



52 Portland Street  
Morrisville, VT 05661

Tel. 802-888-4548

January 12, 2023

Holly Anderson, Clerk  
Public Utility Commission  
112 State Street, 4<sup>th</sup> Floor  
Montpelier, VT 05620

Re: 19-0855-RULE – Response to Order Requesting Comments on Draft Rule, 12/2/2022

To Whom It May Concern:

The Vermont Association of Planning and Development Agencies (VAPDA) appreciates the opportunity to submit the following additional comments regarding proposed changes to net metering Rule 5.100:

### **Section 5.103 – Definitions**

#### **“Preferred Site” Definition – Affordable Housing Developments**

VAPDA understands the PUC position that “preferred site” status needs to be based on a specific location and not the identity of the end users of the electricity generated at a net-metered facility. VAPDA also understand the point made by Evernorth regarding the difficulty of locating a net-metering facility on-site at an affordable housing facility. And while the PUC has determined that Evernorth’s prior recommendation regarding off-site generation cannot be accommodated, VAPDA does think that the PUC should consider extending the definition of “preferred site” to include net-metering facilities located on-site at a perpetually affordable housing development.

Net-metering at affordable housing projects should contribute to reducing operational costs for affordable housing projects in the long term which would directly benefit low and moderate income households.

VAPDA remains interested in addressing equity-related issues in future PUC rulemaking proceeding.

#### **“Significant Forest Clearing” Definition**

As noted in its May 27, 2022 letter, VAPDA generally agrees with the policy recommendations by the Agency of Natural Resources (ANR) to clarify the definition of “significant forest clearing” and is grateful for exemption for state-designated planning areas from the definition. Like ANR, VAPDA advocates for use of the term “forest block” as defined in 24 V.S.A. § 4303 to ensure consistency across local, regional, and state regulations. VAPDA also agrees that it would be beneficial for statute to provide more clarity on the technical criteria for development restrictions on forest land based on specific public benefits

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President: Tasha Wallis, LCPC  
Secretary/Treasurer: Charlie Baker, CCRPC

Vice President: Catherine Dimitruk, NRPC

such as wildlife habitat, carbon storage, etc. which could be weighed against the benefits of renewable energy development. However, VAPDA understands this must be addressed legislatively and lies outside the scope of the current review of the net-metering rule. Therefore, VAPDA generally supports a definition of “significant forest clearing” in the net-metering rule that is measurable and allows reasonable flexibility for development which meets the intent of forest preservation. VAPDA views any definition as an interim solution in advance of future statutory definition of “significant forest clearing” that should apply to all types of development in all relevant proceedings (e.g. local development review, Act 250, Section 248, Section 248a, etc.).

VAPDA generally supports the proposed definition in the draft rule developed by ANR. However, VAPDA has two technical concerns regarding the application of the definition:

1. A one-acre agricultural field with several mature shade trees can amount to 10% canopy cover. This is a collection of trees and should not constitute a forest (see Figure #1). VAPDA recommends a higher canopy cover (25%) threshold be included in the definition of “Significant Forest Clearing” until statute has been amended to more clearly define what constitutes a forest. A future statutory definition would ideally be based on functional values instead of canopy cover.
2. The proposed definition of “significant forest clearing” is problematic in that it does not specify a timeline or date to assess “other evidence indicating that it has not been converted to a non-forest use.” “It” being the land in question. VAPDA recommends that the PUC utilize a specific date (perhaps based on historical aerial photography or LIDAR data) to better define how far “in the past” the PUC can consider historical evidence of a forest on-site.

