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Judith Whitney, Clerk
Vermont Public Service Board
112 State Street
Montpelier, VT 05620-2701

Re: Case Number 18-3810-INV – Investigation into Renewable Energy Standard Rulemaking

Dear Ms. Whitney:

The Public Service Department files these comments in response to the Commission's request in its December 12, 2018 memorandum in this Docket. The Department responds to the specific questions posed and provides further information on topics discussed at the workshop.

I. Recommendations applicable to multiple Tiers

1. Lists of the data to be included in compliance filings for Tiers 1-3 of the RES

The Department suggests that as part of the rulemaking, the PUC develop a data collection template to be used by the utilities on an annual basis. The process could include submission of the appropriate input from stakeholders and should seek to create a streamlined template for collection of data from distribution utilities (DUs). The DUs would then complete this template and submit it to the PUC no later than the August 31 annual deadline, covering the previous calendar year and all three tiers.

Currently, DUs are required to provide documentation for their annual compliance filings in the form of the 6/8/2018 Commission-approved Renewable Energy Credit (REC) Banking Spreadsheet. However, the REC Banking Spreadsheet does not address all required items needed for compliance, requiring utilities to file additional documentation and reports to demonstrate compliance.

Ideally, there should be a uniform spreadsheet for all utilities to report their annual compliance. This spreadsheet should include:

- Annual retail sales for the compliance year
- Tier 1, 2, and 3 compliance requirements

- A report from NEPOOL GIS indicating what RECs from the compliance year the utility holds at the end of the year
 - RECs being used for current compliance year
 - RECs being banked for future compliance years
- Banked RECs from the previous year
 - RECs being used for current compliance year
 - RECs being banked for future compliance years
- Tier 3 savings claims
- Appropriate adjustments to attributes not marked as Vermont qualified in NEPOOL GIS (e.g., Hydro Quebec [HQ], New York Power Authority [NYPA], etc.)
- Annual resource mix (e.g. hydro, wind, biomass, nuclear, system, etc.) as needed to calculate the Tier 3 penalty

In addition to the spreadsheet, additional documentation will be required to support the use of attributes not labeled as Vermont qualified in the NEPOOL GIS. Specifically, if a DU intends to meet its RES compliance with attributes from HQ or NYPA, then appropriate attestations must be included with their compliance filing demonstrating ownership and eligibility.

2. A draft template of the compliance spreadsheet to be used for tracking compliance with Tiers 1-3 of the RES

The Department developed a RES spreadsheet that it sent to the DUs on January 7, 2019. Feedback was requested by January 11, 2019. The Department received comments from the City of Burlington Electric Department and VPPSA, which it incorporated into the included spreadsheet.¹ The Department believes this spreadsheet could benefit from further input, so notes that this is not yet the final product. The Department will inform the PUC of any other feedback the Department may receive from the DUs, and of course the DUs are free to comment on the spreadsheet at the workshop.

3. Further explanation of what “additional efforts” should be made to ensure appropriate tracking of RES compliance attributes associated with imports from external control areas, including Hydro-Quebec and the New York Power Authority.

In 2015, as reflected in the Department’s December 14, 2015 comments in Docket 8550, the Department understood that regional efforts were underway to harmonize cross-border

¹ The Department was unable to upload the macro-enabled spreadsheet (.xlsm). The Department has uploaded a macro-free spreadsheet (.xlsx) and emailed the Commission the macro-enabled spreadsheet.

accounting issues for environmental attributes from Quebec and New York. The expectation was that by the time RES went into effect, New England Power Pool GIS (“GIS”) would be able to accurately track generation imports. These upgrades to the REC tracking system did not materialize, and attributes associated with imported energy from NYPA and HQ continue to be represented as “NY System Mix” or “Quebec System Mix” in GIS.

The PUC’s June 28, 2016 Order Implementing the Renewable Energy Standard (“RES Implementation Order”)² created a process for DUs to demonstrate compliance with Tiers 1 and 2. For attributes monitored in GIS, this was through the ownership and retirement of RECs in the GIS. For attributes not monitored in GIS, compliance has been demonstrated through submission of documentation demonstrating that the DU owns the attributes in question, that the attributes are eligible for the RES, and that the attributes have not been claimed in any other jurisdiction. In the case of HQ and NYPA, the RES Implementation Order specifically prescribed that the demonstration shall also include ownership of the associated attributes as they are tracked in GIS, even if the DU claims a different value for the environmental attributes than that displayed in the GIS.

In the first year of compliance, DUs provided attestations from HQ indicating the percent of generation from renewable resources, that the DU has ownership rights to the attributes, and that they have not been claimed elsewhere. The Department’s view is that this process adequately addresses tracking and disposition of attributes. This is particularly in light of the fact that Quebec does not have a parallel attribute tracking system to the GIS that could be referenced, and that the Department is presently not aware of other entities “competing” for and potentially placing duplicative claims on those attributes.

For NYPA power, DUs submitted letters asserting their ownership and renewability of attributes and referenced the previous St. Lawrence (expired 12/23/2017) and Niagara contracts to demonstrate ownership rights of the attributes. (The current St. Lawrence contract, however, does not include the attributes and cannot be used to satisfy RES obligations.) Because a parallel attribute-tracking system does exist in New York, and because other entities do use NYPA attributes to satisfy their own renewable portfolio requirements, there is a need to pursue additional safeguards to protect against duplicative claims on these attributes. The GIS allows for the importing of unit-specific certificates.³ The Department will work with the DUs, VELCO, and NYPA to register the appropriate units so that going forward, all RES compliance attributes

² See Order Implementing the Renewable Energy Standard, Docket 8550, *Investigation re: establishment of the Renewable Energy Standard program* (Vt. P.S.B. June 28, 2016).

