and production by the net metering system.

“Blended Residential Rate” means the lesser of either:

- (1) For electric companies whose general residential service tariff does not include inclining block rates, the \$/kWh charge set forth in that electric company’s tariff for general residential service;
- (2) For electric companies whose general residential service tariff does include inclining block rates, a blend of the electric company’s general residential service inclining block rates that is determined by adding together all of the revenues to the company during the most recent calendar year from kWh sold under those block rates and dividing the sum by the total kWh sold by the company at those rates during the same year; or
- (3) The weighted statewide average of all electric company blended residential retail

rates, as determined by the Commission, whichever is lower.

“Capacity” means the rated electrical nameplate for a plant, except that, in the case of a solar energy plant, the term means the aggregate AC nameplate capacity of all inverters used to convert the plant’s output to AC power. The capacity of an inverter is not changed when it is derated.

“Category I Net-Metering System” means a net-metering system that is not a hydroelectric facility and that has a capacity of 15 kW or less.

“Category II Net-Metering System” means a net-metering system that is not a hydroelectric facility that has a capacity of more than 15 kW and less than or equal to 150 kW, and that is sited on a preferred site.

“Category III Net-Metering System” means a net-metering system that is not a hydroelectric facility, that has a capacity of greater than 150 kW and less than or equal to 500 kW, and that is sited on a preferred site.

“Category IV Net-Metering System” means a net-metering system that is not a hydroelectric facility, that has a capacity of greater than 15 kW and less than or equal to 150 kW, and that is not located on a preferred site.

“Certificate Holder” means one who holds a CPG. The certificate holder must have legal control of the net-metering system.

“Certificate of Public Good” or “CPG” means a certificate of public good issued by the Commission pursuant to 30 V.S.A. § 8010.

“Commission” means the Public Utility Commission of the State of Vermont and the employees thereof.

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

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

“Customer” means a retail electric consumer.

“Department” means the Vermont Department of Public Service.

“Earth disturbance” means construction activities including clearing, grading, and excavating, but does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

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

“Excess Generation” means the following: for customers who elect to wire net-metering systems such that they offset consumption on the billing meter, excess generation is the number of kWh by which production exceeds consumption. For customers who elect to wire net-metering systems such that they do not offset consumption on any customer’s billing meter, all recorded production is considered excess generation.

“File” means the submission of documents, exhibits, plans, information, or other materials to the Commission through the Commission’s electronic filing system, by delivery to the Commission’s offices, or by delivery to the Commission during the course of a hearing.

“Group Net-Metering System” means a net-metering system serving more than one customer, or a single customer with multiple electric meters, located within the service area of the same retail electricity provider. Various buildings owned by municipalities, including water and wastewater districts, fire districts, villages, school districts, and towns, may constitute a group net-metering system. A union or district school facility shall be considered in the same group net-metering system with buildings of its member municipalities that are located within the service area of the same retail electricity provider that serves the facility.

“Host Landowner” means the owner of the property on which the net-metering system is or will be located.

“kW” means kilowatt or kilowatts (AC).

“kWh” means kilowatt hours.

“Inclining Block Rate” means a rate structure where an electric company charges a higher rate for each incremental block of electricity consumption.

“Interconnection Facilities” means all facilities and equipment between the generation resource and the point of interconnection, including any modifications, additions, or upgrades that are necessary to physically and electrically interconnect the generation resource to the interconnecting utility’s distribution or transmission system. Interconnection facilities are sole-use

facilities and do not include system upgrades.

“Project Limits” means the boundary within which all construction, materials storage, earth disturbance, vegetation clearing, planting, management, landscaping, and any other activities related to site preparation, construction, operation, maintenance, and decommissioning take place as a result of the net-metering system, including the creation or modification of access roads and utility lines.

“Net-Metering” means measuring the difference between the electricity supplied to a customer and the electricity fed back by the customer’s 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 the 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 for generation of electricity that:

(1) is of no more than 500 kW capacity;

(2) operates in parallel with facilities of the electric distribution system;

(3) is intended primarily to offset the customer’s own electricity requirements and does not primarily supply electricity to electric vehicle supply equipment, as defined in 30 V.S.A. § 201, for the resale of electricity to the public by the kWh or for other retail sales to the public, including those based in whole or in part on a flat fee per charging session or a time-based fee for occupying a parking space while using electric vehicle supply equipment; and

(4) either employs a renewable energy source or is a qualified micro-combined heat and power system of 20 kW or less that meets the definition of combined heat and power facility in subsection 8015(b)(2) of Title 30 and uses any fuel source that meets air quality standards.

“Non-Bypassable Charges” means those charges on the electric bill defined in an electric company’s tariffs that apply to a customer regardless of whether they net-meter or not. Non-bypassable charges may not be offset using current or previous net-metering credits. A customer

is liable for payment of these charges regardless of whether the customer has a credit balance resulting from net-metering. The customer charge, energy efficiency charge, energy assistance program charge, any on-bill financing payment, and any equipment rental charge are non-bypassable charges.

“Party” means any person who has obtained party status under Section 5.117 of this Rule.

“Plant” means an independent technical facility that generates electricity from renewable energy. A group of facilities, such as wind turbines, will be considered one plant if the group is 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, proximity in time of construction, and proximity of facilities to each other will be relevant to determining whether a group of facilities is part of the same project.

“Pre-Existing Net-Metering System” means a net-metering system for which a completed CPG application was filed with the Commission prior to January 1, 2017, and whose completed application was either filed at a time when net-metering was being offered by the electric company pursuant to 30 V.S.A. § 219a (h)(1)(A) as the statute existed on December 31, 2016, or qualified under state law as a system that did not count towards the capacity limit on net-metering contained in that statute.

“Preferred Site” means one of the following, provided that the site does not require significant forest clearing:

- (1) A new or existing constructed impervious surface or structure whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity.
- (2) A parking lot canopy over a parking lot, provided that the location remains in use as a parking lot.
- (3) A tract previously developed for a use other than siting a plant on which a structure or constructed impervious surface was lawfully in existence and use at any time during the year preceding the date an application for a certificate of public good under this Rule is filed. To qualify under this subdivision (3), more than half of the energy generation component of the plant must be located within the footprint of either the existing structure or impervious surface. The project limits may not

include any headwaters, streams, shorelines, floodways, rare and irreplaceable natural areas, necessary wildlife habitat, wetlands, endangered species, productive forest soils, or primary agricultural soils, all of which are as defined in 10 V.S.A. chapter 151. For purposes of this subsection, the energy generation component of the plant does not include interconnection facilities.

- (4) Land certified by the Secretary of Natural Resources to be a brownfield site as defined under 10 V.S.A. § 6642, provided any request to the Secretary of Natural Resources for such certification includes a report from a diligent and appropriate investigation, as required by 10 V.S.A. chapter 159.
- (5) A sanitary landfill as defined in 10 V.S.A. § 6602 and contiguous land, structures, appurtenances, and improvements on the land used for treating, storing, or disposing of solid waste, provided that the Secretary of Natural Resources certifies that the land constitutes such a landfill and contiguous land, structures, appurtenances, or improvements, and that the landfill is actively maintained under the authority of a post-closure certification, administrative order, or assurance of discontinuance, or in custodial care as recognized by the Agency of Natural Resources. To qualify under this subdivision (5), some portion of the plant must be located on the landfill cap.
- (6) A gravel pit, quarry, or similar site for the extraction of a mineral resource, provided that:
 - (a) more than half of the energy generation component of the plant is located within the disturbed or previously disturbed portion of the extraction site. For purposes of this subsection, the energy generation component of the plant does not include interconnection facilities; and
 - (b) all state and local permit conditions related to reclamation of the site are satisfied before the operation of the plant.
- (7) A specific location determined by the governing municipal legislative body and the municipal and regional planning commissions as suitable for the development of a net-metering system consistent with applicable policies in their respective plans. The specific location must be identified in a letter or letters from the municipal

legislative body and the municipal or regional planning commissions based on their evaluation after having received the 45-day notice for the project. Such letters in no way limit the ability of municipalities and regional planning commissions to participate in the Commission's review of the net-metering system proposed to be constructed on the location identified in the letter.

- (8) A site listed on the National Priorities List (NPL) established under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. chapter 103, if the U.S. Environmental Protection Agency or the Agency of Natural Resources confirms that the site is listed on the NPL, and provided that the applicant demonstrates as part of its CPG application that:
 - (a) development of the plant on the site will not compromise or interfere with remedial action on the site; and
 - (b) the site is suitable for development of the plant.
- (9) On the same parcel as, or directly adjacent to, a customer that has been allocated more than 50 percent of the net-metering system's electrical output. The allocation to the host customer may not be less than 50 percent during each of the first 10 years of the net-metering system's operation.

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

"Significant Forest Clearing" means clearing more than three acres of forest. For purposes of this Rule, the word forest means land that has at least 10 percent canopy cover by live trees of any size and associated naturally occurring vegetation or has had at least 10 percent canopy cover of live trees and associated naturally occurring vegetation in the past and has stumps, snags, or other evidence indicating that it has not been converted to a non-forest use at the time of a CPG application filing. To qualify as forest, an area must be at least one acre in size and 120 feet wide. In determining whether an area is at least one acre in size or 120 feet wide, any portion of a group or contiguous area of trees that extends beyond the project or parcel boundaries must be counted. Canopy cover must be measured from the outermost edge of tree crowns across a group or contiguous area of trees. The three-acre limit on significant forest clearing is cumulative and includes each discrete area of any forest proposed for clearing. Clearing of individual trees that are not part of a forest will not count toward the three-acre

limit on significant forest clearing.

“Substantial Change” means a change to a proposed or approved net-metering system that has the potential for significant impact with respect to any of the criteria of Section 248(b) or on the general good of the State under Section 248(a).

“Time-of-Use Meter” means an electric meter that measures the consumption of electricity during defined periods of the billing cycle.

“TOU” means time-of-use.

“Tradeable Renewable Energy Credit or REC” 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 Commission, or any program for tracking and verifying the ownership of environmental attributes of energy that is legally recognized in any state and approved by the Commission.
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PART II: REGISTRATIONS AND APPLICATIONS FOR CPGS

5.104 Eligibility

To be eligible to apply for a net-metering CPG under this Rule, an applicant must propose one of the following:

- (A) A category I net-metering system;
- (B) A category II net-metering system;
- (C) A category III net-metering system;
- (D) A category IV net-metering system; or
- (E) A hydroelectric system with a capacity of 500 kW or less.

5.105 Registration of Hydroelectric Facilities, Ground-Mounted Photovoltaic Facilities of up to 15 kW in Capacity, Roof-Mounted Photovoltaic Net-Metering Systems of Any Capacity Up to 500 kW, and Mixed Ground- and Roof-Mounted Systems of up to 500 kW Where the Ground-Mounted Portion Does Not Exceed 15 kW

(A) Applicability. The registration procedure is applicable only to hydroelectric facilities, ground-mounted photovoltaic systems of up to 15 kW, photovoltaic net-metering systems that are mounted on a roof, and mixed ground- and roof-mounted systems of up to 500 kW where the ground-mounted portion of the system does not exceed 15 kW.

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

(C) Timeframes. Unless otherwise directed by the Commission, a CPG will be deemed issued by the Commission without further proceedings, findings of fact, or conclusions of law, and the applicant may commence construction of the system on the 15th day following the filing of the form.

(D) Service. Upon filing the net-metering registration form with the Commission, the Commission's electronic filing system will send notice of the registration to the electric company, the Department, and the Agency of Natural Resources.

(E) Interconnection. All CPGs deemed issued under this Rule are conditioned on the CPG holder complying with all electric company interconnection requirements. Interconnection approval must be obtained from the electric company pursuant to Rule 5.500.

- (1) For systems up to 15 kW, a registration form filed under this Rule constitutes a Rule 5.500 interconnection application. The review of the

interconnection application by the electric company is governed by Rule 5.500.

- (2) For systems greater than 15 kW, the applicant must obtain interconnection approval from the electric company under Rule 5.500 before submitting a registration form under this Rule.

5.106 Applications for Ground-Mounted Photovoltaic Net-Metering Systems Greater Than 15 kW and up to and Including 500 kW and for Facilities Using Other Technologies up to and Including 500 kW

(A) Applicability. This application procedure is applicable to ground-mounted photovoltaic net-metering systems that are greater than 15 kW and up to 500 kW in capacity and mixed ground- and roof-mounted systems of up to 500 kW where the ground-mounted portion of the system exceeds 15 kW. This application procedure is also applicable to net-metering systems that use eligible technologies other than photovoltaic systems. This application procedure does not apply to hydroelectric facilities or roof-mounted photovoltaic net-metering systems with no ground-mounted system.

(B) Form and Content. An application for a CPG under this subsection must be filed with the Commission in accordance with the Commission's current filing procedures, using the application form prescribed by the Commission, and must contain all of the information required by this Rule and the instructions for that form. The Commission will develop forms for:

- (1) Photovoltaic systems where the capacity of the ground-mounted portion of the system is greater than 15 kW, up to and including 50 kW;
- (2) Net-metering systems using a technology other than photovoltaics up to and including 50 kW; and
- (3) Net-metering systems with a capacity of greater than 50 kW up to and including 500 kW.

(C) Advance Submission Requirements. The applicant must provide notice of the application as follows:

- (1) Recipients Entitled to Advance Submission. The applicant must provide the following persons with an advance submission, at least 45 days in advance of filing the application with the Commission:
 - (a) the municipal legislative bodies and municipal and regional planning commissions in the communities where the project will be located;
 - (b) all adjoining landowners;

- (c) the host landowner;
 - (d) the Department of Public Service;
 - (e) the Agency of Natural Resources;
 - (f) the Natural Resources Board, if the proposed net-metering system is located on a resource extraction site;
 - (g) the Division for Historic Preservation;
 - (h) the Agency of Agriculture Food and Markets;
 - (i) the electric company; and
 - (j) the Commission.
- (2) Method of Service of Advance Submission. The applicant must provide the advance submission to the municipal legislative body, municipal planning commission, adjoining landowners, and the host landowner by first-class mail, personal delivery, or any other means authorized by the persons entitled to service. Adjoining landowners must be identified using the host town's certified grand list as it existed no more than 60 days before the date of the advance submission or online through the Vermont Center for Geographic Information database, municipality-specific databases, the Vermont Department of Taxes grand lists, or electronic versions of grand lists maintained by municipalities. An applicant must verify with the relevant municipality that the online database provides accurate and current information regarding parcel ownership within that municipality. Documentation of verification must be signed and attested to by an applicant. Service of the advance submission on the state agencies, electric company, and regional planning commission will occur through ePUC, the Commission's electronic filing system.
- (3) Contents of Advance Submission. The advance submission must state that the applicant intends to file a Section 8010 application with the Commission, must identify the location of the project site, and must provide a description of and site plan for the proposed project, including any aesthetic mitigation plan, in sufficient detail 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 Commission's jurisdiction to address. The submission must 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 Commission once the application is filed.

- (4) Timing of Advance Submission and Application. If, within 180 days of the date of the advance submission, the applicant has not filed a complete application for the project that fully complies with the filing requirements of this Rule, the submission will be treated as withdrawn without further action required by the Commission.

(D) Filing Requirements. Applications must contain the following information.

Failure to provide any required information will result in the application being deemed incomplete:

- (1) Applicant name. The application must include the legal name (and the "doing business as" name, if different), contact information, Vermont business registration number (if applicable), and a description of the company or person making the application. For example:
XYZ Corporation (d/b/a ABC Solar)
Headquarters at 123 Maple Lane, Anytown, VT 05600
Service Agent: Jane Doe, Esq.
VT Business ID#: 12345
- (2) Host landowner. The application must include the name and address of the legal owner of the land on which the proposed net-metering system would be built.
- (3) Adjoining landowners. The application must include the names and addresses of all adjoining landowners. Adjoining landowners must be identified using the host town's certified grand list as it existed no more than 60 days before the date of the advance submission or online through the Vermont Center for Geographic Information database, municipality-specific databases, the Vermont Department of Taxes grand lists, or electronic versions of grand lists maintained by municipalities. An applicant must verify with the relevant municipality that the online database provides accurate and current information regarding parcel

ownership within that municipality. Documentation of verification must be signed and attested to by an applicant.

- (4) Certification that advance submission requirements have been met. The applicant must certify that it has complied with the advance submission requirements listed above.
- (5) Site plans. The applicant must provide a site plan for each project. A site plan must include:
 - (a) Proposed facility location, any project features, and project limits;
 - (b) Approximate property boundaries and setback distances from those boundaries to the corner of the closest project-related structure, approximate distances to any nearby residences, and dimensions of all proposed improvements;
 - (c) 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;
 - (d) Locations, specific descriptions, and the total acreage of any areas where vegetation is to be cleared or altered, proposed earth disturbance, a description of any proposed direct or indirect alterations to or impacts on wetlands or other natural resources protected under 30 V.S.A. § 248(b)(5), including the project limits, and the total acreage of forest clearing;
 - (e) 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;
 - (f) Locations and specific descriptions of proposed screening, aesthetic mitigation, landscaping, groundcover, fencing, exterior lighting, and signs;
 - (g) 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
 - (h) The latitude and longitude coordinates for the proposed project.
- (6) Wetland delineation. The applicant must provide either a wetland

delineation prepared by a qualified consultant, or a letter from the district wetland ecologist or a qualified consultant stating that no delineation is necessary because the net-metering system will not be proximate to any significant wetlands. The wetland delineation must have been completed within the five years before the date of the application.

- (7) Response to comments received in response to 45-day advance submission. The applicant must file a document summarizing the comments and recommendations received in response to the 45-day notice. The document must respond to the issues raised in those comments and recommendations and must state what steps the applicant has taken to address those issues or why the applicant is unable to do so.
- (8) Preferred-Site Documentation.
 - (a) Brownfields. If a project will be located on a brownfield and an applicant claims preferred-site status under subsection (4) or (7) of the definition of “preferred site,” the applicant must provide a site investigation report, as required by the Agency of Natural Resources’ Investigation and Remediation of Contaminated Properties Rule, or a letter from the Secretary of Natural Resources stating that a site investigation report is not necessary.
 - (b) Resource extraction sites. If a project will be located on a resource extraction site and an applicant claims preferred-site status under subsection (6) or (7) of the definition of “preferred site,” the applicant must provide:
 - (i) Evidence depicting what is or was the disturbed portion of the site, which may include plans for the extraction site, aerial photographs, topographic surveys, and information about vegetative communities; and
 - (ii) If the extraction site has state or local permits with reclamation requirements, copies of such permits and documentation from the permitting agency stating that all permit reclamation requirements have been or will be satisfied before operation of the plant.
- (9) Proof of interconnection approval. The applicant must receive approval

to interconnect the proposed net-metering system to the interconnecting utility's distribution system before filing an application. Interconnection applications and disputes about interconnection requirements are governed by Rule 5.500.

