



Ms. Judy Whitney, Clerk  
Vermont Public Service Board  
112 State Street, 4th floor  
Montpelier, VT, 05602

July 15, 2016

### **MOTION FOR RECONSIDERATION**

The Vermont Public Interest Research Group (VPIRG), Vermont Natural Resources Council (VNRC), Vermont Conservation Voters (VCV), and Vermont Businesses for Social Responsibility (VBSR) move for reconsideration of the Board's June 30, 2016 order adopting a revised net-metering program.

#### **Introduction**

While our organizations do have significant concerns with aspects of the revisions to the net metering program laid out by the Board on June 30<sup>th</sup>, we also want to make clear that we understand the Board is balancing multiple (sometimes competing) goals laid out in Act 99. As we have stated in comments on earlier drafts of Rule 5.100, our organizations recognize the need to balance the rate paid for renewable energy with a measured, sustainable pace of deployment. We also recognize that the Board has made substantial improvements to the draft rule since its March revision.

That said, the program as currently proposed does cause us serious concern. In our view, the retroactive customer charges, annual cap, rate design, and treatment of 500 kW systems will make net metering for renewable electricity – and solar in particular – unaffordable and inaccessible to many Vermonters. To that end, we respectfully request the Board reconsider several provisions and make adjustments to ensure that net metering remains a viable, strong, economically sustainable tool for families, towns, schools and small businesses.

While we continue to support our recommendations made in our earlier comments on issues related to in-state REC retirement, more detailed reporting requirements, and a positive low-income adjustor, etc., the below comments are focused on the areas that we see as most central to the success of the program going forward and its ability to effectively balance rate impact, pace of deployment, and ongoing, viable access for people who want to help Vermont achieve its energy and climate goals by partnering in our clean energy transformation. We thank you in advance for your serious consideration of these recommendations.

## **RECOMMENDATIONS:**

### **Non-Bypassable Charges**

Net metering customers already pay – as they should – for the grid infrastructure they use. While we continue to believe that it is appropriate for net metering customers to pay for those charges through net metering credits, we certainly understand the rationale for eliminating that practice going forward. However, the provision in the current proposed rule which would apply this change for existing customers (5.124(H)(3)) unfairly changes the rules of the game mid-stream for thousands of Vermonters and should be struck.

Such a retroactive modification of the net metering program, that current customers understood they were and would be operating under, unfairly penalizes Vermonters who made financial decisions in good faith. Perhaps of even more concern, it also sends a message to potential future net metering customers that they cannot depend on consistency within the program. Such uncertainty will unquestionably have a chilling effect on the willingness of net metering customers large and small, and the financial institutions that enable their investments in renewable energy, to participate in the program. **As such, we urge the Board to only apply the provisions in this order related to non-bypassable charges to net metering customers applying for a CPG on or after Jan 1, 2017.**

On a related note, it appears that the draft rule inadvertently referenced the wrong section of 30 V.S.A. § 219a in 5.124(C), citing 30 V.S.A. §219a(k) rather than 30 V.S.A. §219a(h)(1)(K).

Proposed changes:

#### *5.103 Definitions*

*“Non-Bypassable Charges” means those charges on the electric bill defined in an electric company’s tariffs that apply to a customer regardless of whether they net-meter or not. Non-bypassable charges may not be offset using current or previous net-metering credits. A customer is liable for payment of these charges regardless of whether the customer has a credit balance resulting from net-metering. The customer charge, energy efficiency charge, energy assistance program charge, and any equipment rental charge shall be non-bypassable charges.*

*Notwithstanding this definition, Grandfathered Net-Metering Systems’ monetized credit shall apply to all charges on the bill, including those identified as non-bypassable charges in a utility’s tariff.*

#### *5.124 Grandfathering of Existing Net-Metering Systems*

*(C) Applicable Rates for Grandfathered Net-Metering Systems. Customers using grandfathered net-metering systems shall, for a period of 10 years from the date of the net-metering system’s commissioning, receive the incentive provided for in ~~30 V.S.A. §219a(k)~~30 V.S.A. §219a(h)(1)(K), as the statute existed on December 31, 2016. At the end of this 10-year period, for an additional 10 years, such customers using grandfathered net-metering systems shall be credited for excess generation at the electric company’s blended residential rate.*

## Pacing

We support the net metering program – and renewable deployment more generally – being “paced” so as to take advantage of technology improvements and cost reductions that are certain to continue to happen over time. We submit, however, that the substantial checks and balances the Board has built into the rule will achieve that goal without the need for a potentially harmful hard annual cap on the size of the program.