³ See <https://www.nepoolgis.com/how-to/importing-unit-specific-certificates/>

can be tracked directly through NEPOOL GIS. This will also eliminate the need for additional documentation related to NYPA attributes.

4. RES Qualification Registration

The Department asks that the form require the applicant provide the CPG Docket number. Further, the Department believes it would be efficient to have these reviewed in bulk quarterly. Utilities should also have an opportunity to comment during the registration process.

5. Format of Rules

In order to make the resulting rule understandable to the general public, the Department believes that the rules should cross-reference the procedural forms. These forms would then identify the required information. This would enable the forms to be updated as needed, while also shortening the rule and focusing it on the relevant issues.

To illustrate, in the section of the RES Implementation Order addressing RES qualification registration states that the registration form “shall contain the following information,” and then lists certain information, such as “date of construction.”⁴ Such details cumulatively can add significant length to a rule, yet still may not be exhaustive. Meanwhile these details may obscure the information important to the average reader. The Department believes it would be cleaner to have the rule simply read, “Facilities seeking a statement of qualification through registration shall submit the ‘Renewable Energy Standard Qualification Registration Form’ provided by the Commission.” The underlined language could hyperlink to the relevant form in the version of the RES rule on the Commission’s website.

II. Tier 1

The Department supports giving DUs full discretion in their annual treatment of REC inventory with respect to which RECs are retired for compliance versus banked. The expectation is that most DUs will use the oldest vintage RECs for compliance first, but that should not be a requirement. Each DU should have the ability to make individual decisions on the best use of their RECs, as long as the RECs are used within 3 years and are not banked past their expiration.

III. Tier 2

The Department has no Tier 2-specific comments.

⁴ See RES Implementation Order at 66.

IV. **Tier 3**

1. **A draft summary table to be included in annual plans and Tier 3 annual reports.**

The Department suggests that as part of the rulemaking, the PUC should create a process for the development of a summary table to be used by the utilities when submitting their annual plans and Tier 3 reports. The process could include submission of the appropriate input from stakeholders and should seek to create a streamlined table for summarizing data in DU annual plans and Tier 3 reports. This would allow for easier review and comparison by the Department and all other interested parties.

The Department proposes the following summary table headers:

- a. Measure
- b. Savings per unit
- c. Incentive amount
- d. Low Income Adders
- e. Administrative cost
- f. Total cost (with and without low income)
- g. Number of measures
- h. Cost/MWh (with and without low income)
- i. Total MWh
- j. Budget

These proposed headers should not be included in the rule but in a form available on the Commission's website. That will enable the removal and addition of headers as needed. This approach is consistent with the recent amendments to the Administrative Procedure Act,⁵ since the headers are essentially forms.

Additionally, the Department suggests that administrative costs be defined, calculated, and reported in a consistent manner by all utilities. The Department recommends that where a measure or product is provided to a customer this should be considered a direct program cost in the same way as a cash incentive or bill credit (if this is a direct install program paid for by the utility, these costs should also be considered direct). All other costs should be considered administrative. If administrative costs cannot be broken out by measure, then the sum of administrative costs should be applied to each measure using weighting based upon the total amount of MWh savings per measure. This recommendation is consistent with comments that the Department filed regarding the DUs' Tier 3 plans.

⁵ See 2017, Adj. Sess., No. 156, eff. July 1, 2018.

2. Approval of Annual Plans

The RES Implementation Order specifically lists the elements required to be addressed in a DU’s Tier 3 annual plan as well as general energy transformation program/project requirements. These are based upon the requirements contained in 30 V.S.A. § 8005(a)(3) and further defined in the RES Implementation Order. At least some of these requirements are not clear cut, and there could be reasonable disagreements as to whether a program meets the requirements. Yet the Commission’s process for reviewing the annual plans does not provide certainty as to whether these requirements are met. Utilities may therefore not know if their programs meet the requirements until after the compliance period. If a program did not meet the requirements, the only remedy available is for the utility to pay the Tier 3 alternative compliance payment.

In order to provide clarity and ensure that the requirements are met, the Commission should make a determination that each utility’s Tier 3 annual plan complies with requirements. The Commission’s approval would only be on whether the requirements would be met, not on the relative mix of program offerings or estimated number of participants/measures.

One process would be to create a structure similar to a tariff filing, where the plan is deemed approved absent an investigation by the Commission. The Department proposes the following schedule:

<u>Event</u>	<u>Date</u>
DU’s file Tier 3 annual plans	November 1
Workshop held for clarifying questions and input (optional)	Second week of November
Comments on annual plans, including whether the plans should be approved without further investigation	Last week of November
If the Department or the Commission does not raise questions regarding whether an annual plan meets the requirements, annual plans will be deemed approved. If a question has been raised, the DU’s reply comments are due.	December 15
PUC order either approving annual plans or requiring changes/deficiency corrections	December 31 ⁶
Final revised Tier 3 annual plans (if required) filed with PUC	January 15
Date by which PUC approval of revised Tier 3 plans is assumed, unless a stakeholder submits a request for further investigation	January 31

⁶ This deadline would be included in the final rule.

The Department would assume that the DUs would share drafts of their plans with the Department and other stakeholders prior to the due dates. This is necessary to identify potential issues or deficiencies prior to plan submittal.

VERMONT DEPARTMENT OF PUBLIC SERVICE

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