- (10) A statement of whether the proposed net-metering system will be in a flood hazard area or river corridor and whether the proposal will comply with the Agency of Natural Resources' Flood Hazard Area and River Corridor Rule.
- (11) Adjacent facilities. The applicant must identify any known (e.g., visible from the project site, or developed by the same applicant, developer, installer, or an affiliated entity) existing or planned generation facilities on the same or an adjacent parcel as the proposed net-metering system. The applicant must:
 - (a) State the distance between the facilities;
 - (b) Identify the owner(s) of the facilities and explain their relationship, if any;
 - (c) Describe the timing of the construction of the facilities;
 - (d) Identify and describe any infrastructure shared by the facilities; and
 - (e) Provide a site plan showing the two facilities.
- (12) Systems greater than 50 kW must provide the following:
 - (a) Required evidence, project narrative, proposed findings, and proposed CPG. The applicant must provide evidence demonstrating that the proposed net-metering system will meet the criteria applicable to the system under Section 5.111 of this Rule. A witness sponsoring evidence must file a notarized affidavit stating that the information provided is accurate to the best of the witness's knowledge. All evidence must 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 evidence. The applicant must include a brief project narrative describing the project in plain terms. The

applicant must file proposed findings of fact and a proposed CPG with the application.

- (b) The presence and total acreage of primary agricultural soils as defined in 10 V.S.A. § 6001 on each tract to be physically disturbed in connection with the construction and operation of the net-metering system, the amount of those soils to be disturbed, and any other proposed impacts to those soils.
- (c) For each proposed structure, the applicant must provide elevation drawings. The elevation drawings must be to appropriate scales but no smaller than 1"/20'.
 - (i) The applicant must 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 must show height of the structure above grade at the base, and describe the proposed finish of the structure.
 - (ii) The elevation drawing must indicate the relative height of the facility to the tops of surrounding trees as they presently exist.
- (d) Local and regional plans. The applicant must provide copies of the relevant sections of any town plan and regional plan in effect in the community in which the proposed facility will be located. The applicant must describe how the project complies with or is inconsistent with the land conservation measures in those plans.
- (e) Decommissioning plan. All applications for net-metering systems with capacities equal to or greater than 150 kW must include a decommissioning plan that provides for the removal and safe disposal of project components and the restoration of any primary agricultural soils, if such soils are present within the net-metering system's project limits.

(E) **Review for Administrative Completeness.** Commission staff will review all filed applications to determine whether they are administratively complete enough to process. Applicants should receive an e-mail message with the results of this review within 7 days of the date the Commission received the application; however, the expiration of this time period without the receipt of an e-mail message does not constitute a determination that the application is administratively complete enough to process. If the application is found to be complete, the applicant must provide copies of the application to the persons set forth in Sections 5.106(F), below. If the application is found to be incomplete, the applicant will be informed of the deficiencies and will be given an opportunity to cure them. A determination that an application is administratively complete enough to process is not a legal determination regarding the sufficiency of the information included in the application.

(F) **Service of Notice of Applications.** Within 2 days after the application is determined to be administratively complete, the applicant must serve notice of the application in accordance with this section.

(1) **Entities Entitled to Notice of the Application:**

- (a) the municipal legislative bodies and the municipal and regional planning commissions where the net-metering system will be located;
- (b) the host landowner;
- (c) all adjoining landowners;
- (d) the Department of Public Service;
- (e) the Agency of Natural Resources;
- (f) the Natural Resources Board, if the proposed net-metering systems is located on a resource extraction site;
- (g) the Division for Historic Preservation;
- (h) the Agency of Agriculture Food and Markets; and
- (i) the electric company.

(2) **Method of Service.**

Notice to state agencies, the electric company, and regional planning commissions will occur through ePUC. The applicant must provide notice to any affected municipal legislative body and planning commission, host landowner, and adjoining landowners by first-class mail, personal delivery, or any other means

authorized by the person entitled to service. This notice must include, at a minimum, the case number, a reference and link to the advance submission required under Rule 5.106(C), a general description of the proposed net-metering system and its location, a statement that a complete application has been filed with the Commission and that the case has been opened, and information and a link that will allow the recipient to access the complete application electronically. The notice must also include instructions on how a recipient can contact the applicant to obtain a hard copy of the complete project plans and petition if the recipient is not able to access them electronically. If a hard copy is requested by the recipient, the applicant must serve it by first-class mail or its equivalent within 4 days of the request.

(G) Effect of Failure to Provide Timely Service. The Commission will grant reasonable extensions of time to the entities listed under (F)(1), above, to make a responsive filing when the applicant fails to cause timely service of notice of an application.

5.107 [DELETED]

5.108 Amendments to Pending Registrations and Applications

(A) An applicant may amend a pending Section 5.105 registration by filing an amended registration form in the pending registration case. The applicant must pay the modification fee set forth in 30 V.S.A. § 248c(d). The filing of an amended registration form will trigger a new 14-day review period and a CPG will be deemed issued on the 15th day after the filing, unless otherwise ordered by the Commission.

(B) An applicant may amend a pending Section 5.106 application by filing a motion in the pending application case. The applicant must pay the modification fee set forth in 30 V.S.A. § 248c(d). Applicants must provide notice of all substantial changes to all persons and entities who were entitled to receive a copy of the original application. The motion must include sufficient information, including an amended site plan, so that the Commission can understand the nature of the proposed change and its impact, if any, under any of the Section 248 criteria. In response to a motion to amend, the Commission may, in its discretion:

- (1) request additional information from the applicant;
- (2) request comments from interested persons; and
- (3) undertake any other process necessary to ensure the adequate review of the proposed amendment.

(C) Effect of amendment on applicable REC and siting adjustors. Except as provided below, the REC and siting adjustors applicable to an amended net-metering system, if any, will be based on the date that the first, complete application or registration was filed with the Commission and not on the date that the amendment request was filed. An amendment or series of amendments that increase the capacity of a net-metering system by more than 5% or 10 kW, whichever is greater, will trigger the application of the most recently adopted siting and REC adjustors to the entire output of the amended net-metering system.

(D) Any amendment that is a material modification, as that term is defined in Rule 5.500, must be approved by the interconnecting utility before the amendment motion is filed with the Commission.

5.109 Substantial Changes to Approved Net-Metering Systems and Amendment of CPGs

Commission approval is required for any substantial change to the plans of a net-metering system that has been issued or deemed issued a certificate of public good. An amended CPG, necessitated by changes substantial or non-substantial, may be obtained in the following manner:

(A) If the amended system meets the eligibility criteria to register for a CPG under Section 5.105, then the CPG holder may obtain an amended CPG by filing a revised registration form with the Commission. The registration must be filed as a new case in ePUC and will receive a new case number. The CPG holder requesting an amendment must submit the fee due for modifications under 30 V.S.A. § 248c(d)(3)(B).

(B) Amendment of CPGs issued pursuant to Rule 5.106. If the approved net-metering system has not been commissioned at the time the change is proposed, a request for an amendment to the CPG may be filed in the same case in which the CPG was issued. If the case in which the CPG was issued has been closed, the CPG holder must contact the Clerk of the Commission before filing. If the approved net-metering system has been commissioned, then the request for an amendment must be filed in a new case. The CPG holder requesting an amendment must submit the fee due for modifications under 30 V.S.A. § 248c(d)(3)(B).

(1) The CPG holder must provide notice of substantial changes to all parties to the original CPG case and the entities entitled to notice of a new application, including any newly

affected adjoining landowners. Notice does not need to be given to previous adjoining landowners who have transferred their interests since the time of the project's approval. New case procedures, including the provision of a 45-day advance submission, do not apply. The request must include evidence addressing each of the applicable Section 248 criteria under which the change has the potential to have a significant impact.

(2) The CPG holder must provide notice of requests for amendments to CPGs that are the result of non-substantial changes to the parties to the original CPG case. New case procedures, including the provision of a 45-day advance submission, do not apply. The request must include sufficient information for the Commission to determine that the proposed changes do not have the potential for significant impact under the applicable Section 248 criteria.

(C) The maintenance and repair of net-metering systems and the replacement of equipment with like equipment do not require advance notice or Commission approval.

(D) Effect of amendment on applicable REC and siting adjustors. Except as provided below, the REC and siting adjustors applicable to an amended net-metering system, if any, will be based on the date that the first, complete application or registration was filed with the Commission and not on the date that the amendment request was filed. An amendment or series of amendments that increase the capacity of a net-metering system by more than 5% or 10 kW, whichever is greater, will trigger the application of the most recently adopted siting and REC adjustors to the entire output of the amended net-metering system.

(E) Any amendment that is a material modification, as that term is defined in Rule 5.500, must be approved by the interconnecting utility before the amendment is proposed to the Commission.

5.110 Transfer and Abandonment of CPGs

(A) A CPG for a net-meteringsystem 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 the new owner provides written notice of the transfer to the electric company.

(B) A CPG for a net-metering system that is transferred independently of a change in ownership of the property hosting the net-metering system may be transferred provided that:

- (1) the original certificate holder is in compliance with all terms and conditions of the CPG;
- (2) the new certificate holder complies with all terms and conditions of the CPG and complies with this Rule 5.100; and

- (3) within 30 days after acquiring ownership of the system, the new owner of a ground-mounted system completes and files an official transfer form with the Commission, the Department of Public Service, the Agency of Natural Resources, and the electric company, or within 30 days after acquiring ownership of the system, the new owner of a roof-mounted system completes and files an official transfer form with the Commission, the Department of Public Service, and the electric company.
- (C) Abandonment. Non-use of a CPG for a period of one year following the date the CPG is issued will result in the revocation of the CPG without further action by the Commission. For the purpose of this section, for a CPG to be considered used, the net-metering system must be commissioned. A CPG holder may obtain an automatic one-year extension of time by providing written notice to the Commission and the electric company. Such notice must be (1) filed in the case in which the CPG was issued or deemed issued, unless the case is closed, in which case the filer should contact the Clerk, and (2) filed before the one-year anniversary of CPG issuance; otherwise the CPG will be deemed revoked. Further extensions will only be granted upon written request and for good cause shown before expiration of the CPG. A CPG holder may abandon a CPG before construction by providing written notice to the Commission, the Department, the Agency of Natural Resources, and the electric company.

5.111 Substantive Criteria of 30 V.S.A. § 248(b) Applicable to Net-Metering CPG Registrations and Applications

Pursuant to 30 V.S.A. § 8010, which provides that the Commission may waive the requirements of 30 V.S.A. § 248(b) that are not applicable to net-metering systems, the Commission will review registrations and applications for net-metering systems for compliance with the following statutory criteria. All other criteria are conditionally waived.

- (A) For state-jurisdictional hydroelectric net-metering systems and for net-metering systems that are located on a new or existing structure whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity: 30 V.S.A. § 248(b)(3).
- (B) For net-metering systems that are not located on a new or existing structure whose primary use is not the generation of electricity or providing support for the

placement of equipment that generates electricity and that elect to *transfer* the tradeable renewable energy credits to the electric company: 30 V.S.A. §§ 248(b)(1); (b)(3); (b)(5), except that the applicant does not need to address the effect of the net-metering system on municipal services, educational services, transportation, water conservation, sufficiency of water, existing water supply, or greenhouse gases; (b)(8); and Section 248(s).

- (C) For net-metering systems that are not located on a new or existing structure whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity and that elect to *retain* the tradeable renewable energy credits generated by the net-metering system: 30 V.S.A. §§ 248(b)(1); (b)(2); (b)(3); (b)(5), except that the applicant does not need to address the effect of the net-metering system on municipal services, educational services, transportation, water conservation, sufficiency of water, existing water supply, or greenhouse gases; (b)(8); and Section 248(s).

5.112 Aesthetic Evaluation of Net-Metering 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 Commission applies the so-called “Quechee test” as described in the case *In Re Halnon*, 174 Vt. 515(2002) (mem.), set forth below:

- (1) Step one: Determine whether the project would have an adverse impact on aesthetics and the scenic and natural beauty of an area because it would not be in harmony with its surroundings. If the answer is no, then the project satisfies the aesthetics criterion. If yes, move on to step two.
- (2) Step two: The adverse impact will be found to be undue if any one of the three following questions is answered affirmatively:
 - (a) Would the project violate a clear, written community standard intended to preserve the aesthetics or scenic, natural beauty of the area?
 - (b) Would the project offend the sensibilities of the average person?
 - (c) 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?

(B) **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)(1), above, the Commission 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.

(C) **Clear, Written Community Standard.** In order to find that a project would violate a clear, written community standard, the Commission must find that the Project is inconsistent with a provision of the applicable town or regional plan that:

- (1) Designates specific scenic resources in the area where the project is proposed. Statements of general applicability do not qualify as clear, written community standards. For example, the general statement that "agricultural fields shall be preserved" would not qualify because the statement does not designate specific resources as scenic. The statement "the agricultural fields to the west of Maple Road are scenic resources that must be preserved" would qualify because it designates specific resources as scenic.
- (2) Provides specific guidance for project design. For example, the statement "only dwellings, forestry, and agriculture are permitted within the Maple Road scenic protection area" would be a clear standard because it states with specificity what type of development is permitted. The statement "all development in the Maple Road scenic protection area must maintain the rural character of the area" would not be a clear standard because it does not state with specificity what type of development is permitted.

(D) **Offend the Sensibilities of the Average Person.** A project will be found to offend the sensibilities of the average person if the project would be so out of character with its surroundings or so significantly diminish the scenic qualities of the area as to be offensive or shocking to the average person. In determining whether a project would offend the sensibilities of an average person, the Commission will consider the perspective of an average person viewing the project from both adjoining residences and from public vantage points.

(E) **Generally Available Mitigating Steps.** In determining whether an applicant has taken generally available mitigating steps, the Commission may consider the following:

- (1) what steps, such as screening, the applicant is proposing to take;
- (2) whether the applicant has adequately considered other available options for siting the project in a manner that would reduce its aesthetic impact;
- (3) whether the applicant has adequately explained why any additional mitigating steps would not be reasonable; and
- (4) whether mitigation would frustrate the purpose of the Project.

5.113 Setbacks

Applicants seeking authorization to construct a ground-mounted net-metering system must 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 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-metering wind turbine, the facility must 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 Commission 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.

PART III: PARTICIPATING IN THE REVIEW OF APPLICATIONS FOR CPGS

Part III describes the procedures available to the public and parties during the review of net-metering applications filed pursuant to Section 5.106. Part III does not apply to the review of net-metering registrations filed pursuant to Section 5.105.

5.114 Obtaining Information About a Net-Metering CPG Application

Interested persons may obtain information about a net-metering CPG application by visiting ePUC at <https://epuc.vermont.gov> or by contacting the Clerk of the Commission.

5.115 Rules and Processes Applicable to the Review of Net-Metering CPG Applications

The purpose of this Rule is to simplify the process of participating in the review of applications for net-metering CPGs. In keeping with this purpose, the process for reviewing CPG applications is described in Sections 5.116 through 5.124, below. Any procedure not described in this Rule is governed by the provisions of Rule 2.200. Where there is a conflict between the procedures described in this Rule and any other Commission rule, the provisions of this Rule govern.

5.116 Submission of Public Comments

When a net-metering application is filed with the Commission, the public may file comments addressing whether the application should be approved. Public comments that do not include a notice of intervention, a motion to intervene, or a request for hearing may be filed using ePUC, by email to puc.clerk@vermont.gov, or in paper. All public comments concerning an application must be filed with the Commission, with a copy sent to the applicant unless the comment was filed in ePUC, within 30 days from the date of notification by the Commission that the application is administratively complete. These public comments will be viewable on the Commission's electronic filing system. The applicant may file a written response to all timely filed public comments with the Commission within 14 days of the close of the 30-day public comment period, unless otherwise directed by the Commission.

5.117 Party Status in Net-Metering CPG Proceedings

(A) When a person wishes to participate in the review of a CPG application as a party, which is a prerequisite to filing an appeal of a final Commission decision, such person must

obtain party status from the Commission.

(B) The following persons must obtain party status as follows:

(1) The Vermont Department of Public Service, and the Agency of Natural Resources are parties in any proceeding under this Rule.

(2) The following persons will obtain party status from the Commission only after filing a notice of intervention. All notices of intervention must be filed using ePUC unless the filing is accompanied by a request for a waiver under Commission Rule 2.107 to allow for paper filings. If a notice of intervention is filed in paper along with a request for a waiver of the requirement to use ePUC, the filer must mail copies of the entire filing to all parties in the case. Filers can obtain a list of names and addresses of the parties in the case by contacting Commission administrative staff at 802-828-2358 or puc.clerk@vermont.gov. The Commission will provide a form for such purpose:

- (a) the electric company;
- (b) the legislative body and the planning commission of the municipality in which a facility is located, pursuant to 30 V.S.A. § 248(a)(4)(F);
- (c) the regional planning commission of the region in which a facility is located;
- (d) the regional planning commission of an adjacent region if the distance between the net-metering system's nearest component and the boundary of that adjacent region is less than or equal to 500 feet or 10 times the height of the facility's tallest component, whichever is greater;
- (e) the legislative body and planning commission of an adjacent municipality if the distance between the net-metering system's nearest component and the boundary of that adjacent municipality is less than or equal to 500 feet or 10 times the height of the facility's tallest component, whichever is greater;

- (f) adjoining landowners;
- (g) the Vermont Agency of Agriculture Food and Markets;
- (h) the Vermont Division of Historic Preservation; and
- (i) the Natural Resources Board.

(C) Any other person seeking to participate in a net-metering proceeding as a party must file a motion to intervene either in accordance with Commission Rule 2.209 or by filing a form developed by the Commission for use under this Rule. All motions to intervene must be filed using ePUC unless the filing is accompanied by a request for a waiver under Commission Rule 2.107 to allow for paper filings. If a motion to intervene is filed in paper along with a request for a waiver of the requirement to use ePUC, the filer must mail copies of the entire filing to all parties in the case. Filers can obtain a list of names and addresses of the parties in the case by contacting Commission administrative staff at 802-828-2358 or puc.clerk@vermont.gov.

(D) Any person who obtains party status acquires all of the legal rights and obligations of a party in a Commission proceeding. The filing of public comments on an application and the consideration of such public comments by the Commission do not confer party status. Party status is conferred only upon the filing of a notice of intervention by the persons listed in (B)(3), above, or upon issuance of an order from the Commission granting a duly filed motion to intervene.

5.118 Requests for Hearing

The review of net-metering CPG applications is based upon the information contained in the application filed by the applicant. If a party wishes to offer contrary evidence or to challenge the accuracy of information contained in an application, then the party must request a hearing to present such evidence and argument. A party must file a request for hearing within 30 days from the date of notification by the Commission that the application is administratively complete. The request must identify the proposed issues to be resolved through the hearing. Unless the party has already been granted party status by the Commission, a request for a hearing must be accompanied by a notice of intervention or motion to intervene, pursuant to Section 5.117 of this Rule.