As Green Mountain Power rightly stated in their May 13, 2016 comments, “Pacing of net-metering development (as opposed to building the maximum possible net metered capacity all at one time) will help Vermont...limit the potential for large “boom and bust” development cycles.” An annual cap, however, has the real potential to result in exactly that kind of boom-bust cycle, weakening the ability of businesses to plan, ultimately driving up soft costs as businesses are forced to grow and shrink on an annual basis.

The 2018 update and the biennial updates thereafter will provide significant opportunity for pacing and course adjustment if the program is resulting in deployment that is too rapid (or too slow). Furthermore, the authority laid out in 5.127(l), giving the Board full discretion to initiate an update as it sees fit and explicitly giving the Public Service Department the right to petition for an early update, also serves as a substantial additional pacing mechanism. We strongly believe that the update process laid out in 5.127, combined with the credit rate reductions from the current net metering program (especially outside of locations eligible for the siting adjustor) will appropriately pace deployment. **We urge the Board to strike the 4 percent annual cap from the rule.**

Proposed changes:

### *5.132 Electric Company Requirements*

#### *(A) Generally. Electric companies:*

*(1) Shall make net-metering available to any customer or group on a first-come, first-served basis, ~~unless the cumulative capacity of interconnection requests for net metered systems submitted to the electric company in the current calendar year exceeds 4 percent of the electric company's peak demand for the most recent calendar year that data is available;~~*

### **Changes to Categories III, IV and V to Support Viable Financing and Residential Customer Access**

The proposed draft will significantly limit the availability of group net metering as a solution for customers who cannot go solar on their own home or business, either because they don't own property or the property they do own is not suitable for renewables. We recognize the need for cost-containment provisions, but have serious concerns that the cumulative impact of this new program as it has been proposed would dramatically reduce access to net metering for the majority of Vermonters. If this rate structure for Categories III and IV – which further cuts rates already reduced from the current program in the March 2016 draft – remains in place, it will undermine the financial viability of projects and the ability of those Vermonters to invest in local, renewable energy. The rule also eliminates Category V, further limiting the options available to these customers. While we recognize the need to ensure these

systems are priced right, the significantly reduced rate provided for such systems in the March 2016 draft would certainly minimize any rate impact they would have.

In our view, the March 2016 draft of this net metering rule struck the right balance between cost and the continued ability of all Vermont residents to access the net metering program – both obviously core goals of Act 99 the Board is working to balance. With that in mind, we request two modifications that we think will help ensure customers who can't go solar on their own home or land for one reason or another can participate. **First, we urge the Board to reinstate the rates for Categories III and IV, per the March 2016 draft, providing these types of projects 1 more cent per kWh relative to the June 2016 draft, and to reinstate Category V.**

Second, we urge the Board to specifically protect the ability of residential customers who cannot net meter on their own home to participate in the program. For the majority of Vermonters, whether because they rent or because of the orientation of their home, its roof type, shading from trees or buildings not on their property, etc., this is a reality. To this end, we recommend the Board make group net metering systems serving residential customers eligible for the Category II and III siting adjustors, to ensure that Vermonters in this situation “who want to participate in net metering have the opportunity to do so.”<sup>1</sup>

Also related to community net metering, it appears that this draft Rule does not implement the changes to 30 V.S.A. § 8010(c)(3)(C) enacted by Act 174 of 2016, stating that “the rules shall seek to simplify the application and review process as appropriate, including simplifying the application and review process to encourage group net metering systems when the system is at least 50 percent owned by the customers who receive the bill credits for the electricity generated by the system.” While reserving our right to comment on the Board’s future implementation of this provision of Act 174, we view its incorporation as another modest, but important, path to enabling community renewable projects.

Proposed changes:

#### 5.103 Definitions

“Category V Net-Metering System” means a net-metering system that is not a hydroelectric facility, that has a capacity of greater than 150 kW and up to 500 kW, and that does not meet a siting criterion set forth in Category III.

...

