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Holly R. Anderson, Clerk
Vermont Public Utility Commission
112 State Street
Montpelier, VT 05620-2701

July 10, 2024

Re: 21-3883-RULE Proposed Creation of PUC Rule Concerning Energy Storage

Dear Ms. Anderson:

On May 21, 2024, the Commission issued an Order seeking comments on a first draft of a storage rule. Vermont Electric Power Company, Inc. (VELCO) appreciates the opportunity to provide the following comments from our perspective as the statewide electric transmission system operator and as a company that will grow increasingly reliant on energy storage to run, and provide redundancy for, our system, including our telecommunications network.

VELCO believes the first draft of the storage rule is an excellent starting point, and we only have a handful of suggestions for the Commission to consider. Although VELCO does not have answers to all of the questions that the Commission has posed in the May 21, 2024 Order, VELCO provides the following comments in response to the draft language of the proposed rule.

Rule 9.101(A): VELCO recommends adding the following underlined language to the end of Rule 9.101(A): “Unless otherwise specified, facilities covered by the provisions of this rule are exempt from the provisions of Public Utility Commission Rule 5.400, including the requirement to amend a Certificate of Public Good for existing collocated non-storage infrastructure.” This would clarify that if a facility, such as a substation, already contains a CPG, that CPG does not need to be amended to add a storage system onsite. Existing CPG holders should not have to obtain a CPG amendment for their existing infrastructure when the streamlined process of the storage rule would address all issues related to storage systems.

Rule 9.101(B): Consider modeling this savings clause after the statutory savings clause that appears in 1 V.S.A. § 215 by adding the following underlined language: “In the event that any portion, or application, 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, so long as it can be given effect without the invalid provision or application.” By adding the words “or application,” the Commission would ensure that this savings clause applies to as-applied challenges, as well as facial challenges. By adding the words “so long as it can be given effect without the invalid provision or application,” the Commission would prevent parties from enforcing one provision that relied on another provision that is no longer in effect.

Rule 9.102: As with Commission Rule 5.500 on interconnection, we recommend adding the following definition: “‘VELCO’ means the Vermont Electric Power Company, which operates the transmission system in Vermont.” VELCO also recommends adding a separate definition of the term “regulated electric utility” to clarify that this term is referring to an electric distribution utility that is rate-regulated by the Commission. That is the clear intent of the requirements that apply to each “regulated electric utility”—e.g., having to show need before spending Commission-regulated ratepayer dollars—but this clarification would avoid any claim that VELCO should also be subject to the additional requirements placed on distribution utilities.

Rule 9.302: VELCO requests that the title of Rule 9.302 and Section (A) be revised to also include existing substations and radio tower sites. Like buildings, existing substations and radio tower sites are contained areas. Only minimal review should be required to add 1 MW or smaller batteries to these already developed areas, so these types of projects should fall under Rule 9.302, rather than Rule 9.303.

VELCO further requests that this minimal review apply to projects within existing substations and radio tower sites, even if earth disturbance is involved. Compared to the other equipment already installed at a substation or radio tower site, a 1 MW or smaller battery is unlikely to have the potential to impact any of the Section 248 criteria that are conditionally waived under Rule 9.302. In the rare instance where there may be a potential impact, the Commission could always revoke the conditional waivers, so there is little risk of any downside to making this change. Further, because substations and radio tower sites are previously developed areas and are already part of the grid, they are ideal locations for battery storage systems, so the permitting process should be streamlined.

Rule 9.302(B)(1): VELCO requests that the Commission add VELCO to the list of entities receiving the Advance Submission of 100 kW to 1 MW battery storage systems within existing buildings without earth disturbance. Under Rule 5.508(B), the interconnecting utility must send VELCO a copy of complete applications for generation systems greater than 1 MW, and allows VELCO to request a copy of smaller applications. VELCO sees a benefit in receiving earlier notification, directly from petitioners, of 100 kW or larger storage systems. It is still early days for storage systems, but, under certain sets of circumstances, these systems could end up being deployed rapidly and in large numbers that, cumulatively, could impact the transmission system. It is prudent for VELCO to have early and direct insight into the location, size, and pace of storage buildout.

Rule 9.302(C)(6): Regarding subsection (6), VELCO recommends adding more of the statutory language that appears in 30 V.S.A. § 248(b)(10), rather than just referencing “Existing or planned transmission facilities.” While this list is meant to be shorthand, it is also important to note what is being reviewed under each criterion. When it comes to (b)(10), a project’s “effect on Vermont utilities or customers” is a key part of the analysis.