5.119 Circumstances When the Commission Will Grant a Request for Hearing

(A) The Commission will grant a request for a hearing only if such request is filed by a party. Such a request may be included with a notice of intervention or motion to intervene. A

hearing requested by a party will be granted provided that the request raises:

- (1) one or more substantive issues under the applicable Section 248 criteria;
or
- (2) a substantive issue that is within the Commission's jurisdiction to resolve.

(B) Requests must be supported by more than general or speculative statements. For example, it is not sufficient to state that an application "violates Section 248(b)(5)." Instead, a party should state with specificity why the project raises a substantive issue under the Section 248 criteria. For example: "The application raises an issue under the aesthetics criterion under Section 248(b)(5) because the applicant has not proposed adequate mitigation to screen the western portion of the project from Maple Street."

5.120 Scheduling Conferences and Status Conferences

In cases where the Commission has determined that a hearing will be held, on reasonable notice the Commission will conduct a scheduling conference prior to the hearing. The Commission may also conduct additional status conferences as necessary. The following topics may be addressed at a scheduling or status conference:

- (a) clarifying the issues to be addressed at the hearing and, if possible, narrowing them;
- (b) identifying evidence, documents, witnesses, stipulations, and other offers of proof to be presented at a hearing;
- (c) promoting the expeditious, informal, and nonadversarial resolution of issues and the settlement of differences;
- (d) requiring the timely exchange of information concerning the application;
- (e) setting a schedule for the prefiling of testimony and exhibits; and
- (f) such other matters as the Commission deems appropriate.

5.121 [DELETED]

5.122 Procedure for Hearings

(A) Notice. Prior to any hearing conducted under this Rule, each party will receive a notice stating the time, place, and nature of the hearing. The notice will include a short and plain statement of the matters at issue in the hearing and a statement of the statutes and rules involved in the case.

(B) Order of Witnesses, Marking of Exhibits. At the hearing the Commission will

establish the order in which the parties will present their witnesses and evidence. At that time all exhibits and any other documents to be entered into the record must be marked for identification (for example, Exhibit Applicant-1).

(C) Pre-Filed Testimony and Exhibits. Each party must pre-file a copy of all testimony and exhibits with the Commission. Copies of such filings must be provided to the applicant and other parties at the time of filing. At the discretion of the Commission, parties may present live direct or rebuttal testimony.

(D) Cross-Examination. At the hearing, each party will be afforded a reasonable opportunity to ask questions of other parties' witnesses.

(E) Evidence. The Rules of Evidence, as modified by 3 V.S.A. § 810, apply in hearings under this Rule.

(F) Transcript. Any hearing will be transcribed and a transcript will be made available to the public by the Commission.

(G) Briefs, Proposed Findings of Fact. At the conclusion of the hearing, the parties will state whether they wish to file proposed findings of fact or legal briefs. A schedule for making such filings will be established, if necessary.

5.123 Decisions

After the conclusion of the hearing and after the submission of any briefs and proposed findings of fact, the Commission will issue a written decision in the case. In a case where a majority of the Commission members have not heard the case or read the record, a proposal for decision will be provided to the parties for comment and opportunity for oral argument prior to the issuance of a final decision.

5.124 Appeals of Commission Decisions

Information about how to appeal a Commission decision to the Vermont Supreme Court will be provided with any final order from the Commission.

PART IV: THE NET-METERING PROGRAM

5.125 Pre-Existing Net-Metering Systems

(A) Eligibility. A pre-existing net-metering system must:

- (1) have a complete CPG application filed with the Commission prior to January 1, 2017;
- (2) the complete CPG application must have been filed at a time when the electric company was accepting net-metering systems pursuant to 30 V.S.A. § 219a(h)(1)(A) as the statute existed on December 31, 2016, or qualified under state law as a system that did not count towards the capacity limit on net-metering contained in that statute; and
- (3) not have been amended to increase its capacity by more than 5% or 10 kW, whichever is greater, after the effective date of this Rule.

(B) [DELETED]

(C) Applicable Rates for Pre-Existing Net-Metering Systems. 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. If the customer's system was commissioned before the electric company's first rate schedule to comply with Section 219a(h)(1)(K) took effect, then the 10-year period shall run from the effective date of the electric company's first rate schedule implementing the incentive. At the end of the applicable 10-year period, customers using pre-existing net-metering systems shall be credited for excess generation as provided in Section 5.126 of this Rule or its successor.

(D) Non-Bypassable Charges. For a period of 10 years from the date that a pre-existing net-metering system was commissioned, a customer using that net-metering system may apply any accrued net-metering credits to any charge irrespective of whether that charge is a non-bypassable charge.

(E) Adjustors Not Applicable to Pre-Existing Net-Metering Systems. Pre-existing net-metering systems are not subject to any siting adjustors or REC adjustors established under this Rule.

(F) **Tradeable Renewable Energy Credits.** Any tradeable renewable energy credits created by pre-existing net-metering systems will continue to be either retained by the customer or transferred to the electric company per the election made by the applicant at the time of application for its CPG. For CPG applications filed prior to the time when such election was available, tradeable renewable energy credits are retained by the customer.

(G) **Existing Groups Using Pre-Existing Net-Metering Systems.** Notwithstanding Sections 5.129(C) through (E), an existing group or customer may have more than 500 kW of pre-existing net-metering systems attributed to the group or customer if these net-metering arrangements were requested prior to January 1, 2017.

(H) **Provisions of This Rule Applicable to Pre-Existing Net-Metering Systems.** Pre-existing net-metering systems are subject only to the following provisions of this Rule.

- (1) 5.109 (Amendments to Approved Net-Metering Systems);
 - (2) 5.110 (Transfers and Abandonment);
 - (3) 5.126 (Energy Measurement), except as modified by (C), above, and except that a customer is not required to install a production meter at a pre-existing system pursuant to 5.126(A)(1);
 - (4) 5.129 (Billing Standards and Procedures);
 - (5) 5.131 (Interconnection Requirements);
 - (6) 5.132 (Disconnection of Net-Metering Systems);
 - (7) 5.135 (Participation in Wholesale Markets);
 - (8) 5.137 (Energy Storage Facility Electrically Connected to a Net-Metering System); and
 - (9) 5.138 (Compliance Proceedings).
- (I) All other net-metering systems are subject to all provisions of this Rule.

5.126 Energy Measurement for Net-Metering Systems

(A) Electric energy measurement for net-metering systems must be performed in the following manner:

- (1) At its own expense, the applicant must install a production meter to measure the electricity produced by the net-metering system.
- (2) **Individual Net-Metering System Billing:** For customers who elect to wire

net-metering systems such that they offset consumption on the billing meter, the billing meter establishes billing determinants for the customer's bill based on the rate schedule for the customer.

- (a) At the end of the billing period, the electric company must net electricity produced with electricity consumed.
 - (i) If electricity consumed by the customer exceeds the electricity produced by the net-metering system, the customer must be billed the difference, net of any credit accumulated in the preceding 12 months. Credits may not be applied to non-bypassable charges as identified in a utility's tariff.
 - (ii) If the electricity produced by the net-metering system exceeds the electricity consumed, the excess generation must be monetized at the applicable blended residential rate. The monetized credit applies to all charges on the bill not identified as non-bypassable charges in a utility's tariff.
 - (iii) For the first 10 years after the system is commissioned, any zero or positive siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter and applied to the bill as a credit. For example, the \$0.01/kWh siting adjustor for net-metering systems 15 kW or less will result in such systems receiving a bill credit of \$0.01/kWh multiplied by all kWh on the production meter.
 - (iv) Any negative siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter and applied to the bill as an additional charge. For example, the -\$0.03/kWh REC adjustor for net-metering systems that retain their RECs will result in such systems receiving a bill charge of \$0.03/kWh

multiplied by all kWh on the production meter.

- (v) If credits remain after being applied to all charges not identified in an electric company's tariff as non-bypassable charges, such credits must be tracked, applied, or carried forward on customer bills, as described in Section 5.129.

(3) Group Net-Metering System Billing for Systems Not Directly

Interconnected: For customers who elect to wire group net-metering systems such that they offset consumption on the billing meter, the billing meter establishes the billing determinants for the customer's bill based on the rate schedule for the customer.

- (a) At the end of the billing period, the electric company must net electricity produced with electricity consumed on the generation account.
 - (i) If electricity consumed by the customer exceeds the electricity produced by the net-metering system, the customer must be billed the difference, net of any credit accumulated in the preceding 12 months. Credits may not be applied to non-bypassable charges as identified in a utility's tariff.
 - (ii) If the electricity produced by the net-metering system exceeds the electricity consumed, the excess generation must be allocated to group members and monetized at the applicable blended residential rate. The monetized credit applies to all charges on the bill not identified as non-bypassable charges in a utility's tariff.
 - (iii) For the first 10 years after the system is commissioned, any zero or positive siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter, allocated to the group members and applied to the bills as credits. For example, the \$0.01/kWh siting adjustor for net-metering systems 15 kW or less will

- result in such systems receiving a bill credit of \$0.01/kWh multiplied by all allocated kWh from the production meter.
- (iv) Any negative siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter, allocated to the group members, and applied to the bills as additional charges. For example, the negative \$0.03/kWh REC adjustor for net-metering systems that retain their RECs will result in such systems receiving a bill charge of \$0.03/kWh multiplied by all allocated kWh from the production meter.
 - (v) If credits remain on group members' bills after being applied to all charges on the bills not identified as non-bypassable charges in an electric company's tariff, such credits must be tracked, applied, or carried forward on group member bills, as described in Section 5.129.
- (4) Group Net-Metering System Billing for Systems Directly Interconnected: For customers who elect to wire group net-metering systems such that the generation is directly connected to the utility grid and does not also offset any customer's billing meter, the electricity produced by the net-metering system, all of which is excess generation as defined in this Rule, must be allocated to the group members and monetized at the applicable blended residential rate before netting. The monetized credit applies to all charges on the bill not identified as non-bypassable charges.
- (a) For the first 10 years after the system is commissioned, any zero or positive siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter, allocated to the group members, and applied to the bills as credits. For example, the \$0.01/kWh siting adjustor for net-metering systems 15 kW or less will result in such systems receiving a bill credit of \$0.01/kWh multiplied by all allocated kWh from the production meter.

- (b) Any negative siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter, allocated to the group members, and applied to the bills as additional charges. For example, the negative \$0.03/kWh REC adjustor for net-metering systems that retain their RECs will result in such systems receiving a bill charge of \$0.03/kWh multiplied by all allocated kWh from the production meter.
- (c) If credits remain on group members' bills after being applied to all charges on the bills not identified as non-bypassable charges in an electric company's tariff, such credits must be tracked, applied, or carried forward on group member bills, as described in Section 5.129.

(B) As part of a tariff filed for Commission approval pursuant to this Rule, an electric company may propose alternative methods of energy measurement for group net-metering systems if the application of Section (A), above, would cause unreasonable administrative burdens for the electric company. Such alternatives may not displace any of the applicable adjustors, credits, or charges provided in this Rule.

5.127 Determination of Applicable Rates and Adjustors

(A) Depending on the electric company service territory in which the net-metering system is located, the blended residential rate used to determine the value of net-metering credits is the lowest of the following:

- (1) For electric companies whose general residential service tariff does not include inclining block rates, the \$/kWh charge set forth in that utility's tariff for general residential service;
- (2) For electric companies whose general residential service tariff includes inclining block rates, a blend of those rates determined by adding together all of the revenues to the company during the most recent calendar year from kWh sold under those block rates and dividing the sum by the total kWh sold by the company at those rates during the same year. Each electric company whose general residential service tariff includes inclining

block rates must perform this calculation (1) by May 15 of each even-numbered year and (2) when the electric company requests approval of a tariff for general residential service that includes a change in rates of more than 5%. To the extent the calculation shows that there has been a change from the rate then in effect, the electric company must file by that same date a revision to its net-metering tariff to reflect the change. Any change to the blended residential rate calculated pursuant to (1) of this subsection may be included in a tariff compliance filing made pursuant to Section 5.128(H) of this Rule. Any change to the blended residential rate calculated pursuant to (2) of this subsection must be filed as a separate tariff case at the same time the electric company files proposed revisions to its general residential service rates; or

- (3) The weighted average of the blended residential rates for all Vermont electric companies. The average is weighted by the annual retail sales of the electric companies.
- (B) The REC adjustors are determined as follows:
- (1) At the time an application for authorization to construct the net-metering system is filed with the Commission, the applicant must elect whether to retain ownership of any RECs generated by the system or whether to transfer such RECs to the electric company. This election is irrevocable. The electric company must retire all RECs transferred to it by a net-metering customer.
 - (2) The REC adjustor for a net-metering system must be calculated in dollars per kWh (\$/kWh) at the time the Commission issues the net-metering system a CPG. A zero or positive REC adjustor applies for a period of 10 years from the date the system is commissioned; a negative REC adjustor applies in perpetuity. Except for systems that register pursuant to Section 5.105 of this Rule, both the amount and the term of the REC adjustor will be stated in the net-metering system's CPG.
 - (3) The value of the REC adjustors are those set in the most recent biennial update order issued by the Commission pursuant to Section 5.128.

Hydroelectric facilities net-metering under this rule are not subject to a REC adjustor.

- (C) The siting adjustors are determined as follows:
- (1) In order to provide incentives for the appropriate and beneficial siting of net-metering systems, each net-metering system may receive the highest-value siting adjustor for which it meets the applicable criteria. The net-metering system's siting adjustor must be expressed in dollars per kWh (\$/kWh) at the time the Commission issues the net-metering system a CPG. A zero or positive siting adjustor applies for a period of 10 years from the date the system is commissioned; a negative siting adjustor applies in perpetuity. Except for systems that register pursuant to Section 5.105 of this Rule, both the amount and the term of the siting adjustor must be stated in the net-metering system's CPG.
 - (2) The value of the siting adjustors for Category I through IV facilities and hydroelectric facilities are those set in the most recent biennial update order issued by the Commission pursuant to Section 5.128.

5.128 Biennial Update Proceedings

- (A) The Commission must conduct a biennial update in 2024 and every two years thereafter to update the following:
- (1) REC adjustors;
 - (2) siting adjustors;
 - (3) the statewide blended residential rate; and
 - (4) the eligibility criteria applicable to Categories I, II, III, and IV net-metering systems.
- (B) In updating the REC adjustors, the Commission must consider:
- (1) the pace of renewable energy deployment necessary to be consistent with the Renewable Energy Standard program, the Comprehensive Energy Plan, and any other relevant State program;
 - (2) the total amount of renewable energy capacity commissioned in Vermont in the most recent two years;
 - (3) the disposition of RECs generated by net-metering systems commissioned

in the past two years; and

- (4) any other information deemed appropriate by the Commission.
- (C) In updating the siting adjustors, the Commission must consider:
- (1) the number and capacity of net-metering systems receiving CPGs in the most recent two years;
 - (2) the extent to which the current siting adjustors are affecting siting decisions;
 - (3) whether changes to the qualifying criteria of the categories are necessary;
 - (4) the overall pace of net-metering deployment; and
 - (5) any other information deemed appropriate by the Commission.
- (D) On or before March 1 of each even-numbered year, each electric company must file in the biennial update investigation case a form developed by the Commission in consultation with the Department and the electric companies. The form will collect the following information regarding the state of the electric company's net-metering program:
- (1) the number of net-metering systems interconnected with the electric company's distribution system during the past two years;
 - (2) the capacity of each system;
 - (3) the fuel source of each system;
 - (4) the REC disposition of each system;
 - (5) the siting adjustor applicable to each system;
 - (6) any other information the electric company believes to be relevant to the biennial update; and
 - (7) any other information required by the Commission's form.
- (E) By no later than April 1 of each even-numbered year, the Department of Public Service and the Agency of Natural Resources may file in the biennial update investigation case any proposed updates to the items specified in Section 5.128(A)(1)-(4) and reasons therefor.
- (F) Any person may file comments on the filings under (D) and (E), above, by April 15.
- (G) By June 1 of each even-numbered year, the Commission may by order update the items specified in Section 5.128(A)(1)-(4), as necessary. Adjustors must be determined to

ensure that net-metering deployment occurs at a reasonable pace and in furtherance of State energy goals.

(H) Electric companies must file no later than June 15 revisions to their net-metering tariffs that incorporate the new values set forth by the Commission in its biennial update order. Each tariff must be filed as a new tariff case in ePUC. Such tariffs must have an effective date of August 1. This tariff compliance filing may not include any other proposed changes to the utility's net-metering tariff, except for a proposed change to the utility's blended residential rate calculated pursuant to Section 5.127(A) of this Rule.

(I) Notwithstanding the above, the Commission may conduct an update sooner than biennially at its own discretion or upon petition by the Department.

5.129 Billing Standards and Procedures

(A) Customer Billing Requirements. The bill of a net-metering customer must include the following:

- (1) the dollar amount of any credits carried forward from the previous months;
- (2) the dollar amount of credits that have expired in the current month;
- (3) the dollar amount of credits generated in the current month;
- (4) the dollar amount of credits remaining; and
- (5) the total kWh generated by the net-metering system in the current month.

(B) Accumulated Bill Credits. Any accumulated bill credit must be used within 12 months from the month it is earned, or it reverts to the electric company without any compensation to the net-metering customer. Bill credits may not be transferred independently of a transfer of ownership of a net-metering system.

(C) Membership in Multiple Net-Metering Groups. Individual customer accounts may be enrolled in only one net-metering group at a time. Customers with multiple accounts may enroll each account in a separate net-metering group.

(D) 500 kW Customer Limit. The cumulative capacity of net-metering systems allocated to a single customer may not exceed 500 kW, except as provided in Rule 5.129(F), below. For example, a customer who has two accounts cannot have each account allocated more than 50 percent of the output from two 500 kW net-metering systems because the cumulative capacity of the allocated share of those net-metering systems would exceed 500 kW.

(E) Multiple Net-Metering Systems in a Group. Groups may have more than one net-metering system attributed to a group and may increase the capacity of existing generation attributed to the group. However, the cumulative capacity of net-metering systems attributed to a group may not exceed 500 kW, except as provided in Rule 5.129(F), below.

(F) Cumulative Capacity of School Net-Metering Systems. The cumulative capacity of net-metering systems allocated to a single customer:

- (1) that is a public school, as defined in 16 V.S.A. § 11(7); an independent school, as defined in 16 V.S.A. § 11(8); a supervisory union, as defined in 16 V.S.A. § 11(23); or a school district, as defined in 16 V.S.A. § 11(10), must not exceed 1 MW.
- (2) that is a school district, as defined in 16 V.S.A. § 11(10), or a supervisory union, as defined in 16 V.S.A. § 11(23), created as a result of school district consolidation under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended, must not exceed the greater of:
 - (a) the cumulative capacity of the net-metering systems that the school districts were participating in, or had agreed to participate in, prior to consolidation; or
 - (b) 1 MW.