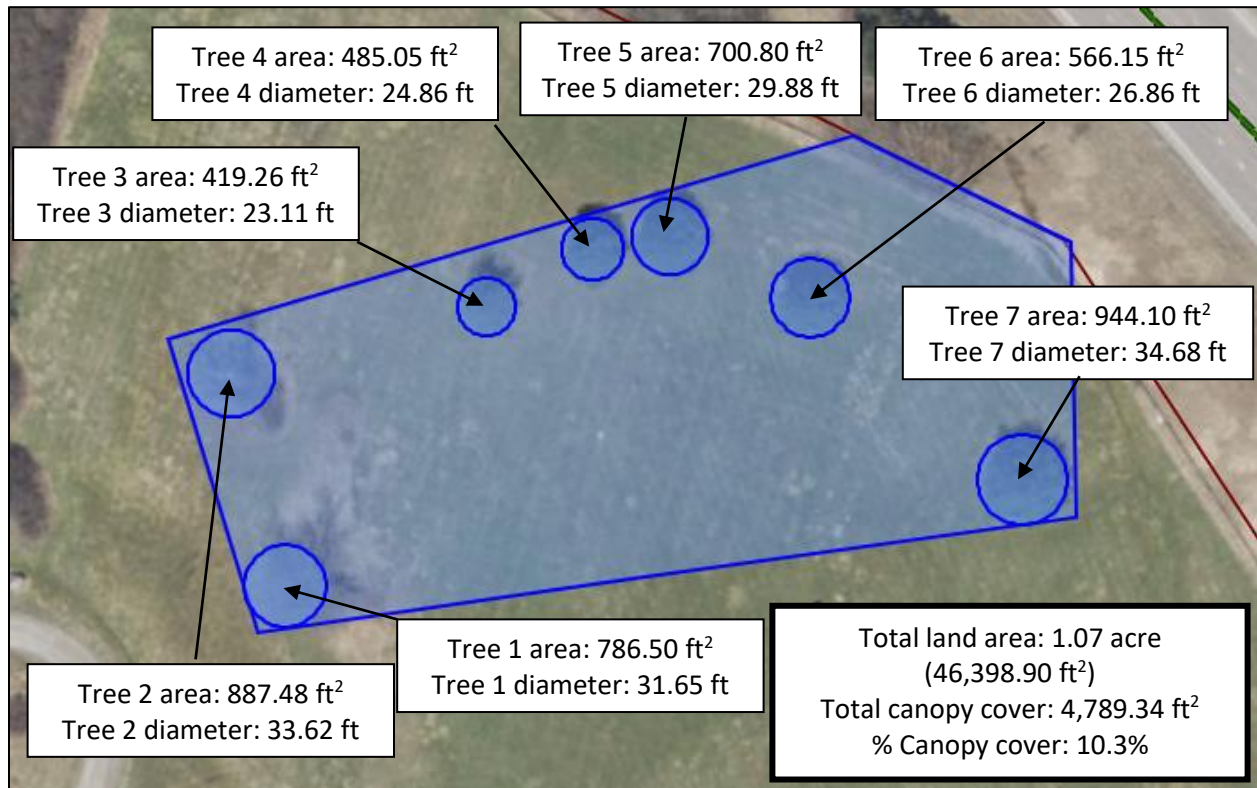


Figure 1 - Example of Significant Forest Clearing definition in practice on a parcel in Essex, Vermont

**Section 5.127 Determination of Applicable Rates and Adjusters, Section 5.128(C) – Biennial Update Proceedings and Section 5.136 – Mitigation Fee for Constrained Areas of the Grid**

VAPDA does not understand the PUC's response to our recommendation to consider the geographic location of proposed facilities in setting adjusters.

To clarify our original comment: VAPDA is not suggesting that PUC set siting adjusters based on predicted electric load and grid constraints. Rather, VAPDA recommends that the PUC set siting adjusters, as a part of biennial update proceedings, based on the most accurate available data regarding existing electric load and grid constraints. Creating this kind of location adjustor to incentivize locating future net-metering facilities in areas with high existing electric load makes sense from a grid management perspective. This approach may also negate the future need of an electric company to charge a locational adjustor fee in grid constrained areas as proposed in Section 5.136.

**Section 5.130 - Group System Requirements**

VAPDA appreciates the PUC's consideration of our recommendation to "eliminate the requirement of a net-metered group be located in the same utility service area." VAPDA understands that this arrangement may require additional coordination among utilities that may not be technically feasible today. However, group net-metering within another utility service area may be technically possible in the future. VAPDA recommends that the net-metering rule allow for cross-utility group net-metering in the event that two individual distribution utilities are able to solve technical obstacles related to this arrangement. Specifically, VAPDA suggests simply striking the phrase "which must be located within the same electric company service territory" from Section 5.130(A)(1). This is preferable to simply disallowing the concept.

These comments are based on information currently available; VAPDA may have additional comments as the process continues. Please feel free to contact me should you have any questions. Thank you for your consideration.

Sincerely,



Charles Baker  
CCRPC Executive Director  
VAPDA Natural Resources Committee Chair