

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 25-1253-INV

Public Utility Commission investigation into the definition of single plant pursuant to Act 38 of 2025 and decommissioning financial assurances	
---	--

Order entered: 06/30/2025

ORDER OPENING INVESTIGATION AND REQUESTING COMMENTS

I. INTRODUCTION

On May 28, 2025, Act 38, entitled “An act relating to increasing the size of solar net metering projects that qualify for expedited registration,” was signed into law.¹ Section 5 of Act 38 directs the Vermont Public Utility Commission (“Commission”) by November 1, 2025, to “submit a recommended amended definition of ‘plant’ in 30 V.S.A. § 8002(18) and an overview of their process and explanation of the recommendation” with the House Committee on Energy and Digital Infrastructure and the Senate Committee on Natural Resources and Energy. In making a recommendation, the Commission must consider:

1. the land use benefits of collocation of energy generation facilities;
2. the ability to ensure comprehensive review of collocated facilities; and
3. the potential impacts to ratepayers associated with collocated facilities.

The Commission is also interested in considering changes to its decommissioning process for renewable energy facilities. Given that the interested parties for the single-plant definition issue overlap significantly with the interested parties for the decommissioning process, the Commission will collect information about both issues in this proceeding.

II. SINGLE PLANT COMMENTS

Section 8002(18) defines “plant” as:

an independent technical facility that generates electricity from renewable energy. A group of facilities, such as wind turbines, shall be considered one plant if the group is part of the same project and uses common equipment and infrastructure such as roads, control facilities, and connections to the electric grid. Common ownership, contiguity in time of construction, and proximity of facilities to each

¹ Public Act No. 38 (2025 Vt.) (“Act 38”).

other shall be relevant to determining whether a group of facilities is part of the same project.

Under this definition, the Commission applies a two-prong test — asking whether the facilities are part of the “same project” and whether they share infrastructure and equipment — to determine whether separately proposed facilities instead qualify as a single plant.² During this year’s legislative session, Renewable Energy Vermont (“REV”) proposed changes to this definition.³

To facilitate productive conversation during a workshop, the Commission will collect proposals for changes to the definition of “plant” in 30 V.S.A. § 8002(18) and then provide interested parties with the opportunity to submit written comments on the proposals before holding a workshop. For the initial proposals, the Commission requests the following:

1. the language of the proposal (*e.g.*, ~~strikeout~~ and underline of the statute);
2. an explanation of how the proposed statutory changes would affect land use by energy generation facilities;
3. an explanation of how the proposed statutory changes would ensure comprehensive review of collocated facilities, and specifically, how the proposed statutory changes would affect the following areas where facility capacity is used as a screening mechanism:
 - a. Standard Offer Program eligibility;
 - b. Net-metering program eligibility;
 - c. Net-metering registration form eligibility;
 - d. Net-metering rate categories;
 - e. Section 8010 application of the *Quechee* standard for aesthetics review of net-metering facilities;
 - f. Section 248(s) setback requirement categories;
 - g. Section 8005 distributed renewable generation categories;

² See *Petition of Portland Street Solar LLC*, Case No. 19-2484-NMP, Order of 12/23/20, *aff’d*, 2021 VT 67.

³ *More Efficient Solar Siting: Updating the “Single Plant” Definition in Statute*, Vt. H. Energy & Digit. Infrastructure Comm., 2025-2026 Sess. (Apr. 4, 2025) (presentation of Peter Sterling, Executive Director, Renewable Energy Vt.).

- h. Section 8007 simplified review qualification for small renewable energy facilities;
- i. The Commission’s simplified review (waiver process) for facilities from 150 kW to 2.2 MW; and
- j. Application fee categories, pursuant to Sections 248b and 248c.

(If the proposed statutory changes to 30 V.S.A. § 8002(18) would necessitate changes to other statutory provisions, such as those cited above, the proponent of the changes must also provide those additional statutory changes); and

- 4. an explanation of potential impacts to ratepayers associated with the proposed statutory changes.

The Commission requests that interested parties with suggested changes to the single-plant definition file such information by July 17, 2025. Comments on the proposals must be filed by August 8, 2025.

III. DECOMMISSIONING FINANCIAL ASSURANCES COMMENTS

Currently, the Commission requires that CPG holders for generation facilities file and regularly update financial instruments, such as letters of credit, escrow agreements, and bonds, with the Commission. These financial assurances are meant to ensure that funding is available to decommission the facility and restore the site once the facility is no longer in service. The administration of the current system of obtaining and maintaining financial assurance instruments requires a substantial amount of administrative work by Commission staff and a lengthy regulatory compliance burden for developers. Therefore, the Commission is interested in exploring alternatives to the current financial assurance methods that fulfill the statutory requirement that “facilities are removed once they are no longer in service.”⁴

As a straw proposal, the Commission offers the following statutory language.

30 V.S.A. § 20 is amended as follows:

(a)(1) The Commission or the Department of Public Service may authorize or retain legal counsel, official stenographers, expert witnesses, advisors and consultants, temporary employees, and other providers of research, scientific, financial, economic, actuarial, accounting, or engineering services:

⁴ 30 V.S.A. § 248(a)(5).

(F) To investigate, review, plan, oversee, or carry out the decommissioning and site restoration required by a certificate of public good issued to an electric generation or energy storage facility.