(G) Group Member Allocations. Where the customer has, at its own expense, provided a separate meter for measuring production, the kWh produced by a net-metering system may be allocated to the accounts of a single customer or the accounts of group members. Where there is no separate production meter, only the excess generation may be allocated to accounts belonging to a single customer or to the accounts of members of a group.

5.130 Group System Requirements

(A) In addition to any other requirements in 30 V.S.A. §§ 248 and 8010, and in any applicable Commission rules, before a group system may be formed and served by an electric company, the group must file the following information with the electric company:

- (1) The meters to be included in the group system, which must be located within the same electric company service territory;

- (2) A process for adding and removing meters in the group and an allocation of 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 5.130(A)(3), and any such change may only apply on a prospective basis;
- (3) The name and contact information for a designated person who is 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 may not in any way require the involvement of the electric company, the Commission, 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 must implement appropriate changes to a net-metering group within 30 days after receiving written notification of such changes from the person designated under subsection 5.130(A)(3). Written notification of a change in the person designated under subsection 5.130(A)(3) is effective upon receipt by the electric company. The electric company is not liable for the consequences from actions based on such notification.

(C) For each group member's customer account, the electric company must 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 must be based on the individual meter for the account.

5.131 Interconnection Requirements

The interconnection of all net-metering systems is governed by Commission Rule 5.500. The applicant bears 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.

5.132 Disconnection of a Net-Metering System

The following procedures govern the disconnection of a net-metering system from the electrical system. These procedures apply to net-metering systems only and do not supplant Commission Rules 3.300 and 3.400 relating to company disconnection in general. A customer who initiates a permanent disconnection of a net-metering system must notify the electric company. The electric company must notify the Commission and the Department of the disconnection.

(A) 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” means 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.

(B) If the emergency is not caused by the operation of the net-metering system, the company must reconnect the net-metering system upon cessation of the emergency.

(C) 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 must file a disconnection petition with the Commission.

(D) Non-emergency disconnections must follow the same procedure as emergency disconnections in subsection B above, except that the electric company must give written notice of the disconnection no earlier than 10 days and no later than 5 days prior to the first date on which the disconnection of the net-metering system is scheduled to occur. Such notice must 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 5.130(A)(3).

(E) A customer who is involuntarily disconnected may file a written complaint with the

Commission at any time following disconnection. The customer must provide a copy of the complaint to the electric company and the Department of Public Service. Within 30 days of the date the complaint is filed, the Commission may hold a hearing to investigate the complaint. In the event of the filing of such a complaint, the electric company must carry the burden of proof to demonstrate the reasonableness of disconnection.

5.133 Electric Company Requirements

(A) Generally. Electric companies:

- (1) Must make net-metering available to any customer or group on a first-come, first-served basis as determined by the order in which customers file a complete interconnection application;
- (2) Must track credits by the month and year created and apply them on a first-created, first-used basis;
- (3) May charge a reasonable fee for establishment, special meter reading, accounting, account correction, and account maintenance for a net-metering system;
- (4) 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;
- (5) May require a customer to install advanced metering infrastructure prior to serving the net-metering customer;
- (6) May require that all meters included within a group system be read on the same billing cycle; and
- (7) May require energy efficiency audits for customers seeking to install and operate a net-metering system if they are:
 - (a) a residential customer with historic energy consumption of 750 kWh or more per month; or
 - (b) a commercial or industrial customer.

(B) Each electric company with net-metering customers must maintain current records of the number, individual capacity, cumulative capacity, and disconnections of net-metering generation installed within its service territory.

5.134 [DELETED]**5.135 Participation in Wholesale Markets**

No net-metering system may participate in a wholesale market unless the Commission finds that such participation will not harm the interests of Vermont ratepayers and will be in the public good.

5.136 Locational Adjustor Fee

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

5.137 Energy Storage Facility Electrically Connected to a Net-Metering System

(A) An energy storage facility that is electrically connected to a net-metering system must be configured such that the customer cannot receive net-metering compensation for electricity drawn from a source other than the net-metering system.

(B) No electric company may allow an energy storage facility to be interconnected in a manner that allows electricity generated by any source other than a net-metering system to receive

net-metering compensation.

PART V: COMPLIANCE PROCEEDINGS

5.138 Compliance Proceedings

(A) In response to a complaint filed by any member of the public or on its own motion, the Commission may open a compliance proceeding or refer matters concerning whether an approved net-metering system is complying with the terms of its CPG or any applicable law within the Commission's jurisdiction to the Department of Public Service for investigation and to make a recommendation as to whether the Commission should open a compliance proceeding or take any other steps necessary to ensure that the net-metering system continues to serve the public good.

(B) The Commission may take any or all of the following steps to ensure that a net-metering system is constructed and operated in compliance with the terms and conditions of the CPG issued for that net-metering system and any related Commission order:

- (1) Direct the certificate holder to provide the Commission 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);
- (2) Direct the certificate holder to provide additional information;
- (3) Dismiss the complaint;
- (4) 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:
 - (a) The CPG or order approving the CPG was issued based on material information that was false or misleading;
 - (b) The system was not installed, or is not being operated, in accordance with the National Electrical Code or applicable interconnection standards;
 - (c) 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 or with the findings contained in the order approving the net-metering system;

- (d) 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
- (e) Other good cause as determined by the Commission in its discretion.

(C) If, assuming the allegations in the complaint are true, the Commission determines that there is no probability of a violation of any CPG condition, Commission order, or any applicable law, the Commission will dismiss the complaint and inform the complainant and CPG holder of such dismissal.

History: Effective March 1, 2001; revised July, 2003; revised November 1, 2007; revised April 15, 2009; revised January 27, 2014; revised July 1, 2017.

5.100 RULE PERTAINING TO CONSTRUCTION AND OPERATION OF NET-METERING SYSTEMS**TABLE OF CONTENTS**

PART I: GENERAL PROVISIONS	<u>334</u>
5.101 Purpose and Scope.....	<u>334</u>
5.102 Computation of Time	<u>334</u>
5.103 Definitions.....	<u>445</u>
PART II: REGISTRATIONS AND APPLICATIONS FOR CPGS	<u>131313</u>
5.104 Eligibility	<u>131313</u>
5.105 Registration of Hydroelectric Facilities, Ground-Mounted Photovoltaic Facilities of up to 15 kW in Capacity, and Roof-Mounted Photovoltaic Net-Metering Systems of Any Capacity Up to 500 kW.....	<u>131313</u>
5.106 Applications for Ground-Mounted Photovoltaic Net-Metering Systems Greater Than 15 kW and Up to and Including 50 kW and for Facilities Using Other Technologies Up to and Including 50 kW.....	<u>141414</u>
5.107 Applications for Net-Metering Systems Greater Than 50 kW That Are Not Roof- 242224	
5.108 Amendments to Pending Registrations and Applications.....	<u>313131</u>
5.109 Substantial Change to Approved Net-Metering Systems and Amendment of CPGs 323232	
5.110 Transfer and Abandonment of CPGs	<u>343434</u>
5.111 Substantive Criteria of 30 V.S.A. § 248(b) Applicable to Net-Metering CPG Registrations and Applications.....	<u>353635</u>
5.112 Aesthetic Evaluation of Net-Metering Projects.....	<u>363736</u>
5.113 Setbacks	<u>383837</u>
PART III: PARTICIPATING IN THE REVIEW OF APPLICATIONS FOR CPGS ...	<u>404039</u>
5.114 Obtaining Information About a Net-Metering CPG Application	<u>404039</u>
5.115 Rules and Processes Applicable to the Review of Net-Metering CPG Applications 404039	
5.116 Submission of Public Comments	<u>404039</u>
5.117 Party Status in Net-Metering CPG Proceedings.....	<u>414140</u>
5.118 Requests for Hearing.....	<u>424241</u>
5.119 Circumstances When the Commission Will Grant a Request for Hearing.....	<u>434241</u>
5.120 Prehearing Conferences and Status Conferences	<u>434342</u>
5.121 Discovery	<u>444342</u>
5.122 Procedure for Hearings.....	<u>444342</u>
5.123 Decisions	<u>454443</u>
5.124 Appeals of Commission Decisions	<u>454443</u>
PART IV: THE NET-METERING PROGRAM.....	<u>464644</u>
5.125 Pre-Existing Net-Metering Systems	<u>464644</u>
5.126 Energy Measurement for Net-Metering Systems.....	<u>474745</u>
5.127 Determination of Applicable Rates and Adjustors	<u>515149</u>

5.128	Biennial Update Proceedings	545351
5.129	Billing Standards and Procedures	555553
5.130	Group System Requirements	575754
5.131	Interconnection Requirements	585855
5.132	Disconnection of a Net-Metering System	585855
5.133	Electric Company Requirements	595956
5.134	[DELETED]	606057
5.135	Participation in Wholesale Markets	606057
5.136	Mitigation Fee for Constrained Areas of the Grid	616058
5.137	Energy Storage Facility Electrically Connected to a Net-Metering System ...	616158
PART V: COMPLIANCE PROCEEDINGS		626259
5.138	Compliance Proceedings	626259

PART I: GENERAL PROVISIONS

5.101 Purpose and Scope

- (A) This Rule governs the terms upon which any electric company offers net-metering service within its service territory. In addition, this Rule governs the application for and issuance, amendment, transfer, and revocation of a certificate of public good for net-metering systems under the provisions of 30 V.S.A §§ 248, 8002, and 8010.
- (B) Except as modified by Section 5.125 (Pre-Existing Net-Metering Systems), this Rule applies to all net-metering systems 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 Commission.
- (C) No person may 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.
- (D) In the event that any portion of this Rule is found by a court of competent jurisdiction to be illegal or void, the remainder is unaffected and continues in full force and effect.

5.102 Computation of Time

- (A) Computation. ~~In computing any period of time prescribed or allowed by this Rule, by order of the Commission, or by any applicable statute, the day from which the designated period of time begins to run is excluded from the computation. The last day of the period is included in the computation, 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 Commission's office and the Commission's electronic filing system 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 are not counted when the period of time prescribed or allowed is less than 11 days. Under this Rule, time is~~

computed in accordance with Commission Rule 2.207.

(B) Enlargement. The Commission 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 or other good cause.

5.103 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.

“Adjustor” means a positive or negative charge applied to production kWh based on factors related to site selection (Site Adjustor) and retention of tradeable renewable energy credits (REC Adjustor).

“Amendment” means ~~one or more of the following changes to the physical plans or design of a net-metering system. An amendment is either “major” or “minor”:~~

- ~~—— (1) — The following changes constitute a “major” amendment: ——~~
 - ~~—— (a) — increasing the nameplate capacity of the net-metering system by more than 5% or reducing the nameplate capacity of the net-metering system by more than 60%;~~
 - ~~—— (b) — moving the limits of disturbance by more than 50 feet;~~
 - ~~—— (c) — changing the fuel source of the net-metering system; or~~
 - ~~—— (d) — any other change that the Commission, 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.~~
- ~~—— (2) — The following changes constitute a “minor” amendment:~~

~~—(a)—proposing additional aesthetic mitigation; or~~
~~—(b)—any other change to the physical plans or design of the system that is not a major amendment a request for approval of a modification to a proposal that is either under review or has been approved by the Commission. The term amendment also includes requests to change the terms or conditions of a CPG issued by the Commission.~~

“Applicant” means the entity seeking authorization to construct and operate a net-metering system.

“Billing Meter” means an electric meter that measures either the consumption of electricity by a customer or the net of electric consumption by the customer and production by the net metering system.

“Blended Residential Rate” means the lesser of either:

- (1) For electric companies whose general residential service tariff does not include inclining block rates, the \$/kWh charge set forth in that electric company’s tariff for general residential service;
- (2) For electric companies whose general residential service tariff does include inclining block rates, a blend of the electric company’s general residential service inclining block rates that is determined by adding together all of the revenues to the company during the most recent calendar year from kWh sold under those block rates and dividing the sum by the total kWh sold by the company at those rates during the same year; or
- (3) The weighted statewide average of all electric company blended residential retail rates, as determined by the Commission, whichever is lower.

~~“Commission” means the Public Utility Commission of the State of Vermont and the employees thereof.~~

“Capacity” means the rated electrical nameplate for a plant, except that, in the case of a solar energy plant, the term means the aggregate AC nameplate capacity of all inverters used to convert the plant’s output to AC power. The capacity of an inverter is not changed when it is derated.

“Category I Net-Metering System” means a net-metering system that is not a hydroelectric facility and that has a capacity of 15 kW or less.

“Category II Net-Metering System” means a net-metering system that is not a hydroelectric facility that has a capacity of more than 15 kW and less than or equal to 150 kW, and that is sited on a preferred site.

“Category III Net-Metering System” means a net-metering system that is not a hydroelectric facility, that has a capacity of greater than 150 kW and less than or equal to 500 kW, and that is sited on a preferred site.

“Category IV Net-Metering System” means a net-metering system that is not a hydroelectric facility, that has a capacity of greater than 15 kW and less than or equal to 150 kW, and that is not located on a preferred site.

“Certificate Holder” means one who holds a CPG. The certificate holder must have legal control of the net-metering system.

“Certificate of Public Good” or “CPG” means a certificate of public good issued by the Commission pursuant to 30 V.S.A. § 8010.

“Commission” means the Public Utility Commission of the State of Vermont and the employees thereof.

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

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

“Customer” means a retail electric consumer.

“Department” means the Vermont Department of Public Service.

“Earth disturbance” means construction activities including clearing, grading, and excavating, but does not include routine maintenance that is performed to maintain the original line and grade, hydraulic capacity, or original purpose of the facility.

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

“Excess Generation” means the following: for customers who elect to wire net-metering systems such that they offset consumption on the billing meter, excess generation is the number of kWh by which production exceeds consumption. For customers who elect to wire net-metering systems such that they do not offset consumption on any customer’s billing meter, all recorded production is considered excess generation.

“File” means the submission of documents, exhibits, plans, information, or other materials to the Commission through the Commission’s electronic filing system, by delivery to the Commission’s offices, or by delivery to the Commission during the course of a hearing.

“Group Net-Metering System” means a net-metering system serving more than one customer, or a single customer with multiple electric meters, located within the service area of the same retail electricity provider. Various buildings owned by municipalities, including water and wastewater districts, fire districts, villages, school districts, and towns, may constitute a group net-metering system. A union or district school facility shall be considered in the same group net-metering system with buildings of its member municipalities that are located within the service area of the same retail electricity provider that serves the facility.

“Host Landowner” means the owner of the property on which the net-metering system is or will be located.

“kW” means kilowatt or kilowatts (AC).

“kWh” means kilowatt hours.

“Inclining Block Rate” means a rate structure where an electric company charges a higher rate for each incremental block of electricity consumption.

“Interconnection Facilities” means all facilities and equipment between the generation resource and the point of interconnection, including any modifications, additions, or upgrades that are necessary to physically and electrically interconnect the generation resource to the interconnecting utility’s distribution or transmission system. Interconnection facilities are sole-use facilities and do not include system upgrades.

“Project Limits of Disturbance” means the boundary within which all construction, materials storage, grading, earth disturbance, vegetation clearing, planting, management, landscaping, and any other activities related to site preparation, construction, operation, maintenance, and decommissioning take place as a result of the net-metering system, including areas disturbed due to the creation or modification of access roads, and utility lines, and the

~~clearing or management of vegetation.~~

“Net-Metering” means ~~the process of~~ measuring the difference between the electricity supplied to a customer and the electricity fed back by ~~a~~the customer’s 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 the 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 for generation of electricity that:

- (1) is of no more than 500 kW capacity;
- (2) operates in parallel with facilities of the electric distribution system;
- (3) is intended primarily to offset the customer’s own electricity requirements and does not primarily supply electricity to electric vehicle supply equipment, as defined in 30 V.S.A. § 201, for the resale of electricity to the public by the kWh or for other retail sales to the public, including those based in whole or in part on a flat fee per charging session or a time-based fee for occupying a parking space while using electric vehicle supply equipment; and
- (4) either ~~(i)~~ employs a renewable energy source; or ~~(ii)~~ is a qualified micro-combined heat and power system of 20 kW or less that meets the definition of combined heat and power facility in subsection 8015(b)(2) of Title 30 and uses any fuel source that meets air quality standards.

“Non-Bypassable Charges” means those charges on the electric bill defined in an electric company’s tariffs that apply to a customer regardless of whether they net-meter or not. Non-bypassable charges may not be offset using current or previous net-metering credits. A customer is liable for payment of these charges regardless of whether the customer has a credit balance resulting from net-metering. The customer charge, energy efficiency charge, energy assistance program charge, any on-bill financing payment, and any equipment rental charge are non-bypassable charges.

“Party” means any person who has obtained party status under Section 5.117 of this Rule.

“Plant” means an independent technical facility that generates electricity from renewable energy. A group of facilities, such as wind turbines, will be considered one plant if the group is 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, proximity in time of construction, and proximity of facilities to each other will be relevant to determining whether a group of facilities is part of the same project.

“Pre-Existing Net-Metering System” means a net-metering system for which a completed CPG application was filed with the Commission prior to January 1, 2017, and whose completed application was either filed at a time when net-metering was being offered by the electric company pursuant to 30 V.S.A. § 219a (h)(1)(A) as the statute existed on December 31, 2016, or qualified under state law as a system that did not count towards the capacity limit on net-metering contained in that statute.

