



May 14, 2019

Ms. Judith Whitney, Clerk
Vermont Public Utility Commission
112 State Street
Montpelier, VT 05702

Chris Company, WRC
President

Tasha Wallis, LCPC
Vice-President

Charlie Baker, CCRPC
Secretary/Treasurer

RE: 19-0855-RULE Proposed revisions to Vermont Public Utility Commission Rule 5.100

Dear Commissioners:

The Vermont Association of Planning and Development Agencies (VAPDA), writing on behalf of the eleven regional planning commissions of Vermont, is providing these written comments regarding proposed revisions to Vermont Public Utility Commission Rule 5.100. We are specifically commenting on Section 5.103's definition of "preferred sites."

We'd like to reiterate comments we submitted in a letter dated August 1, 2018 concerning preferred site definition. In that letter, we noted that the requirement of a joint letter of support is problematic for two reasons.

First, as separate political subdivisions or units with separate statutory planning authorities, both regional planning commissions and municipalities are enabled to appear as separate parties in Section 248 proceedings to represent their respective plans. Second, as a matter of policy, some regional commissions and municipalities may not write letters of support. A "support letter" may connote a subjective value judgment rather than an objective assessment of consistency with plan policy.

Regional planning commissions are political subdivisions of the state, and municipalities are political units. 24 V.S.A. § 4341(a) states, "For the purpose of a regional planning commission's carrying out its duties and functions under State law, such a designated region shall be considered a political subdivision of the State." 24 V.S.A. § 4345a(14) states that with respect to proceedings under 30 V.S.A. § 248, regional planning commissions "(A) have the right to appear and participate; and (B) appear before the Public Utility Commission to aid in making determinations under that statute when requested by the Commission."

30 V.S.A. § 248(a)(4) notes that regional planning commissions and municipalities have the right to appear as a party in proceedings held under this section, commonly known as Section 248. Subsection (G) states, "The regional planning commission for the region in which the facility is located shall have the right to appear as a party in any proceedings held under this subsection." Subsection H goes on to state,

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“The legislative body and the planning commission for the municipality in which a facility is located shall have the right to appear as a party in any proceedings held under this subsection.”

We are not aware of another circumstance whereby the PUC requires two separate political units of the state, with their own duly adopted plans and their own right to appear as a party in proceedings before it, to define a site through a joint letter of support. This would seem to compromise the rights and powers conferred upon regional planning commissions and municipalities through statute to represent their positions as independent parties in PUC proceedings. It would further seem to compromise the rights of petitioners by asking for a subjective value assessment of a project, rather than an objective assessment as to the extent to which an energy development proposal comports with the policies of the plan in question.

We suggest the PUC consider replacing the “joint letter of support” requirement with letters from the legislative body and municipal and regional planning commissions that the *site* in question is potentially preferred for solar energy development based upon the policies their respective plans. The PUC recognizes that such letters in no way constitute confirmation of *project* conformance with the respective plans, that conformance cannot be determined until a complete petition has been filed with the PUC, and that letters of site preference in no way limit further engagement of municipalities and regional planning commissions in the petition review process going forward.

Additionally, RPCs request that the rule instruct petitioners to provide a minimum level of information to municipalities and the RPCs in order to make a determination of whether a location is a preferred site. This should include at minimum a site plan with the area of disturbance shown and maps depicting current site conditions using the Vermont Environmental Atlas and applicant knowledge. Alternatively, the rule could state that the preferred site determination will be made after submittal of the 45-day notice.

Thank you for your consideration of these comments. VAPDA and/or individual regional planning commissions may submit additional comments prior to the May 16th deadline and during the proceeding. We appreciate the PUC’s engagement with us as we implement the provisions of our duly-adopted Act 174 compliant regional energy plans.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Campany". The signature is fluid and cursive, with a large initial "C" and "C" followed by several loops and a long horizontal stroke at the end.

Chris Campany, President