30 V.S.A. is added to read:

§ 248e. Electric Generation and Energy Storage Facility Decommissioning Fund

(a) There is created an Electric Generation and Energy Storage Facility Decommissioning Fund that shall be a special fund created pursuant to 32 V.S.A. chapter 7, subchapter 5, and shall be administered by the Chair of the Public Utility Commission.

(b) Deposits to the Decommissioning Fund shall consist of all decommissioning surety fees collected for electric generation or energy storage facilities that have received a certificate of public good from the Commission. The Commission shall deposit into the Decommissioning Fund each decommissioning surety fee it receives under this subchapter.

(c) Disbursements from the Decommissioning Fund may be made by the Chair of the Commission to undertake actions that the Commission considers necessary to investigate or mitigate, or both, the effects of an abandoned, non-operational, or disclaimed electric generation or energy storage facility. Disbursements under this subsection may be made:

(1) to pay costs to third parties who initiate or complete facility decommissioning and site restoration where the holder of the certificate of public good is unknown, cannot be contacted, is unwilling to take action, is incapable of carrying out decommissioning or site restoration, or does not take timely action as ordered by the Commission;

(2) to investigate ownership of or ascertain the holder of the certificate of public good for an electric generation or energy storage facility;

(3) to take other appropriate remedial action;

(4) to pay costs to persons retained by the Commission or the Department under 30 V.S.A. § 20(a)(1)(F).

or

(5) to return portions of the surety fees as determined by a formula established by the Commission to individual CPG holders upon satisfactory completion of decommissioning and Commission approval.

The Chair is prohibited from disbursing funds for a facility that did not contribute to the Fund.

(d) For purposes of this section:

(1) “Chair” means the Chair of the Vermont Public Utility Commission.

(2) “Commission” means the Vermont Public Utility Commission.

(3) “Decommissioning” means to remove a facility safely from service and to restore the site to its condition before the facility was installed consistent with the facility’s certificate of public good and Commission rules and orders.

(4) “Decommissioning Fund” means the Electric Generation and Energy Storage Facility Decommissioning Fund.

(5) “Decommissioning surety fee” means the contribution assigned to a facility and determined by a funding formula established by the Commission.

(6) “Department” means the Vermont Department of Public Service.

(e) Balances in the Decommissioning Fund shall be expended only for the purposes authorized in this subchapter and shall not be used for the general obligations of government or for other governmental purposes. All balances in the Decommissioning Fund at the end of any fiscal year shall be carried forward and remain within the Decommissioning Fund. Interest earned by the Decommissioning Fund shall be deposited in the Decommissioning Fund.

(f) The Commission shall have authority to adopt rules or issue orders implementing this subchapter.

(g) The Commission shall provide to the Treasurer of the State of Vermont an annual accounting of each decommissioning fee showing the source and the amount collected and each decommissioning project that was funded or that will be funded with the fee and the amount expended.

Under this proposal, the Commission’s requirements for decommissioning financial assurances would shift from a financial-instrument model to a cleanup-insurance model.

The Commission will also conduct two rounds of comments on this topic in advance of the workshop. Interested parties are requested to file comments on the Commission’s proposal or alternative proposals for consideration. For alternative proposals, the Commission requests the following:

1. the language of the proposal (*e.g.*, ~~strikeout~~ and underline of the statute(s) or new statutory language);

2. an explanation of whether the proposal requires changes to the Commission's rules or procedures;
3. an explanation of how the proposed changes would affect regulatory burden; and
4. an explanation of how the proposed changes would affect CPG holders.

Comments on the Commission's proposal, or any alternative proposals, must be filed by July 17, 2025. Comments on the alternative proposals must be filed by August 8, 2025.


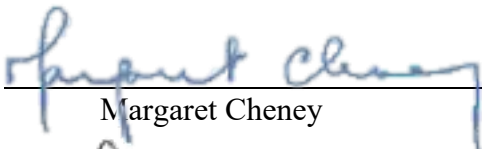
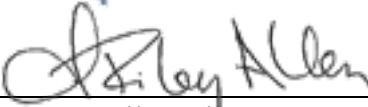
IV. WORKSHOP AND PARTICIPATION

With this order, the Commission opens an investigation to gather information for its recommended changes to the single-plant definition required by Section 5 of Act 38 and to the Commission's process for financially securing decommissioning. The Commission will convene a workshop on these topics, but requests comments from interested parties as requested above before the workshop is held.

Notice of this proceeding is being provided to the Clerk's general distribution list. Any person or entity wishing to participate in this case should email the Clerk of the Commission at PUC.Clerk@vermont.gov. Importantly, participants can file documents directly into the case in ePUC. Participants also receive email notifications via ePUC when documents are filed or issued.


SO ORDERED.

Dated at Montpelier, Vermont, this 30th day of June, 2025.

 _____)) PUBLIC UTILITY
Edward McNamara)	
_____)	
 _____)) COMMISSION
Margaret Cheney)	
_____)	
 _____)) OF VERMONT
J. Riley Allen)	

OFFICE OF THE CLERK

Filed: June 30, 2025

Attest: 

 Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

PUC Case No. 25-1253-INV - SERVICE LIST

James Porter, Director of Public Advocacy
Vermont Department of Public Service
DPS-PA@vermont.gov

(for Vermont
Department of Public
Service)

Other Entities Receiving Notice:

Large PUC email list