“Preferred Site” means one of the following, provided that the site does not require significant forest clearing:

- (1) A new or existing constructed impervious surface or structure whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity;
- (2) A parking lot canopy over a ~~paved~~ parking lot, provided that the location remains in use as a parking lot;
- (3) A tract previously developed for a use other than siting a plant on which a structure or constructed impervious surface was lawfully in existence and use ~~prior to July 1~~ at any time during the year preceding the ~~year in which~~ date an application for a certificate of public good under this Rule is filed. To qualify under this subdivision (3), more than half of the ~~limits of disturbance of a proposed net-metering system~~ energy generation component of the plant must ~~include~~ be located within the footprint of either the existing structure or impervious surface ~~and~~. The project limits may not include any headwaters, streams, shorelines, floodways, rare and irreplaceable natural areas, necessary wildlife habitat, wetlands, endangered species, productive ~~forestlands~~ forest soils, or primary agricultural soils, all of which are as defined in 10 V.S.A. chapter 151. For purposes of this subsection, the

energy generation component of the plant does not include interconnection facilities;

- (4) Land certified by the Secretary of Natural Resources to be a brownfield site as defined under 10 V.S.A. § 6642, provided any request to the Secretary of Natural Resources for such certification includes a report from a diligent and appropriate investigation, as required by 10 V.S.A. chapter 159;
- (5) A sanitary landfill as defined in 10 V.S.A. § 6602 and contiguous land, structures, appurtenances, and improvements on the land used for treating, storing, or disposing of solid waste, provided that the Secretary of Natural Resources certifies that the land constitutes such a landfill and ~~is suitable for the development of the plant~~ contiguous land, structures, appurtenances, or improvements, and that the landfill is actively maintained under the authority of a post-closure certification, administrative order, or assurance of discontinuance, or in custodial care as recognized by the Agency of Natural Resources. To qualify under this subdivision (5), some portion of the plant must be located on the landfill cap;
- ~~(6)~~ A gravel pit, quarry, or similar site for the extraction of a mineral resource, provided that ~~all activities pertaining to site reclamation required by applicable law or permit condition are completed prior to the installation of the plant;~~
 - (a) more than half of the energy generation component of the plant is located within the disturbed or previously disturbed portion of the extraction site. For purposes of this subsection, the energy generation component of the plant does not include interconnection facilities; and
 - ~~(a)~~ (b) all state and local permit conditions related to reclamation of the site are satisfied before the operation of the plant.
- ~~(6)(7)~~ A specific location designated in a duly adopted municipal plan under 24 V.S.A. chapter 117 for the siting of a renewable energy plant or specific type or size of renewable energy plant, provided that the plant meets the siting criteria recommended in the plan for the location; or a specific location that is identified in a joint letter of support from the municipal legislative body and municipal and

regional planning commissions in the community where the net-metering system will be located determined by the governing municipal legislative body and the municipal and regional planning commissions as suitable for the development of a net-metering system consistent with applicable policies in their respective plans. The specific location must be identified in a letter or letters from the municipal legislative body and the municipal or regional planning commissions based on their evaluation after having received the 45-day notice for the project. Such letters in no way limit the ability of municipalities and regional planning commissions to participate in the Commission's review of the net-metering system proposed to be constructed on the location identified in the letter.

~~(7)~~(8) A site listed on the National Priorities List (NPL) established under the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. chapter 103, if the U.S. Environmental Protection Agency or the Agency of Natural Resources confirms that the site is listed on the NPL, and ~~further~~ provided that the applicant demonstrates as part of its CPG application that:

- (a) development of the plant on the site will not compromise or interfere with remedial action on the site; and
- (b) the site is suitable for development of the plant.

~~(8)~~(9) On the same parcel as, or directly adjacent to, a customer that has been allocated more than 50 percent of the net-metering system's electrical output. The allocation to the host customer may not be less than 50 percent during each of the first 10 years of the net-metering system's operation.

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

"Significant Forest Clearing" means clearing more than three acres of forest. For purposes of this Rule, the word forest means land that has at least 10 percent canopy cover by live trees of any size and associated naturally occurring vegetation or has had at least 10 percent canopy cover of live trees and associated naturally occurring vegetation in the past and has stumps, snags, or other evidence indicating that it has not been converted to a non-forest use at the time of a CPG application filing. To qualify as forest, an area must be at least one

acre in size and 120 feet wide. In determining whether an area is at least one acre in size or 120 feet wide, any portion of a group or contiguous area of trees that extends beyond the project or parcel boundaries must be counted. Canopy cover must be measured from the outermost edge of tree crowns across a group or contiguous area of trees. The three-acre limit on significant forest clearing is cumulative and includes each discrete area of any forest proposed for clearing. Clearing of individual trees that are not part of a forest will not count toward the three-acre limit on significant forest clearing.

“Substantial Change” means a change to a proposed or approved net-metering system that has the potential for significant impact with respect to any of the criteria of Section 248(b) or on the general good of the State under Section 248(a).

“Time-of-Use Meter” means an electric meter that measures the consumption of electricity during defined periods of the billing cycle.

“TOU” means time-of-use.

“Tradeable Renewable Energy Credit or REC” 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 Commission, or any program for tracking and verifying the ownership of environmental attributes of energy that is legally recognized in any state and approved by the Commission.
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PART II: REGISTRATIONS AND APPLICATIONS FOR CPGS**5.104 Eligibility**

To be eligible to apply for a net-metering CPG under this Rule, an applicant must propose one of the following:

- (A) A category I net-metering system;
- (B) A category II net-metering system;
- (C) A category III net-metering system;
- (D) A category IV net-metering system; or
- (E) A hydroelectric system with a capacity of 500 kW or less.

5.105 Registration of Hydroelectric Facilities, Ground-Mounted Photovoltaic Facilities of up to 15 kW in Capacity, ~~and~~ Roof-Mounted Photovoltaic Net-Metering Systems of Any Capacity Up to 500 kW, and Mixed Ground- and Roof-Mounted Systems of up to 500 kW Where the Ground-Mounted Portion Does Not Exceed 15 kW

(A) Applicability. The registration procedure is applicable only to hydroelectric facilities, ground-mounted photovoltaic systems of up to 15 kW ~~and~~, photovoltaic net-metering systems that are mounted on a roof, and mixed ground- and roof-mounted systems of up to 500 kW where the ground-mounted portion of the system does not exceed 15 kW.

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

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

~~—(1) in the case of a net-metering system with a capacity of 15 kW or less, on the eleventh business 15th day following the filing of the form; and~~

~~—(2) in the case of a net-metering system with a capacity of greater than 15 kW, the thirty-first day following the filing of the form.~~

(D) Service. Upon filing the net-metering registration form with the Commission, the applicant ~~must also cause notice of the form to be sent to the electric company and to the Department via the~~ Commission's electronic filing system will send notice of the registration to the electric company, the Department, and the Agency of Natural Resources.

(E) Interconnection. ~~If the 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 Commission within the timeframes in (C), above. 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 may not commence construction of the project until the interconnection issues have been resolved. Disputes between the applicant and the electric company will be resolved using the dispute resolution procedures contained in Commission Rule 5.500, which governs interconnection requests. All CPGs deemed issued under this Rule are conditioned on the CPG holder complying with all electric company interconnection requirements. Interconnection approval must be obtained from the electric company pursuant to Rule 5.500.~~

(1) For systems up to 15 kW, a registration form filed under this Rule constitutes a Rule 5.500 interconnection application. The review of the interconnection application by the electric company is governed by Rule 5.500.

(+)(2) For systems greater than 15 kW, the applicant must obtain interconnection approval from the electric company under Rule 5.500 before submitting a registration form under this Rule.

5.106 Applications for Ground-Mounted Photovoltaic Net-Metering Systems Greater Than 15 kW and up to and Including 500 kW and for Facilities Using Other Technologies up to and Including 500 kW

(A) Applicability. This application procedure is applicable to ground-mounted photovoltaic net-metering systems that are greater than 15 kW and up to 500 kW in capacity and mixed ground- and roof-mounted systems of up to 500 kW where the ground-mounted portion of the system exceeds 15 kW. This application procedure is also applicable to net-metering systems ~~of 50 kW or less~~ that use ~~other~~ eligible technologies other than photovoltaic systems. This application procedure does not apply to hydroelectric facilities or roof-mounted photovoltaic net-metering systems with no ground-mounted system.

(B) Form and Content. An application for a CPG under this subsection must be filed with the Commission in accordance with the Commission's current filing procedures, using the application form prescribed by the Commission, and must contain all of the information required by this Rule and the instructions for that form. The Commission will develop forms for:

- (1) Photovoltaic systems where the capacity of the ground-mounted portion of the system is greater than 15 kW, up to and including 50 kW;
- (2) Net-metering systems using a technology other than photovoltaics up to and including 50 kW; and
- ~~(+)(3)~~ Net-metering systems with a capacity of greater than 50 kW up to and including 500 kW.

(C) Advance Submission Requirements. The applicant must provide notice of the application as follows:

- (1) Recipients Entitled to Advance Submission. The applicant must provide the following persons with an advance submission, at least 45 days in advance of filing the application with the Commission:
 - (a) the municipal legislative bodies and municipal and regional planning commissions in the communities where the project will be located;
 - (b) all adjoining landowners;
 - (c) the host landowner;
 - (d) the Department of Public Service;
 - (e) the Agency of Natural Resources;
 - (f) the Natural Resources Board, if the proposed net-metering system is located on a parcel subject to an Act 250 Land Use Permit resource extraction site;
 - (g) the Division for Historic Preservation;
 - (h) the Agency of Agriculture Food and Markets; ~~and~~
 - (i) the electric company; and
 - ~~(+)(j)~~ the Commission.
- (2) Method of Service of Advance Submission. The applicant must ~~cause~~provide the advance submission to ~~be served to the entities listed in (1)(a) through (c), above, the municipal legislative body, municipal planning commission, adjoining landowners, and the host landowner~~ by certified first-class mail, personal delivery, or any other means authorized by the persons entitled to service. Adjoining landowners must be identified using the host town's certified grand list as it existed no more than 60 days before the date of the advance submission or online through

the Vermont Center for Geographic Information database, municipality-specific databases, the Vermont Department of Taxes grand lists, or electronic versions of grand lists maintained by municipalities. An applicant must verify with the relevant municipality that the online database provides accurate and current information regarding parcel ownership within that municipality. Documentation of verification must be signed and attested to by an applicant. The applicant must cause Service of the advance submission to be transmitted to on the entities listed in (1)(d) through (i), above, using state agencies, electric company, and regional planning commission will occur through ePUC, the Commission's electronic filing system, unless the applicant is making a paper filing in accordance with the Commission's rules, in which case service must be by certified mail. With permission from the intended recipient, the applicant may serve a copy of the advance submission via electronic mail.

- (3) Contents of Advance Submission. The advance submission must state that the applicant intends to file a Section 8010 application with the Commission, must identify the location of the project site and the number of any Act 250 Land Use Permit applicable to the host parcel, and must provide a description of and site plan for the proposed project, including any aesthetic mitigation plan, in sufficient detail 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 Commission's jurisdiction to address. The submission must 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 Commission once the application is filed.
- (4) Timing of Advance Submission and Application. If, within 180 days of the date of the advance submission, the applicant has not filed a complete application for the project that fully complies with the filing requirements of this Rule, the submission will be treated as withdrawn without further

action required by the Commission.

(D) Filing Requirements. Applications ~~for net metering systems that are greater than 15 kW and up to and including 50 kW and that are not roof-mounted photovoltaic systems~~ must contain the following information. Failure to provide any required information will result in the application being deemed incomplete:

- (1) Applicant name. The application must include the legal name (and the “doing business as” name, if different), contact information, Vermont business registration number (if applicable), and a description of the company or person making the application. For example:

XYZ Corporation (d/b/a ABC Solar)

Headquarters at 123 Maple Lane, Anytown, VT 05600

Service Agent: Jane Doe, Esq.

VT Business ID#: 12345

- (2) Host landowner. The application must include the name and address of the legal owner of the land ~~upon~~ which the proposed net-metering system would be built, ~~and the number of any Act 250 Land Use Permit applicable to the host parcel.~~
- (3) Adjoining landowners. The application must include the names and addresses of all adjoining landowners. ~~This information must be obtained from the most recent version of the town’s grand list. Adjoining landowners must be identified using the host town’s certified grand list as it existed no more than 60 days before the date of the advance submission or online through the Vermont Center for Geographic Information database, municipality-specific databases, the Vermont Department of Taxes grand lists, or electronic versions of grand lists maintained by municipalities. An applicant must verify with the relevant municipality that the online database provides accurate and current information regarding parcel ownership within that municipality. Documentation of verification must be signed and attested to by an applicant.~~
- (4) Certification that advance submission requirements have been met. The applicant must certify that it has complied with the advance submission requirements listed above.
- (5) Site plans. The applicant must provide a site plan for each project. A site

plan must include:

- (a) Proposed facility location ~~and~~, any project features, and project limits;
 - (b) Approximate property boundaries and setback distances from those boundaries to the corner of the closest project-related structure, approximate distances to any nearby residences, and dimensions of all proposed improvements;
 - (c) 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;
 - (d) ~~A description~~ Locations, specific descriptions, and the total acreage of any areas where vegetation is to be cleared or altered, proposed earth disturbance, ~~and~~ a description of any proposed direct or indirect alterations to or impacts on wetlands or other natural resources protected under 30 V.S.A. § 248(b)(5), including the project limits-of disturbance and the total acreage of any disturbed area, and the total acreage of forest clearing;
 - (e) 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;
 - (f) Locations and specific descriptions of proposed screening, aesthetic mitigation, landscaping, groundcover, fencing, exterior lighting, and signs;
 - (g) 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
 - ~~(g)~~ — The latitude and longitude coordinates for the proposed project; ~~and~~
 - (h) ~~The approved site plan from any Act 250 Land Use Permit applicable to the host parcel.~~
- (6) Wetland delineation. The applicant must provide either a wetland

delineation prepared by a qualified consultant, or a letter from the district wetland ecologist or a qualified consultant stating that no delineation is necessary because the net-metering system will not be proximate to any significant wetlands. The wetland delineation must have been completed within the five years before the date of the application.

- ~~(7)~~ — Response to comments received in response to 45-day advance submission. The applicant must file a document summarizing the comments and recommendations received in response to the 45-day notice. The document must respond to the issues raised in those comments and recommendations and must state what steps the applicant has taken to address those issues or why the applicant is unable to do so.
- ~~(8)~~ — ~~Statement of Consistency with Act 250 Land Use Permit. If the host parcel is subject to an Act 250 Land Use Permit, the applicant must file a document describing whether the construction of the proposed net-metering system will interfere with the satisfaction of any condition contained in the Act 250 Land Use Permit. If the construction will interfere with the satisfaction of any Act 250 Land Use Permit condition, the applicant must explain what steps it will take to address such issues or why the applicant is unable to do so.~~
- (8) Preferred-Site Documentation.
- (a) Brownfields. If a project will be located on a brownfield and an applicant claims preferred-site status under subsection (4) or (7) of the definition of “preferred site,” the applicant must provide a site investigation report, as required by the Agency of Natural Resources’ Investigation and Remediation of Contaminated Properties Rule, or a letter from the Secretary of Natural Resources stating that a site investigation report is not necessary.
- (b) Resource extraction sites. If a project will be located on a resource extraction site and an applicant claims preferred-site status under subsection (6) or (7) of the definition of “preferred site,” the applicant must provide:
- (i) Evidence depicting what is or was the disturbed portion of

- the site, which may include plans for the extraction site, aerial photographs, topographic surveys, and information about vegetative communities; and
- (ii) If the extraction site has state or local permits with reclamation requirements, copies of such permits and documentation from the permitting agency stating that all permit reclamation requirements have been or will be satisfied before operation of the plant.
- (9) Proof of interconnection approval. The applicant must receive approval to interconnect the proposed net-metering system to the interconnecting utility's distribution system before filing an application. Interconnection applications and disputes about interconnection requirements are governed by Rule 5.500.
- (10) A statement of whether the proposed net-metering system will be in a flood hazard area or river corridor and whether the proposal will comply with the Agency of Natural Resources' Flood Hazard Area and River Corridor Rule.
- (11) Adjacent facilities. The applicant must identify any known (e.g., visible from the project site, or developed by the same applicant, developer, installer, or an affiliated entity) existing or planned generation facilities on the same or an adjacent parcel as the proposed net-metering system. The applicant must:
- (a) State the distance between the facilities;
- (b) Identify the owner(s) of the facilities and explain their relationship, if any;
- (c) Describe the timing of the construction of the facilities;
- (d) Identify and describe any infrastructure shared by the facilities;
and
- (e) Provide a site plan showing the two facilities.
- (12) Systems greater than 50 kW must provide the following:
- (a) Required evidence, **project narrative**, proposed findings, and proposed CPG. The applicant must provide evidence

demonstrating that the proposed net-metering system will meet the criteria applicable to the system under Section 5.111 of this Rule. A witness sponsoring evidence must file a notarized affidavit stating that the information provided is accurate to the best of the witness's knowledge. All evidence must 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 evidence. The applicant must include a brief project narrative describing the project in plain terms. The applicant must file proposed findings of fact and a proposed CPG with the application.

- (b) The presence and total acreage of primary agricultural soils as defined in 10 V.S.A. § 6001 on each tract to be physically disturbed in connection with the construction and operation of the net-metering system, the amount of those soils to be disturbed, and any other proposed impacts to those soils.
- (c) For each proposed structure, the applicant must provide elevation drawings. The elevation drawings must be to appropriate scales but no smaller than 1"/20'.

 - (i) The applicant must 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 must show height of the structure above grade at the base, and describe the proposed finish of the structure.
 - (ii) The elevation drawing must indicate the relative height of the facility to the tops of surrounding trees as they presently exist.
- (d) Local and regional plans. The applicant must provide copies of the relevant sections of any town plan and regional plan in effect in the community in which the proposed facility will be located. The

applicant must describe how the project complies with or is inconsistent with the land conservation measures in those plans.

- (e) Decommissioning plan. All applications for net-metering systems with capacities equal to or greater than 150 kW must include a decommissioning plan that provides for the removal and safe disposal of project components and the restoration of any primary agricultural soils, if such soils are present within the net-metering system's project limits.

~~(D)~~(E) Review for Administrative Completeness. Commission staff will review all filed applications to determine whether they are administratively complete enough to process. Applicants should receive an e-mail message with the results of this review within ~~5 business~~ 7 days of the date the Commission received the application; however, the expiration of this time period without the receipt of an e-mail message does not constitute a determination that the application is administratively complete enough to process. If the application is found to be complete, the applicant must provide copies of the application to the persons set forth in Sections 5.106(F), below. If the application is found to be incomplete, the applicant will be informed of the deficiencies and will be given an opportunity to cure them. A determination that an application is administratively complete enough to process is not a legal determination regarding the sufficiency of the information included in the application.

~~(E)~~(F) Service of Copies-Notice of Applications. Within 2 ~~business~~ days after the application is determined to be administratively complete, the applicant must serve ~~copies~~ notice of the application in accordance with this section.

- (1) Entities Entitled to Copies-Notice of the Application:
 - (a) the municipal legislative bodies and the municipal and regional planning commissions where the net-metering system will be located;
 - (b) the host landowner;
 - (c) all adjoining landowners;
 - (d) the Department of Public Service;
 - (e) the Agency of Natural Resources;
 - (f) the Natural Resources Board, if the proposed net-metering systems is located on a ~~parcel subject to an Act 250 Land Use~~

~~Permit~~resource extraction site;

- (g) the Division for Historic Preservation;
- (h) the Agency of Agriculture Food and Markets; and
- (i) the electric company.

(2) Method of Service.