“Group Net-Metering” means a group of customers, or a single customer with multiple electric meters, located within the same electric company service territory, where the customer or customers have elected to share excess generation and adjustor credits or charges in order to offset billing against a net-metering system. All electric use on each customer’s billing meter shall be billed identically to electric use for customers on the same rate schedule who are not participating in net-metering. Group net-metering systems comprised solely of residential customers shall be classified as either Category II or Category III systems, provided that they satisfy the respective capacity requirements for those categories as set forth under this Rule.

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<sup>1</sup> 30 V.S.A. § 8010 (c)(1)(E)

#### 5.104 Eligibility

To be eligible to apply for a net-metering CPG under this Rule, an applicant must propose one of the following:

- (1) A category I net-metering system;
- (2) A category II net-metering system;
- (3) A category III net-metering system;
- (4) A category IV net-metering system; ~~or~~
- (5) A category V net-metering system; or
- ~~(5)~~ (6) A hydroelectric system with a capacity of 500 kW or less.

#### 5.111 Substantive Criteria of 30 V.S.A. § 248(b) Applicable to Net-Metering CPG Registrations and Applications

- (B) For Category II, III, ~~and IV,~~ and V net-metering systems that elect to transfer the tradeable renewable energy credits to the electric company: 30 V.S.A. §§ 248(b)(1) (orderly development); (b)(3) (stability and reliability); (b)(5) (natural environment, the use of natural resources, and public health and safety); (b)(8) (outstanding resource waters); and Section 248(s) (setbacks).
- (C) For Category II, III, ~~and IV,~~ and V net-metering systems that elect to retain the tradeable renewable energy credits generated by the net-metering system: 30 V.S.A. §§ 248(b)(1) (orderly development); (b)(2) (need); (3) (stability and reliability); (b)(5) (natural environment, the use of natural resources, and public health and safety); (b)(8) (outstanding resource waters); and Section 248(s) (setbacks).

#### 5.126 Determination of Applicable Rates and Adjustors

- (C) The siting adjustors shall be determined as follows:
- (2) The initial siting adjustors at the time this Rule becomes effective (January 1, 2017) shall be as follows:
- (a) Category I = 1 cent per kilowatt hour;
  - (b) Category II = 1 cent per kilowatt hour;
  - (c) Category III = ~~negative 1 0 cents~~ per kilowatt hour;
  - (d) Category IV = ~~negative 3 2 cents~~ per kilowatt hour;
  - (e) Category V = negative 3 cents per kilowatt hour;
  - ~~(e)~~ (f) Hydroelectric facilities = 0 cents per kilowatt hour.

#### **500 kW Per Customer Limit**

The provision (5.128(D)) limiting individual customers – no matter how many accounts or meters they may have – to a maximum of 500 kW of net metered capacity will mean that many municipalities, school districts, universities, and local Vermont businesses will only be able to choose net metered renewable energy for a small fraction of their electricity needs. This is particularly concerning as it relates to public entities like municipalities. While we understand the rationale for limiting large, private users' ability to offset electric bills that could run into the millions annually, continuing to allow public entities to net meter a substantial portion of their electric usage comes with substantial public benefits. **We urge the Board to address this issue and support the ability of municipalities and their associated**

**entities (school districts, water districts, etc.) to participate fully in the net metering program through removing the 500 kW per customer cap for these customers.**

Proposed change:

*5.128 Billing Standards and Procedures*

*(D) 500 kW Customer Limit. The cumulative capacity of net-metering systems allocated to a single customer may not exceed 500 kW, except for customers defined as municipalities under 24 V.S.A. §4551, whose systems may exceed a cumulative capacity of 500 kW. For example, a customer who has two accounts cannot have each account allocated more than 50 percent of the output from two 500 kW net-metering systems because the cumulative capacity of the allocated share of those net-metering systems would exceed 500 kW.*

**Conclusion**

We thank the Board for the opportunity to request the reconsideration of proposed changes to Rule 5.100, and for the Board's continued diligence in addressing many diverse, important, and sometimes competing issues. We posit that the changes we recommend above will help foster the rate containment, tempered pace of deployment, and smart siting practices that the Board is clearly aiming to balance, while ensuring that individuals, municipalities, schools, and small businesses have continued access to the net metering program. We thank you in advance for your thoughtful consideration of our proposed changes and for helping Vermont establish net-metering 2.0; a sustainable, affordable program that will foster Vermonters' ability to invest in renewable, local electricity for years to come.