Rule 9.302(C): VELCO recommends adding at least three new subsections:

- A requirement that these petitions demonstrate compliance with the Department's electric energy plan under 30 V.S.A. § 248(b)(7). The draft rule only requires regulated utilities to comply with (b)(7), but (b)(7) should apply to storage projects, regardless of which entity is developing them. In evaluating whether a particular project is in the public good, the Commission should look at whether it complies with the Department's electric energy plan.
- A requirement that these petitions include any information about plans for aggregation. So, for instance, if a petitioner plans to install five 1-MW battery storage systems and aggregate them, that would need to be included in the contents of each petition.
- A "catch-all" provision requiring any other information required by statute, rule, or Commission order. This would make clear that other provisions of law, including other provisions of this rule, might impose additional filing requirements. This would also avoid the need to amend the rule if, for instance, the Legislature passes a new law requiring additional information for storage petitions.

Rule 9.302(D): If the Commission agrees with VELCO's recommendation that all projects should be required to demonstrate compliance with the Department's electric energy plan, then that provision would be moved from (D) to (C).

Rule 9.302(G): For the same reasons noted above, regarding Rule 9.302(B)(1), VELCO requests that the Commission add VELCO to the list of entities receiving service of each petition for 100 kW to 1 MW battery storage systems within existing buildings without earth disturbance.

Rule 9.303(B)(1): For the same reasons noted above, regarding Rule 9.302(B)(1), VELCO requests that the Commission add VELCO to the list of entities receiving the Advance Submission of 100 kW to 1 MW non-battery storage systems and 100kW to 1 MW battery storage systems requiring earth disturbance.

Rule 9.303(C) & (D): It is confusing that Rule 9.303(C) is formatted differently from Rule 9.302(C). Rule 9.302(C) has an affirmative list of required information, while Rule 9.303(C) lists the criteria that are waived. It is also confusing that Rule 9.303(D) refers to criteria that are no longer conditionally waived (i.e., must be complied with). It would be preferable to have both of these rules—9.302(C) and 9.303(C)—use the same format, and VELCO recommends using the format of Rule 9.302(C). It would be far easier for developers, and members of the public, to be able to look at an affirmative list of what information must be filed for each type of application.

This would also address the formatting issue that currently exists, where two stand-alone sentences appear after subsection (D) and before subsection (E), but are not really part of subsection (D). Subsection (D) applies only to regulated utilities, but the two stand-alone

sentences impose requirements (filing a letter from the interconnecting utility, and following the requirements of Rule 5.403) that apply to *all* petitioners, not just regulated utilities. That would be much clearer if Rule 9.303(C) and (D) listed affirmative requirements. Further, there is no risk of leaving something out if the Commission accepts VELCO's recommendation of adding a "catch-all" provision to the list of required testimony and exhibits.

On that note, for the same reasons noted above, regarding Rule 9.302(C), VELCO recommends including a similar "catch-all" provision for petitions under Rule 9.303, as well as a requirement that petitions include any information about plans for aggregation.

Rule 9.303(F): For the same reasons noted above, regarding Rule 9.302(B)(1), VELCO requests that the Commission add VELCO to the list of entities receiving service of each petition of 100 kW to 1 MW non-battery storage systems and 100kW to 1 MW battery storage systems requiring earth disturbance by adding the following underlined language: "Petitioners proceeding under this section must comply with the service and notice requirements of Commission Rule 5.407, and must also serve VELCO in the same manner as other entities."

Rule 9.404: As the Commission is aware, the line between state authority and federal authority requires careful attention. Further, federal regulations can change at any time, and it would be inconvenient to have to amend a state law rule whenever federal law changes. For that reason, it may make sense to keep any references to federal law at a more general level, rather than citing specific regulations.

VELCO agrees with the concept in Rule 9.404(B) of not allowing an entity to simultaneously sell into the retail and wholesale markets. However, to ensure that the rule remains within the Commission's jurisdiction, VELCO recommends redrafting Rule 9.404(B) so that it reads as follows: "If an energy storage facility or energy storage aggregation is participating in and receiving compensation from any wholesale electricity markets, it may not at the same time receive retail electricity market compensation for the same products or services." This is substantively the same as the draft version of Rule 9.404(B), but makes clear that the Commission is not restricting wholesale markets in any way—rather, the Commission is only creating a rule that restricts retail compensation for those entities that choose to participate in the wholesale market.

Rule 9.405(B)(3): For the same reasons noted above, regarding Rule 9.302(B)(1), VELCO requests that the Commission add VELCO to the list of entities receiving notice of each registration of aggregations by adding the following underlined language: "Upon filing the registration form with the Commission, the Commission will provide notice of the registration to the affected distribution utility and VELCO."

As noted earlier, the draft rule is an excellent starting point, and VELCO appreciates the Commission's consideration of the above comments. VELCO is happy to answer any additional questions the Commission may have.



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Sincerely,

A handwritten signature in blue ink, appearing to read "K L - M", representing Kyle Landis-Marinello.

Kyle Landis-Marinello
Senior Counsel