~~(a) — The applicant must provide a copy of the application to the entities named in (1)(a) through (c), above, by certified mail. The applicant must cause copies of the application to be transmitted to the entities listed under (1)(d) through (i), above, using the Commission's electronic filing system, or if the applicant is making a paper filing, then using certified mail.~~Notice to state agencies, the electric company, and regional planning commissions will occur through ePUC. The applicant must provide notice to any affected municipal legislative body and planning commission, host landowner, and adjoining landowners by first-class mail, personal delivery, or any other means authorized by the person entitled to service. This notice must include, at a minimum, the case number, a reference and link to the advance submission required under Rule 5.106(C), a general description of the proposed net-metering system and its location, a statement that a complete application has been filed with the Commission and that the case has been opened, and information and a link that will allow the recipient to access the complete application electronically. The notice must also include instructions on how a recipient can contact the applicant to obtain a hard copy of the complete project plans and petition if the recipient is not able to access them electronically. If a hard copy is requested by the recipient, the applicant must serve it by first-class mail or its equivalent within 4 days of the request.

(G) Effect of Failure to Provide Timely Service. The Commission will grant reasonable extensions of time to the entities listed under (F)(1), above, to make a responsive filing when the applicant fails to cause timely service of ~~copies~~notice of an application.

~~(H) — Interconnection. If the electric company finds that the interconnection of the net-~~

~~metering system will have an adverse effect on system stability or reliability, the electric company shall convey these concerns in writing to the applicant and the Commission by no later than the thirty first day following the Commission's determination that the application is complete. The electric company's filing must include a recommendation as to how the interconnection issues could be resolved by the applicant. If a concern is raised, a CPG will not issue until the electric company files a letter stating that the concern has been addressed or the Commission finds that the proposed net metering system may be safely interconnected with the company's distribution grid without having an adverse impact on system stability and reliability. The letter must also describe all improvements to the grid necessary to interconnect the net metering system. Any dispute between an applicant and the electric company shall be resolved using the dispute resolution procedures contained in Rule 5.500.~~

5.107 ~~Applications for Net Metering Systems Greater Than 50 kW That Are Not Roof-Mounted Photovoltaic Systems or Hydroelectric Facilities~~[DELETED]

~~(A) — Applicability. This application procedure is applicable to net metering systems greater than 50 kW that are not photovoltaic systems mounted on a roof or hydroelectric facilities.~~

~~(B) — Advance Notice Requirements. The applicant must provide notice of the application as follows:~~

- ~~(1) — Recipients Entitled to Advance Submission. The applicant must provide the following persons with an advance submission, at least 45 days in advance of filing the application with the Commission:~~
 - ~~(a) — the municipal legislative bodies and municipal and regional planning commissions in the communities where the project will be located;~~
 - ~~(b) — all adjoining landowners;~~
 - ~~(c) — the host landowner;~~
 - ~~(d) — the Department of Public Service;~~
 - ~~(e) — the Agency of Natural Resources~~
 - ~~(f) — the Natural Resources Commission, if the proposed net metering system is located on a parcel subject to an Act 250 Land Use~~

Permit;

~~(g) — the Division for Historic Preservation;~~

~~(h) — the Agency of Agriculture Food and Markets; and~~

~~(i) — the electric company.~~

~~(2) — Method of Service of Advance Submission. The applicant must cause the advance submission to be served to the entities listed in (1)(a) through (e), above, by certified mail. The applicant must cause the advance submission to be transmitted to the entities listed in (1)(d) through (i), above, using the Commission's electronic filing system, unless the applicant is making a paper filing in accordance with the Commission's rules, in which case service must be by certified mail. With permission from the intended recipient, the applicant may serve a copy of the advance submission via electronic mail.~~

~~(3) — Contents of Advance Submission. The notice must state that the applicant intends to file a Section 8010 application with the Commission, must identify the location of the project site and the number of any Act 250 Land Use Permit applicable to the host parcel, and must provide a description and site plan of the proposed project in sufficient detail 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 Commission's jurisdiction to address. The submission must 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 Commission once the application is filed.~~

~~(4) — Timing of Advance Submission and Application. If, within 180 days of the date of the advance submission, the applicant has not filed a complete application for the project that fully complies with the filing requirements of this Rule, the submission will be treated as withdrawn without further action required by the Commission.~~

~~(C) — Filing Requirements. Applications for net metering systems subject to this~~

Section 5.107 must contain the following information. Failure to provide any required information will result in the application being deemed incomplete:

- (1) — Applicant name. The application must include the legal name (and the “doing business as” name, if different), contact information, Vermont business registration number (if applicable), and a description of the company or person making the application. For example:
XYZ Corporation (d/b/a ABC Solar)
Headquarters at 123 Maple Lane, Anytown, VT 05600
Service Agent: Jane Doe, Esq.
VT Business ID#: 12345
- (2) — Host landowner. The application must include the name and address of the legal owner of the land upon which the proposed net-metering system would be built and the number of any Act 250 Land Use Permit applicable to the host parcel.
- (3) — Adjoining landowners. The application must include the names and addresses of all adjoining landowners. This information must be obtained from the most recent version of the town’s grand list.
- (4) — Certification that advance submission requirements have been met. The applicant must certify that it has complied with the advance submission requirements listed above.
- (5) — Site plans. The applicant must provide a site plan for each project. A site plan must include:
 - (a) — Proposed facility location and any project features;
 - (b) — Approximate property boundaries and setback distances from those boundaries to the corner of the nearest project-related structure, approximate distances to any nearby residences, and dimensions of all proposed improvements;
 - (c) — 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;
 - (d) — 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 impacts on wetlands or other natural resources

- ~~protected under 30 V.S.A. § 248(b)(5), including the limits of disturbance, and the total acreage of any disturbed area;~~
- ~~(e) 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;~~
- ~~(f) Locations and specific descriptions of proposed screening, landscaping, groundcover, fencing, exterior lighting, and signs;~~
- ~~(g) 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;~~
- ~~(h) The latitude and longitude coordinates for the proposed project;~~
- ~~(i) The presence and total acreage of primary agricultural soils as defined in 10 V.S.A. § 6001 on each tract to be physically disturbed in connection with the construction and operation of the net-metering system, the amount of those soils to be disturbed, and any other proposed impacts to those soils; and~~
- ~~(j) The approved site plan from any Act 250 Land Use Permit applicable to the host parcel.~~
- ~~(6) Elevation drawings.~~
- ~~(a) For each proposed structure, the applicant must provide elevation drawings.~~
- ~~(b) The elevation drawings must be to appropriate scales but no smaller than 1"/20'.~~
- ~~(c) The applicant must 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 must show height of the structure above grade at the base, and describe the proposed finish of the structure.~~
- ~~(d) The elevation drawing must indicate the relative height of the facility to the tops of surrounding trees as they presently exist.~~

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

~~(7) — Testimony, exhibits, proposed findings, and proposed CPG. The applicant must address each of the applicable Section 248 criteria through testimony and exhibits. The testimony and exhibits must contain sufficient facts to support a positive finding by the Commission under each of the applicable Section 248 criteria. To the extent that the proposal will result in an adverse impact affecting any of these criteria, the applicant must describe 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 must 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 must file proposed findings of fact and a proposed CPG with the application.~~

~~(8) — Local and regional plans. The applicant must provide copies of the relevant sections of any town plan and regional plan in effect in the community in which the proposed facility will be located. The applicant must include testimony describing describe how the project complies with or is inconsistent with the land conservation measures in those plans.~~

~~(9) — Wetland delineation. The applicant must provide either a wetland delineation prepared by a qualified consultant, or a letter from the district wetland ecologist or a qualified consultant stating that no delineation is necessary because the net metering system will not be proximate to any significant wetlands.~~

~~(10) — Interconnection.~~

~~(a) — For net metering systems with a capacity greater than 150 kW, the applicant must 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 adverse impact on system stability or reliability. The letter must also describe all improvements to the grid necessary to interconnect the net metering system.~~

~~(b) — For systems with a capacity less than or equal to 150 kW, no letter from the electric company is required as part of the application. However, if the electric company finds that the interconnection of the net metering system will have an adverse effect on system stability or reliability, the electric company shall convey these concerns in writing to the applicant and the Commission no later than the thirty first day following the Commission's determination that the application is complete. The electric company's filing must include a recommendation as to how the interconnection issues could be resolved by the applicant. If a concern is raised, a CPG will not issue until the electric company files a letter stating that the concern has been addressed or the Commission finds that the proposed net metering system may be safely interconnected with the company's distribution grid without having an adverse impact on system stability and reliability. The letter must also describe all improvements to the grid necessary to interconnect the net metering system. Any dispute between an applicant and the electric company shall be resolved using the dispute resolution procedures contained in Rule 5.500.~~

~~(11) — Responses to comments received in response to 45-day advance submission. The applicant must file a document summarizing the comments and recommendations received in response to the 45-day notice. The document must respond to the issues raised in those comments and recommendations and must state what steps the applicant has taken to address those issues or why the applicant is unable to do so.~~

~~(12) — Decommissioning plan. All applications for net metering systems with capacities greater than 150 kW must include a decommissioning plan that provides for the removal and safe disposal of project components and the~~

~~restoration of any primary agricultural soils, if such soils are present within the net metering system's limits of disturbance.~~

~~(i) — Statement of consistency with Act 250 Land Use Permit.~~

~~If the host parcel is subject to an Act 250 Land Use Permit, the applicant must file a document describing whether the construction of the proposed net metering system will interfere with the satisfaction of any condition contained in the Act 250 Land Use Permit. If the construction will interfere with the satisfaction of any Act 250 Land Use Permit condition, the applicant must explain what steps it will take to address such issues or why the applicant is unable to do so.~~

~~(D) — Review for Administrative Completeness. Commission staff will review all filed applications to determine whether they are administratively complete enough to process. Applicants should receive an e-mail message with the results of this review within 5 business days of the date the Commission received the application; however, the expiration of this time period without the receipt of an e-mail message does not constitute a determination that the application is administratively complete enough to process. If the application is found to be complete, the applicant must provide copies of the application to the persons as set forth in Section 5.107(E), below. If the application is found to be incomplete, the applicant will be informed of the deficiencies and will be given an opportunity to cure them. A determination that an application is administratively complete enough to process is not a legal determination regarding the sufficiency of the information included on the application.~~

~~(E) — Service of Copies of Applications and Notices. Within 2 business 4 calendar days after the application is determined to be administratively complete, the applicant must serve copies of the application or provide notice of the application in accordance with this section.~~

~~(1) — Entities Entitled to Copies of the Application:~~

- ~~(a) — the municipal legislative bodies and the municipal and regional planning commissions where the net metering system will be located;~~
- ~~(b) — the Department of Public Service;~~
- ~~(c) — the Agency of Natural Resources;~~
- ~~(d) — the Natural Resources Board, if the proposed net metering system~~

- ~~is located on a parcel subject to an Act 250 Land Use Permit;~~
- ~~(e) — the Division for Historic Preservation;~~
 - ~~(f) — the Agency of Agriculture Food and Markets; and~~
 - ~~(g) — the electric company.~~
 - ~~(h) — the host landowner; and~~
 - ~~(i) — all adjoining landowners.~~
- ~~(2) — Method of Service.~~
- ~~(a) — The applicant must provide a copy of the application to the entities listed in (1)(a), (h), and (i), above, by certified mail.~~
 - ~~(b) — The applicant must cause copies of the application to be transmitted to the entities named in (1)(b) through (g), above, using the Commission's electronic filing system, or if the applicant is making a paper filing, using certified mail.~~
 - ~~(c) — The applicant must cause notices under (1)(h) and (i), above, to be served by certified mail.~~
- ~~(3) — Effect of Failure to Provide Timely Service. The Commission will grant reasonable extensions of time to the entities listed in (E)(1) and (2), above, to file comments when the applicant fails to cause timely service of copies of an application or a notice.~~

5.1095.108 Amendments to Pending Registrations and Applications

(A) Minor Amendment. An applicant may amend a pending Section 5.105 registration by filing an amended registration form in the pending registration case. The applicant must pay the modification fee set forth in 30 V.S.A. § 248c(d). The filing of an amended registration form will trigger a new 14-day review period and a CPG will be deemed issued on the 15th day after the filing, unless otherwise ordered by the Commission.

(B) An applicant may amend a pending Section 5.106 application by filing a motion in the pending application case. The applicant must pay the modification fee set forth in 30 V.S.A. § 248c(d). Applicants must provide notice of all ~~minor amendments~~ substantial changes to all persons and entities who were entitled to receive a copy of the original application. The ~~notice~~motion must ~~provide~~include sufficient information, including an amended site plan, so that the Commission can understand the nature of the

proposed change and its impact, if any, ~~on~~under any of the Section 248 criteria. ~~The Commission may request additional information from the applicant; regarding a proposed minor amendment at any time during the review of a net-metering system. Any comments or objections to a proposed minor amendment must be filed within 10 business days of the date the minor amendment was filed with the Commission. In response to a motion to amend, the Commission may, in its discretion:~~

~~(1) Major Amendment. An applicant seeking a major amendment must withdraw its application or registration and refile the amended document in accordance with the applicable procedures for that type of net-metering system. request additional information from the applicant;~~

~~(2) request comments from interested persons; and~~

~~(3) undertake any other process necessary to ensure the adequate review of the proposed amendment.~~

~~(C) Effect of amendment on applicable REC and siting adjustors. Except as provided below, the REC and siting adjustors applicable to an amended net-metering system, if any, will be based on the date that the first, complete application or registration was filed with the Commission and not on the date that the amendment request was filed. An amendment or series of amendments that increase the capacity of a net-metering system by more than 5% or 10 kW, whichever is greater, will trigger the application of the most recently adopted siting and REC adjustors to the entire output of the amended net-metering system.~~

~~(B)(D) Any amendment that is a material modification, as that term is defined in Rule 5.500, must be approved by the interconnecting utility before the amendment motion is filed with the Commission.~~

5.109 AmendmentsSubstantial Changes to Approved Net-Metering Systems and Amendment of CPGs

~~(A) Minor Amendment. For ground-mounted systems, certificate holders must provide notice of all minor amendments to the Commission, the Department of Public Service, the Agency of Natural Resources, the Natural Resources Board if the host parcel is subject to an Act 250 Land Use Permit, and any party to the proceeding in which the net-metering system was granted a CPG. For roof-mounted systems, certificate holders must provide notice of all minor amendments to the Commission, the Department of Public Service, the Natural Resources Board if the host parcel is subject to an Act 250 Land Use~~

~~Permit, and any party to the proceeding in which the net metering system was granted a CPG. The notice must provide sufficient information so that the Commission can understand the nature of the proposed 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 Commission unless a written objection is filed with the Commission within 10 business days after the minor amendment notice. If an objection is filed by any of the persons specified in this subsection, the certificate holder may not implement the proposed minor amendment until the objection has been withdrawn or resolved by the Commission.~~

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

Commission approval is required for any substantial change to the plans of a net-metering system that has been issued or deemed issued a certificate of public good. An amended CPG, necessitated by changes substantial or non-substantial, may be obtained in the following manner:

(A) If the amended system meets the eligibility criteria to register for a CPG under Section 5.105, then the CPG holder may obtain an amended CPG by filing a revised registration form with the Commission. The registration must be filed as a new case in ePUC and will receive a new case number. The CPG holder requesting an amendment must submit the fee due for modifications under 30 V.S.A. § 248c(d)(3)(B).

(B) Amendment of CPGs issued pursuant to Rule 5.106. If the approved net-metering system has not been commissioned at the time the change is proposed, a request for an amendment to the CPG may be filed in the same case in which the CPG was issued. If the case in which the CPG was issued has been closed, the CPG holder must contact the Clerk of the Commission before filing. If the approved net-metering system has been commissioned, then the request for an amendment must be filed in a new case. The CPG holder requesting an amendment must submit the fee due for modifications under 30 V.S.A. § 248c(d)(3)(B).

(1) The CPG holder must provide notice of substantial changes to all parties to the original CPG case and the entities entitled to notice of a new application, including any newly affected adjoining landowners. Notice does not need to be given to previous adjoining landowners who have transferred their interests since the time of the project's approval. New case procedures, including the provision of a 45-day advance submission, do not apply. The request must include evidence addressing each of the applicable Section 248 criteria under which

the change has the potential to have a significant impact.

(2) The CPG holder must provide notice of requests for amendments to CPGs that are the result of non-substantial changes to the parties to the original CPG case. New case procedures, including the provision of a 45-day advance submission, do not apply. The request must include sufficient information for the Commission to determine that the proposed changes do not have the potential for significant impact under the applicable Section 248 criteria.

~~(C) Maintenance and Repair.~~ The maintenance and repair of net-metering systems and the replacement of equipment with like equipment do not require ~~prior~~advance notice or Commission approval.

(D) Effect of amendment on applicable REC and siting adjustors. Except as provided below, the REC and siting adjustors applicable to an amended net-metering system, if any, will be based on the date that the first, complete application or registration was filed with the Commission and not on the date that the amendment request was filed. An amendment or series of amendments that increase the capacity of a net-metering system by more than 5% or 10 kW, whichever is greater, will trigger the application of the most recently adopted siting and REC adjustors to the entire output of the amended net-metering system.

(E) Any amendment that is a material modification, as that term is defined in Rule 5.500, must be approved by the interconnecting utility before the amendment is proposed to the Commission.

5.110 Transfer and Abandonment of CPGs

~~(A) Transfer With Change in Ownership of Host Property.~~ 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: the new owner provides written notice of the transfer to the electric company.

~~(A)~~(B) A CPG for a net-metering system that is transferred independently of a change in ownership of the property hosting the net-metering system may be transferred provided that:

- (1) the original certificate holder is in compliance with all terms and conditions of the CPG;
- (2) the new owner agrees to operate and maintain the net-metering system according to certificate holder complies with all terms and conditions of the CPG and complies with this Rule 5.100; and
- (3) within 30 days after acquiring ownership of the system, the new owner of

a ground-mounted system completes and files an official transfer form with the Commission, the Department of Public Service, the Agency of Natural Resources, and the electric company, or within 30 days after acquiring ownership of the system, the new owner of a roof-mounted system completes and files an official transfer form with the Commission, the Department of Public Service, and the electric company.

~~Transfer Separate from Change in Ownership of Host Property. CPG holders seeking to transfer a net-metering CPG separately from a change in ownership of the property hosting the net-metering system must obtain Commission approval prior to transferring a CPG. To obtain Commission approval of a proposed transfer, the current CPG holder and proposed CPG holder must complete and file a form developed for this purpose.~~

- (C) Abandonment. Non-use of a CPG for a period of one year following the date the CPG is issued will result in the revocation of the CPG without further action by the Commission. For the purpose of this section, for a CPG to be considered used, the net-metering system must be commissioned. ~~An A CPG holder may obtain an automatic one-year~~ extension of time by providing written notice to the Commission and the electric company. Such notice must be (1) filed in the case in which the CPG was issued or deemed issued, unless the case is closed, in which case the filer should contact the Clerk, and (2) filed before the one-year anniversary of CPG issuance; otherwise the CPG will be deemed revoked. Further extensions will only be granted upon written request and for good cause shown before expiration of the CPG. ~~Prior to construction, a certificate~~ A CPG holder may abandon a CPG at any time upon before construction by providing written notice thereof to the Commission, the Department, the Agency of Natural Resources, and the electric company.

5.111 Substantive Criteria of 30 V.S.A. § 248(b) Applicable to Net-Metering CPG Registrations and Applications

Pursuant to 30 V.S.A. § 8010, which provides that the Commission may waive the requirements of 30 V.S.A. § 248(b) that are not applicable to net-metering systems, the Commission will review registrations and applications for net-metering systems for compliance with the following statutory criteria. ~~(All other criteria are conditionally waived.)~~

- (A) For state-jurisdictional hydroelectric net-metering systems and for net-metering systems that are located on a new or existing structure whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity: 30 V.S.A. § 248(b)(3) ~~(stability and reliability)~~.
- (B) For net-metering systems that are not located on a new or existing structure whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity and that elect to *transfer* the tradeable renewable energy credits to the electric company: 30 V.S.A. §§ 248(b)(1) ~~(orderly development)~~; (b)(3) ~~(stability and reliability)~~; (b)(5), ~~(aesthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and public health and safety)~~, except that the applicant does not need to address the effect of the net-metering system on municipal services, educational services, transportation, water conservation, sufficiency of water, existing water supply, or greenhouse gases; (b)(8) ~~(outstanding resource waters)~~; and Section 248(s) ~~(setbacks)~~.
- (C) For net-metering systems that are not located on a new or existing structure whose primary use is not the generation of electricity or providing support for the placement of equipment that generates electricity and that elect to *retain* the tradeable renewable energy credits generated by the net-metering system: 30 V.S.A. §§ 248(b)(1) ~~(orderly development)~~; (b)(2) ~~(need)~~; (b)(3) ~~(stability and reliability)~~; (b)(5), ~~(aesthetics, historic sites, air and water purity, the natural environment, the use of natural resources, and public health and safety)~~; except that the applicant does not need to address the effect of the net-metering system on municipal services, educational services, transportation, water conservation, sufficiency of water, existing water supply, or greenhouse gases; (b)(8) ~~(outstanding resource waters)~~; and Section 248(s) ~~(setbacks)~~.

5.112 Aesthetic Evaluation of Net-Metering 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 Commission applies the so-called “Quechee test” as described in the case *In Re Halnon*, 174 Vt. 515(2002) (mem.), set forth below:

- (1) Step one: Determine whether the project would have an adverse impact on

aesthetics and the scenic and natural beauty of an area because it would not be in harmony with its surroundings. If the answer is no, then the project satisfies the aesthetics criterion. If yes, move on to step two.

- (2) Step two: The adverse impact will be found to be undue if any one of the three following questions is answered affirmatively:
- (a) Would the project violate a clear, written community standard intended to preserve the aesthetics or scenic, natural beauty of the area?
 - (b) Would the project offend the sensibilities of the average person?
 - (c) 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?

(B) 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)(1), above, the Commission 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.

(C) Clear, Written Community Standard. In order to find that a project would violate a clear, written community standard, the Commission must find that the Project is inconsistent with a provision of the applicable town or regional plan that:

- (1) Designates specific scenic resources in the area where the project is proposed. Statements of general applicability do not qualify as clear, written community standards. For example, the general statement that "agricultural fields shall be preserved" would not qualify because the statement does not designate specific resources as scenic. The statement "the agricultural fields to the west of Maple Road are scenic resources that must be preserved" would qualify because it designates specific resources as scenic.
- (2) Provides specific guidance for project design. For example, the statement "only dwellings, forestry, and agriculture are permitted within the Maple Road scenic protection area" would be a clear standard because it states

with specificity what type of development is permitted. The statement “all development in the Maple Road scenic protection area must maintain the rural character of the area” would not be a clear standard because it does not state with specificity what type of development is permitted.

(D) Offend the Sensibilities of the Average Person. A project will be found to offend the sensibilities of the average person if the project would be so out of character with its surroundings or so significantly diminish the scenic qualities of the area as to be offensive or shocking to the average person. In determining whether a project would offend the sensibilities of an average person, the Commission will consider the perspective of an average person viewing the project from both adjoining residences and from public vantage points.

(E) Generally Available Mitigating Steps. In determining whether an applicant has taken generally available mitigating steps, the Commission may consider the following:

- (1) what steps, such as screening, the applicant is proposing to take;
- (2) whether the applicant has adequately considered other available options for siting the project in a manner that would reduce its aesthetic impact;
- (3) whether the applicant has adequately explained why any additional mitigating steps would not be reasonable; and
- (4) whether mitigation would frustrate the purpose of the Project.

5.113 Setbacks

Applicants seeking authorization to construct a ground-mounted net-metering system must 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 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-metering wind turbine, the facility must 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 Commission 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.

PART III: PARTICIPATING IN THE REVIEW OF APPLICATIONS FOR CPGS

Part III describes the procedures ~~applicable to~~ available to the public and parties during the review of net-metering applications filed pursuant to Sections 5.106 ~~and 5.107~~. Part III does not apply to the review of net-metering registrations filed pursuant to Section 5.105.

5.114 Obtaining Information About a Net-Metering CPG Application

Interested persons may obtain information about a net-metering CPG application by visiting ~~the web portal for the Commission's electronic filing system~~ ePUC at <https://epuc.vermont.gov> or by contacting the Clerk of the Commission.

5.115 Rules and Processes Applicable to the Review of Net-Metering CPG Applications

The purpose of this Rule is to simplify the process of participating in the review of applications for net-metering CPGs. In keeping with this purpose, the process for reviewing CPG applications is described in Sections 5.116 through 5.124, below. The following provisions of the Commission's general rules of practice, Commission Rule 2.200 (Procedures Generally Applicable), do not apply in the review of a net-metering application or a hearing thereon: Commission Rules 2.202 (initiation of proceedings), 2.204(A) (G) (filing and service requirements), 2.205 (notice), 2.207 (time), 2.213 (prefiled testimony), 2.214 (A)(discovery), and 2.216(A) (C) (evidence). Any procedure not described in this Rule is governed by the provisions of Rule 2.200. Where there is a conflict between the procedures described in this Rule and any other Commission rule, the provisions of this Rule govern.

5.116 Submission of Public Comments

When a net-metering application is filed with the Commission, the public may file comments addressing whether the application should be approved. Public comments that do not include a notice of intervention, a motion to intervene, or a request for hearing may be filed using ePUC, by email to puc.clerk@vermont.gov, or in paper. All public comments concerning an application must be filed with the Commission, with a copy sent to the applicant unless the comment was filed in ePUC, within 30 days from the date of notification by the Commission that the application is administratively complete. These public comments will be viewable on the Commission's electronic filing system. The applicant may file a written response to all timely

filed public comments with the Commission within ~~1514 calendar~~ days of the close of the 30-day public comment period, unless otherwise directed by the Commission.

5.117 Party Status in Net-Metering CPG Proceedings

(A) When a person wishes to participate in the review of a CPG application as a party, which is a prerequisite to filing an appeal of a final Commission decision, such person must obtain party status from the Commission.

(B) The following persons must obtain party status as follows:

- (1) The Vermont Department of Public Service, and the Agency of Natural Resources are parties in any proceeding under this Rule.

~~The Natural Resources Board is a party in any proceeding for which it is entitled to receive notice of an application under this Rule.~~

- (2) The following persons will ~~be granted~~obtain party status ~~by from~~ the Commission only after filing a notice of intervention. All notices of intervention must be filed using ePUC unless the filing is accompanied by a request for a waiver under Commission Rule 2.107 to allow for paper filings. If a notice of intervention is filed in paper along with a request for a waiver of the requirement to use ePUC, the filer must mail copies of the entire filing to all parties in the case. Filers can obtain a list of names and addresses of the parties in the case by contacting Commission administrative staff at 802-828-2358 or puc.clerk@vermont.gov. The Commission will provide a form for such purpose:

- (a) the electric company;
- (b) the legislative body and the planning commission of the municipality in which a facility is located, pursuant to 30 V.S.A. § 248(a)(4)(F);
- (c) the regional planning commission of the region in which a facility is located;
- (d) the regional planning commission of an adjacent region if the distance between the net-metering system's nearest component and the boundary of that adjacent region is less than or equal to 500 feet

or 10 times the height of the facility's tallest component, whichever is greater;

- (e) the legislative body and planning commission of an adjacent municipality if the distance between the net-metering system's nearest component and the boundary of that adjacent municipality is less than or equal to 500 feet or 10 times the height of the facility's tallest component, whichever is greater;
- (f) adjoining landowners;
- (g) the Vermont Agency of Agriculture Food and Markets; ~~and~~
- (h) the Vermont Division of Historic Preservation; and
- ~~(h)~~(i) the Natural Resources Board.

(C) Any other person seeking to participate in a net-metering proceeding as a party must file a motion to intervene either in accordance with Commission Rule 2.209 or by filing a form developed by the Commission for use under this Rule. All motions to intervene must be filed using ePUC unless the filing is accompanied by a request for a waiver under Commission Rule 2.107 to allow for paper filings. If a motion to intervene is filed in paper along with a request for a waiver of the requirement to use ePUC, the filer must mail copies of the entire filing to all parties in the case. Filers can obtain a list of names and addresses of the parties in the case by contacting Commission administrative staff at 802-828-2358 or puc.clerk@vermont.gov.

(D) Any person who obtains party status acquires all of the legal rights and obligations of a party in a Commission proceeding. The filing of public comments on an application and the consideration of such public comments by the Commission do not confer party status. Party status is conferred only upon the filing of a notice of intervention by the persons listed in (B)(3), above, or upon issuance of an order from the Commission granting a duly filed motion to intervene.

5.118 Requests for Hearing

The review of net-metering CPG applications is based upon the information contained in the application filed by the applicant. If a party wishes to offer contrary evidence or to challenge the accuracy of information contained in an application, then the party must request a hearing to present such evidence and argument. A party must file a request for hearing within 30 days from the date of notification by the Commission that the application is administratively complete. The

request must identify the proposed issues to be resolved through the hearing. Unless the party has already been granted party status by the Commission, a request for a hearing must be accompanied by a notice of intervention or motion to intervene, pursuant to Section 5.117 of this Rule.

5.119 Circumstances When the Commission Will ~~Conduct a~~ Grant a Request for Hearing

(A) The Commission will grant a request for a hearing only if such request is filed by a party. Such a request may be included with a notice of intervention or motion to intervene. A hearing requested by a party will be granted provided that the request raises:

- (1) one or more substantive issues under the applicable Section 248 criteria;
or
- (2) a substantive issue that is within the Commission's jurisdiction to resolve.

(B) Requests must be supported by more than general or speculative statements. For example, it is not sufficient to state that an application "violates Section 248(b)(5)." Instead, a party should state with specificity why the project raises a substantive issue under the Section 248 criteria. For example: "The application raises an issue under the aesthetics criterion under Section 248(b)(5) because the applicant has not proposed adequate mitigation to screen the western portion of the project from Maple Street."

5.120 ~~Prehearing~~Scheduling Conferences and Status Conferences

In cases where the Commission has determined that a hearing will be held, on reasonable notice the Commission will conduct a ~~prehearingscheduling~~ conference prior to the hearing. The Commission may also conduct additional status conferences as necessary. ~~Upon request of a party and in the discretion of the Commission, such conferences may be conducted telephonically.~~ The following topics may be addressed at a ~~prehearingscheduling~~ or status conference:

- (a) clarifying the issues to be addressed at the hearing and, if possible, narrowing them;
- (b) identifying evidence, documents, witnesses, stipulations, and other offers of proof to be presented at a hearing;
- (c) promoting the expeditious, informal, and nonadversarial resolution of issues and the settlement of differences;
- (d) requiring the timely exchange of information concerning the application;

- (e) setting a schedule for the prefiling of testimony and exhibits; and
- (f) such other matters as the Commission deems appropriate.

5.121 ~~Discovery~~[DELETED]

~~Each party may serve interrogatories, requests for documents, and requests to admit on any other party. The cumulative number of such discovery requests may not exceed 20. For purposes of this limit, each subpart of a discovery request will be counted as a separate request. Any additional discovery may be obtained only upon request of a party and upon order of the Commission where the Commission finds that the requested discovery would not be unduly burdensome or expensive, taking into account such factors as the needs of the case, limitations on the parties' resources, and the importance of the issue in the case. Any discovery dispute must be submitted to the Commission in writing for resolution.~~

5.122 Procedure for Hearings

(A) Notice. Prior to any hearing conducted under this Rule, each party will receive a notice stating the time, place, and nature of the hearing. The notice will include a short and plain statement of the matters at issue in the hearing and a statement of the statutes and rules involved in the case.

(B) Order of Witnesses, Marking of Exhibits. At the hearing the Commission will establish the order in which the parties will present their witnesses and evidence. At that time all exhibits and any other documents to be entered into the record must be marked for identification (for example, Exhibit Applicant-1).

(C) Pre-Filed Testimony and Exhibits. Each party must pre-file a copy of all testimony and exhibits with the Commission. Copies of such filings must be provided to the applicant and other parties at the time of filing. At the discretion of the Commission, parties may present live direct or rebuttal testimony.

(D) Cross-Examination. At the hearing, each party will be afforded a reasonable opportunity to ask questions of other parties' witnesses.

(E) Evidence. The Rules of Evidence, as modified by 3 V.S.A. § 810, apply in hearings under this Rule.

(F) Transcript. Any hearing will be transcribed and a transcript will be made

available to the public by the Commission.

(G) Briefs, Proposed Findings of Fact. At the conclusion of the hearing, the parties will state whether they wish to file proposed findings of fact or legal briefs. A schedule for making such filings will be established, if necessary.

5.123 Decisions

After the conclusion of the hearing and after the submission of any briefs and proposed findings of fact, the Commission will issue a written decision in the case. In a case where a majority of the Commission members have not heard the case or read the record, a proposal for decision will be provided to the parties for comment and opportunity for oral argument prior to the issuance of a final decision.

5.124 Appeals of Commission Decisions

Information about how to appeal a Commission decision to the Vermont Supreme Court will be provided with any final order from the Commission.

PART IV: THE NET-METERING PROGRAM

5.125 Pre-Existing Net-Metering Systems

(A) Eligibility. A pre-existing net-metering system must:

- (1) have a complete CPG application filed with the Commission prior to January 1, 2017; ~~and~~
- (2) the complete CPG application must have been filed at a time when the electric company was accepting net-metering systems pursuant to 30 V.S.A. § 219a(h)(1)(A) as the statute existed on December 31, 2016, or qualified under state law as a system that did not count towards the capacity limit on net-metering contained in that statute; and
- ~~(2)(3) not have been amended to increase its capacity by more than 5% or~~
10 kW, whichever is greater, after the effective date of this Rule.

(B) ~~Rules Applicable to the Review of CPG Applications for Pre-Existing Net-Metering Systems. Any complete CPG application filed prior to January 1, 2017, shall be reviewed pursuant to the version of Rule 5.100 that was in effect at the time the complete application was filed.~~**[DELETED]**

(C) Applicable Rates for Pre-Existing Net-Metering Systems. 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. If the customer's system was commissioned before the electric company's first rate schedule to comply with Section 219a(h)(1)(K) took effect, then the 10-year period shall run from the effective date of the electric company's first rate schedule implementing the incentive. At the end of the applicable 10-year period, customers using pre-existing net-metering systems shall be credited for excess generation as provided in Section 5.126 of this Rule or its successor.

(D) Non-Bypassable Charges. For a period of 10 years from the date that a pre-existing net-metering system was commissioned, a customer using that net-metering system may apply any accrued net-metering credits to any charge irrespective of whether that charge is a non-bypassable charge.

(E) Adjustors Not Applicable to Pre-Existing Net-Metering Systems. Pre-existing net-metering systems are not subject to any siting adjustors or REC adjustors established under this Rule.

(F) Tradeable Renewable Energy Credits. Any tradeable renewable energy credits created by pre-existing net-metering systems will continue to be either retained by the customer or transferred to the electric company per the election made by the applicant at the time of application for its CPG. For CPG applications filed prior to the time when such election was available, tradeable renewable energy credits are retained by the customer.

(G) Existing Groups Using Pre-Existing Net-Metering Systems. Notwithstanding Sections 5.129(C) through (E), an existing group or customer may have more than 500 kW of pre-existing net-metering systems attributed to the group or customer if these net-metering arrangements were requested prior to January 1, 2017.

(H) Provisions of This Rule Applicable to Pre-Existing Net-Metering Systems. Pre-existing net-metering systems are subject only to the following provisions of this Rule.

- (1) 5.109 (Amendments to Approved Net-Metering Systems);
- (2) 5.110 (Transfers and Abandonment);
- (3) 5.126 (Energy Measurement), except as modified by (C), above, and except that a customer is not required to install a production meter at a pre-existing system pursuant to 5.126(A)(1);
- (4) 5.129 (Billing Standards and Procedures);
- (5) 5.131 (Interconnection Requirements);
- (6) 5.132 (Disconnection of Net-Metering Systems);
- (7) 5.135 (Participation in Wholesale Markets);
- ~~(6)~~(8) 5.137 (Energy Storage Facility Electrically Connected to a Net-Metering System); and
- ~~(7)~~(9) 5.1345.138 (Compliance Proceedings).

(I) All other net-metering systems are subject to all provisions of this Rule.

5.126 Energy Measurement for Net-Metering Systems

(A) Electric energy measurement for net-metering systems must be performed in the following manner:

- (1) At its own expense, the applicant must install a production meter to measure the electricity produced by the net-metering system.
- (2) Individual Net-Metering System Billing: For customers who elect to wire net-metering systems such that they offset consumption on the billing meter, the billing meter establishes billing determinants for the customer's bill based on the rate schedule for the customer.
 - (a) At the end of the billing period, the electric company must net electricity produced with electricity consumed.
 - (i) If electricity consumed by the customer exceeds the electricity produced by the net-metering system, the customer must be billed the difference, net of any credit accumulated in the preceding 12 months. Credits may not be applied to non-bypassable charges as identified in a utility's tariff.
 - (ii) If the electricity produced by the net-metering system exceeds the electricity consumed, the excess generation must be monetized at the applicable blended residential rate. The monetized credit applies to all charges on the bill not identified as non-bypassable charges in a utility's tariff.
 - (iii) For the first 10 years after the system is commissioned, any zero or positive siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter and applied to the bill as a credit. For example, the \$0.01/kWh siting adjustor for net-metering systems 15 kW or less will result in such systems receiving a bill credit of \$0.01/kWh multiplied by all kWh on the production meter.
 - (iv) Any negative siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter and applied to the bill as an additional

charge. For example, the $-\$0.03/\text{kWh}$ REC adjustor for net-metering systems that retain their RECs will result in such systems receiving a bill charge of $\$0.03/\text{kWh}$ multiplied by all kWh on the production meter.

- (v) If credits remain after being applied to all charges not identified in an electric company's tariff as non-bypassable charges, such credits must be tracked, applied, or carried forward on customer bills, as described in Section 5.129.

(3) Group Net-Metering System Billing for Systems Not Directly

Interconnected: For customers who elect to wire group net-metering systems such that they offset consumption on the billing meter, the billing meter establishes the billing determinants for the customer's bill based on the rate schedule for the customer.

- (a) At the end of the billing period, the electric company must net electricity produced with electricity consumed on the generation account.
 - (i) If electricity consumed by the customer exceeds the electricity produced by the net-metering system, the customer must be billed the difference, net of any credit accumulated in the preceding 12 months. Credits may not be applied to non-bypassable charges as identified in a utility's tariff.
 - (ii) If the electricity produced by the net-metering system exceeds the electricity consumed, the excess generation must be allocated to group members and monetized at the applicable blended residential rate. The monetized credit applies to all charges on the bill not identified as non-bypassable charges in a utility's tariff.
 - (iii) For the first 10 years after the system is commissioned, any zero or positive siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the

- production meter, allocated to the group members and applied to the bills as credits. For example, the \$0.01/kWh siting adjustor for net-metering systems 15 kW or less will result in such systems receiving a bill credit of \$0.01/kWh multiplied by all allocated kWh from the production meter.
- (iv) Any negative siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter, allocated to the group members, and applied to the bills as additional charges. For example, the negative \$0.03/kWh REC adjustor for net-metering systems that retain their RECs will result in such systems receiving a bill charge of \$0.03/kWh multiplied by all allocated kWh from the production meter.
- (v) If credits remain on group members' bills after being applied to all charges on the bills not identified as non-bypassable charges in an electric company's tariff, such credits must be tracked, applied, or carried forward on group member bills, as described in Section 5.129.
- (4) Group Net-Metering System Billing for Systems Directly Interconnected: For customers who elect to wire group net-metering systems such that the generation is directly connected to the utility grid and does not also offset any customer's billing meter, the electricity produced by the net-metering system, all of which is excess generation as defined in this Rule, must be allocated to the group members and monetized at the applicable blended residential rate before netting. The monetized credit applies to all charges on the bill not identified as non-bypassable charges.
- (a) For the first 10 years after the system is commissioned, any zero or positive siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter, allocated to the group members, and applied to the bills as credits. For example, the \$0.01/kWh siting adjustor for net-metering

systems 15 kW or less will result in such systems receiving a bill credit of \$0.01/kWh multiplied by all allocated kWh from the production meter.

- (b) Any negative siting or REC adjustor set forth in the net-metering facility's CPG is multiplied by the kWh from the production meter, allocated to the group members, and applied to the bills as additional charges. For example, the negative \$0.03/kWh REC adjustor for net-metering systems that retain their RECs will result in such systems receiving a bill charge of \$0.03/kWh multiplied by all allocated kWh from the production meter.
- (c) If credits remain on group members' bills after being applied to all charges on the bills not identified as non-bypassable charges in an electric company's tariff, such credits must be tracked, applied, or carried forward on group member bills, as described in Section 5.129.

(B) As part of a tariff filed for Commission approval pursuant to this Rule, an electric company may propose alternative methods of energy measurement for group net-metering systems if the application of Section (A), above, would cause unreasonable administrative burdens for the electric company. Such alternatives may not displace any of the applicable adjustors, credits, or charges provided in this Rule.

5.127 Determination of Applicable Rates and Adjustors

(A) Depending on the electric company service territory in which the net-metering system is located, the blended residential rate used to determine the value of net-metering credits is the lowest of the following:

- (1) For electric companies whose general residential service tariff does not include inclining block rates, the \$/kWh charge set forth in that utility's tariff for general residential service;
- (2) For electric companies whose general residential service tariff includes inclining block rates, a blend of those rates determined by adding together all of the revenues to the company during the most recent calendar year

from kWh sold under those block rates and dividing the sum by the total kWh sold by the company at those rates during the same year. Each electric company whose general residential service tariff includes inclining block rates must perform this calculation (1) by May 15 of each even-numbered year and (2) within 15 days of the effective date of a new when the electric company requests approval of a tariff for general residential service that includes a change in rates of more than 5%. To the extent the calculation shows that there has been a change from the rate then in effect, the electric company must file by that same date a revision to its net-metering tariff to reflect the change. Any change to the blended residential rate calculated pursuant to (1) of this subsection may be included in a tariff compliance filing made pursuant to Section 5.128(H) of this Rule. Any change to the blended residential rate calculated pursuant to (2) of this subsection must be filed as a separate tariff case at the same time the electric company files proposed revisions to its general residential service rates; or

- (3) The weighted average of the blended residential rates for all Vermont electric companies. The average is weighted by the annual retail sales of the electric companies.
- (B) The REC adjustors are determined as follows:
- (1) At the time an application for authorization to construct the net-metering system is filed with the Commission, the applicant must elect whether to retain ownership of any RECs generated by the system or whether to transfer such RECs to the electric company. This election is irrevocable. The electric company must retire all RECs transferred to it by a net-metering customer.
 - (2) The REC adjustor for a net-metering system must be calculated in dollars per kWh (\$/kWh) at the time the Commission issues the net-metering system a CPG. A zero or positive REC adjustor applies for a period of 10 years from the date the system is commissioned; a negative REC adjustor applies in perpetuity. Except for systems that register

pursuant to Section 5.105 of this Rule, both the amount and the term of the REC adjustor will be stated in the net-metering system's CPG.

~~(3) — Initial~~The value of the REC adjustors ~~at the time this Rule becomes effective (January 1, 2017) are as follows:~~are those set in the most recent biennial update order issued by the Commission pursuant to Section 5.128.

~~(4) — REC Adjustor (Transfer) = 3 cents per kilowatt hour;~~

~~REC Adjustor (Retention) = negative 3 cents per kilowatt hour.~~

~~(5)(3)~~ (3) Hydroelectric facilities net-metering under this rule are not subject to a REC adjustor.

(C) The siting adjustors are determined as follows:

(1) In order to provide incentives for the appropriate and beneficial siting of net-metering systems, each net-metering system may receive the highest-value siting adjustor for which it meets the applicable criteria. The net-metering system's siting adjustor must be expressed in dollars per kWh (\$/kWh) at the time the Commission issues the net-metering system a CPG. A zero or positive siting adjustor applies for a period of 10 years from the date the system is commissioned; a negative siting adjustor applies in perpetuity. Except for systems that register pursuant to Section 5.105 of this Rule, both the amount and the term of the siting adjustor must be stated in the net-metering system's CPG.

(2) The ~~initial~~value of the siting adjustors ~~at the time this Rule becomes effective (January 1, 2017) are as follows:~~ for Category I through IV facilities and hydroelectric facilities ~~are those set in the most recent biennial update order issued by the Commission pursuant to Section 5.128.~~

~~(a) Category I = 1 cent per kilowatt hour;~~

~~(b) Category II = 1 cent per kilowatt hour;~~

~~(c) Category III = negative 1 cent per kilowatt hour;~~

~~(d) Category IV = negative 3 cents per kilowatt hour;~~

~~(e) Hydroelectric facilities = 0 cents per kilowatt hour.~~

5.128 Biennial Update Proceedings

- (A) The Commission must conduct a biennial update in ~~2018-2024~~ and every two years thereafter to update the following:
 - (1) REC adjustors;
 - (2) siting adjustors;
 - (3) the statewide blended residential rate; and
 - (4) the eligibility criteria applicable to Categories I, II, III, and IV net-metering systems.
- (B) In updating the REC adjustors, the Commission must consider:
 - (1) the pace of renewable energy deployment necessary to be consistent with the Renewable Energy Standard program, the Comprehensive Energy Plan, and any other relevant State program;
 - (2) the total amount of renewable energy capacity commissioned in Vermont in the most recent two years;
 - (3) the disposition of RECs generated by net-metering systems commissioned in the past two years; and
 - (4) any other information deemed appropriate by the Commission.
- (C) In updating the siting adjustors, the Commission must consider:
 - (1) the number and capacity of net-metering systems receiving CPGs in the most recent two years;
 - (2) the extent to which the current siting adjustors are affecting siting decisions;
 - (3) whether changes to the qualifying criteria of the categories are necessary;
 - (4) the overall pace of net-metering deployment; and
 - (5) any other information deemed appropriate by the Commission.
- (D) On or before ~~February~~ March 1 of each even-numbered year, each electric company must file ~~with the Commission and the Department of Public Service in the biennial update investigation case~~ a form developed by the Commission in consultation with the Department and the electric companies. The form will collect the following information regarding the state of the electric company's net-metering program:

- (1) the number of net-metering systems interconnected with the electric company's distribution system during the past two years;
- (2) the capacity of each system;
- (3) the fuel source of each system;
- (4) the REC disposition of each system;
- (5) the siting adjutor applicable to each system; ~~and~~
- (6) any other information the electric company believes to be relevant to the biennial update; and
- ~~(6)(7) any other information required by the Commission's form.~~

(E) By no later than ~~March~~April 1 of each even-numbered year, the Department of Public Service and the Agency of Natural Resources may file ~~with the Commission in the biennial update investigation case~~ any proposed updates to the items specified in Section 5.128(A)(1)-(4) and reasons therefor.

(F) Any person may file comments on the filings under (D) and (E), above, by ~~March~~April 15.

(G) By ~~May~~June 1 of each even-numbered year, the Commission may by order update the items specified in Section 5.128(A)(1)-(4), as necessary. Adjustors must be determined to ensure that net-metering deployment occurs at a reasonable pace and in furtherance of State energy goals.

(H) Electric companies must file no later than ~~May~~June 15 revisions to their net-metering tariffs that incorporate the new values set forth by the Commission in its biennial update order. Each tariff must be filed as a new tariff case in ePUC. Such tariffs must have an effective date of ~~July~~August 1. This tariff compliance filing may not include any other proposed changes to the utility's net-metering tariff, except for a proposed change to the utility's blended residential rate calculated pursuant to Section 5.127(A) of this Rule.

(I) Notwithstanding the above, the Commission may conduct an update sooner than biennially at its own discretion or upon petition by the Department.

5.129 Billing Standards and Procedures

(A) Customer Billing Requirements. The bill of a net-metering customer must include the following:

- (1) the dollar amount of any credits carried forward from the previous months;
- (2) the dollar amount of credits that have expired in the current month;
- (3) the dollar amount of credits generated in the current month;
- (4) the dollar amount of credits remaining; and
- (5) the total kWh generated by the net-metering system in the current month.

(B) Accumulated Bill Credits. Any accumulated bill credit must be used within 12 months from the month it is earned, or it reverts to the electric company without any compensation to the net-metering customer. Bill credits may not be transferred independently of a transfer of ownership of a net-metering system.

(C) Membership in Multiple Net-Metering Groups. Individual customer accounts may be enrolled in only one net-metering group at a time. Customers with multiple accounts may enroll each account in a separate net-metering group.

(D) 500 kW Customer Limit. The cumulative capacity of net-metering systems allocated to a single customer may not exceed 500 kW, except as provided in Rule 5.129(F), below. For example, a customer who has two accounts cannot have each account allocated more than 50 percent of the output from two 500 kW net-metering systems because the cumulative capacity of the allocated share of those net-metering systems would exceed 500 kW.

(E) Multiple Net-Metering Systems in a Group. Groups may, ~~subject to Commission approval~~, have more than one net-metering system attributed to a group and may increase the capacity of existing generation attributed to the group. However, the cumulative capacity of net-metering systems attributed to a group may not exceed 500 kW, except as provided in Rule 5.129(F), below.

(F) Cumulative Capacity of School Net-Metering Systems. The cumulative capacity of net-metering systems allocated to a single customer:

- (1) that is a public school, as defined in 16 V.S.A. § 11(7); an independent school, as defined in 16 V.S.A. § 11(8); a supervisory union, as defined in 16 V.S.A. § 11(23); or a school district, as defined in 16 V.S.A. § 11(10), must not exceed 1 MW.
- (2) that is a school district, as defined in 16 V.S.A. § 11(10), or a supervisory union, as defined in 16 V.S.A. § 11(23), created as a result of school

district consolidation under 2010 Acts and Resolves No. 153, 2012 Acts and Resolves No. 156, or 2015 Acts and Resolves No. 46, each as amended, must not exceed the greater of:

- (a) the cumulative capacity of the net-metering systems that the school districts were participating in, or had agreed to participate in, prior to consolidation; or
- (b) 1 MW.

~~(F)(G)~~ Group Member Allocations. Where the customer has, at its own expense, provided a separate meter for measuring production, the kWh produced by a net-metering system may be allocated to the accounts of a single customer or the accounts of group members. Where there is no separate production meter, only the excess generation may be allocated to accounts belonging to a single customer or to the accounts of members of a group.

5.130 Group System Requirements

(A) In addition to any other requirements in 30 V.S.A. §§ 248 and 8010, and in any applicable Commission rules, before a group system may be formed and served by an electric company, the group must file the following information with the electric company:

- (1) The meters to be included in the group system, which must be located within the same electric company service territory;
- (2) A process for adding and removing meters in the group and an allocation of 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 5.130(A)(3), and any such change may only apply on a prospective basis;
- (3) The name and contact information for a designated person who is 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 may not in any way require the involvement of the electric company, the

Commission, 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 must implement appropriate changes to a net-metering group within 30 days after receiving written notification of such changes from the person designated under subsection 5.130(A)(3). Written notification of a change in the person designated under subsection 5.130(A)(3) is effective upon receipt by the electric company. The electric company is not liable for the consequences from actions based on such notification.

(C) For each group member's customer account, the electric company must 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 must be based on the individual meter for the account.

5.131 Interconnection Requirements

The interconnection of all net-metering systems is governed by Commission Rule 5.500. The applicant bears 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.

5.132 Disconnection of a Net-Metering System

The following procedures govern the disconnection of a net-metering system from the electrical system. These procedures apply to net-metering systems only and do not supplant Commission Rules 3.300 and 3.400 relating to company disconnection in general. A customer who initiates a permanent disconnection of a net-metering system must notify the electric company. The electric company must notify the Commission and the Department of the disconnection.

(A) 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" means 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.

(B) If the emergency is not caused by the operation of the net-metering system, the

company must reconnect the net-metering system upon cessation of the emergency.

(C) 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 must file a disconnection petition with the Commission.

(D) Non-emergency disconnections must follow the same procedure as emergency disconnections in subsection B above, except that the electric company must give written notice of the disconnection no earlier than 10 days and no later than ~~3-working~~5 days prior to the first date on which the disconnection of the net-metering system is scheduled to occur. Such notice must 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 5.130(A)(3).

(E) A customer who is involuntarily disconnected may file a written complaint with the Commission at any time following disconnection. The customer must provide a copy of the complaint to the electric company and the Department of Public Service. Within 30 days of the date the complaint is filed, the Commission may hold a hearing to investigate the complaint. In the event of the filing of such a complaint, the electric company must carry the burden of proof to demonstrate the reasonableness of disconnection.

5.133 Electric Company Requirements

(A) Generally. Electric companies:

- (1) Must make net-metering available to any customer or group on a first-come, first-served basis as determined by the order in which customers file a complete interconnection application;
- (2) Must track credits by the month and year created and apply them on a first-created, first-used basis;

- (3) May charge a reasonable fee for establishment, special meter reading, accounting, account correction, and account maintenance for a net-metering system;
- (4) 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;
- (5) May require a customer to install advanced metering infrastructure prior to serving the net-metering customer;
- (6) May require that all meters included within a group system be read on the same billing cycle; and
- (7) May require energy efficiency audits for customers seeking to install and operate a net-metering system if they are:
 - (a) a residential customer with historic energy consumption of 750 kWh or more per month; or
 - (b) a commercial or industrial customer.

(B) Each electric company with net-metering customers must maintain current records of the number, individual capacity, cumulative capacity, and disconnections of net-metering generation installed within its service territory.

5.134 ~~Electric Company Tariffs~~[DELETED]

~~Tariffs. Pursuant to 30 V.S.A. § 225, an electric company must propose for Commission approval a tariff to implement a net metering program in its service territory pursuant to this Rule within 60 days after the effective date of this Rule. In connection with filing such tariffs, an electric company may request additional time to implement any provision of this Rule. The Commission will grant reasonable requests where there is good cause shown.~~

5.135 Participation in Wholesale Markets

No net-metering system may participate in a wholesale market unless the Commission finds that such participation will not harm the interests of Vermont ratepayers and will be in the public good.

5.136 Locational Adjustor Fee

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

5.137 Energy Storage Facility Electrically Connected to a Net-Metering System

(A) An energy storage facility that is electrically connected to a net-metering system must be configured such that the customer cannot receive net-metering compensation for electricity drawn from a source other than the net-metering system.

(B) No electric company may allow an energy storage facility to be interconnected in a manner that allows electricity generated by any source other than a net-metering system to receive net-metering compensation.

PART V: COMPLIANCE PROCEEDINGS

5.1355.138 Compliance Proceedings

(A) In response to a complaint filed by any member of the public or on its own motion, the Commission may open a compliance proceeding or refer matters concerning whether an approved net-metering system is complying with the terms of its CPG or any applicable law within the Commission's jurisdiction to the Department of Public Service for investigation and to make a recommendation as to whether the Commission should open a compliance proceeding or take any other steps necessary to ensure that the net-metering system continues to serve the public good.

(B) ~~After considering the Department's recommendation,~~ The Commission may take any or all of the following steps to ensure that a net-metering system is constructed and operated in compliance with the terms and conditions of the CPG issued for that net-metering system and any related Commission order:

- (1) Direct the certificate holder to provide the Commission 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);
- (2) Direct the certificate holder to provide additional information;
- (3) Dismiss the complaint;
- (4) 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:
 - (a) The CPG or order approving the CPG was issued based on material information that was false or misleading;
 - (b) The system was not installed, or is not being operated, in accordance with the National Electrical Code or applicable interconnection standards;
 - (c) 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 or with the findings contained in the order approving the net-metering system;

- (d) 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
- (e) Other good cause as determined by the Commission in its discretion.

(C) If, assuming the allegations in the complaint are true, the Commission determines that there is no probability of a violation of any CPG condition, Commission order, or any applicable law, the Commission will dismiss the complaint and inform the complainant and CPG holder of such dismissal.

History: Effective March 1, 2001; revised July, 2003; revised November 1, 2007; revised April 15, 2009; revised January 27, 2014; revised July 1, 2017.