



**State of Vermont**  
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*Agency of Natural Resources*

November 19, 2014

By electronic and U.S. Mail  
Susan M. Hudson, Clerk  
Vermont Public Service Board  
112 State Street  
Montpelier, VT 05620-2701

Re: Act 99 Net Metering Workshop Process: Response to November 10, 2014 Board Memorandum

Dear Mrs. Hudson:

On November 10, 2014, the Public Service Board ("Board") issued a Memorandum soliciting comments responding to the Net Metering Report prepared by the Department of Public Service ("Department") and seeking proposals for what steps the Board should take as it prepares to draft a revised rule for the net metering program. The Agency files the following comments:

I. Response to Department Net Metering Report

The Agency provides the following comments in response to the Department's Net Metering Report. The Agency's comments are based in large part on its experiences with net metering systems of 150 to 500 kW. However, much of the below is relevant to systems of varying size that are not installed on existing infrastructure such as buildings.

***§ 2.2 Current Pace of Net Metering deployment Statewide and by Utility.***

The Agency's capacity to process the present volume of project applications is experiencing stress. Further increases in volume, which are widely anticipated, could jeopardize the Agency's ability to fully engage and review all applications, including critical pre-application site screening assistance to developers.

Recent experience with net metering at the 500 kW scale has shown that some level of pre-screening engagement can benefit projects by helping to identify and resolve natural resource related issues prior to the filing of a formal petition. By screening sites prior to petition, the Agency assists applicants with designing projects that avoid natural resource impacts and are

more consistent with the criteria set forth in Sec. 248(b)(5). Moreover, this pre-screening has led developers to abandon at least two proposed sites due to significant natural resource constraints identified therein before the applicant had invested heavily at that location.

Along these lines, pre-screening should be an essential component of all solar development as the Agency has observed a disproportionate number of projects proposed in sensitive areas, such as in wetlands and near streams or rivers.

Additionally, in consideration of the previously mentioned siting issues, the Agency recommends examination and consideration of the apparent scarcity of, or challenges to developers securing, suitable sites necessary to meet the deployment goals.

The deployment of in-state renewable generation necessary to achieve the State's policy goals for climate change mitigation should not sacrifice the natural resources that are critical to the State's ability to adapt and remain resilient to climate change. As the pace of net metering deployment increases, so will the demand for suitable sites. Suitable sites are those that do not compromise the state's sensitive natural resources including wetlands, wildlife habitat, and river corridors. The report should provide some assessment as to whether sufficient, suitable acreage is available to meet deployment goals at a cost affordable to applicants given the current and future level of incentives. Recent experience suggests net metered solar facilities are sited on environmentally sensitive land in part because that land appears less expensive than other nearby parcels. Development of these sensitive sites results in environmental costs and compromises our resiliency to climate change. These sites often carry hidden costs associated with additional consulting and legal services needed to develop and implement re-designs necessary to mitigate impacts. Such sites also present the potential for decreases in production resulting from the need to establish buffers to accommodate natural resource features that provide critical ecological services and build resilience against the threats of climate change.

Siting on seemingly inexpensive land may in fact increase overall project costs and undermine the State's energy and environmental goals. Even if it is more expensive to acquire sites that avoid resource impacts, incentives should be structured to support such projects in order to avoid more sensitive and critical areas such as wetlands or river corridors.

### *§3 Existence and degree of cross subsidy*

As discussed above, the Agency will require additional staffing capacity to pre-screen and process the current and anticipated future volume of net metering projects. This increase in staff will require funding. One approach to support the new positions is through a certificate of public good application fee, where the majority of fee revenue is passes through the PSB to ANR. If an application fee is not created, the Agency may need to pursue an expansion of the gross receipts tax, which currently funds PSD and PSB processing of net metering petitions. Such an expansion of the gross receipts tax would exacerbate the existence and degree of cross subsidy, whereas an application fee likely would not.

#### *§3.2.1.1 Costs*

Risks associated with building new infrastructure in high risk areas, such as wetlands, river corridors, flood hazard zones, and wildlife habitat should appropriately be examined here.

### *§3.2.1.2.7 Climate change*

There is a need to better quantify GHG benefits/avoided costs within and across renewable generation technology, specific not general information should inform rate and regulatory decisions. The analysis should also include a reasonable life cycle analysis of greenhouse gas emissions from net metering to both accurately establish the carbon reduction benefit of net metering and to provide data on the most efficient and highest carbon reduction designs, equipment and construction techniques.

### *§5.1 Benefits*

Any analysis of net environmental benefits should also include the value of ecosystem services provided by resources such as wetlands, wildlife habitat, river corridors, floodplains and stream buffers which may otherwise be compromised by new net metered development. Maintaining functioning wetlands, river corridors and floodplains is a critical strategy for Vermont to adapt to climate change such as increased rain and flood events.

### *§5.4 The future pace of net metering deployment statement and by utility*

Setting targets for the pace of future deployment needs to consider the regulatory process and regulatory capacity to process the intended volume of projects. Although the Department recommends the Board take a 'relatively flexible approach' to setting targets, the Board needs to recognize the concrete constraints that currently exist in the system and understand addressing those constraints is critical, especially in an environment where targets are flexible, dynamic and prone to change quickly.

The Agency has heard from the development community that some are challenged to find sites that are affordable and permissible from a natural resource or aesthetic perspective. Looking forward, the Board should expect that access to permissible sites may become more expensive as the low-hanging fruit becomes picked over. Any pricing structure should facilitate and support well sited projects on parcels that are free of significant natural resources and capable of receiving permits; establishing a pricing structure that drives projects to environmentally rich, but monetarily poor sites because they are affordable impedes the ability of the State to reach its energy goals while maintaining a natural environment sufficiently resilient to adapt to climate change.

## II. Schedule/Process Recommendations

The Agency recommends that the Board initiate workshops of similar substantive or procedural issues. The Agency recommends that at least one workshop address issues regarding evaluation of the true environmental costs and benefits, including net or lifecycle GHG emissions, of net metering. Although the Agency agrees with the Department that there should be a workshop on process, the Agency considers issues regarding the substantive criteria of 248 and whether any should be conditionally waived to be substantive issues that warrant a separate workshop.

Because of the upcoming holidays and commitments in other dockets, the Agency recommends that the workshops should commence in late January 2015. A report or summary of the workshop recommendations or review could be provided at the end of May and there should be an opportunity for comments in June or July. The Board should provide a draft rule by September and hold a workshop for comments thereafter.

Thank you for the opportunity to comment on the Department Net Metering Report and provide input into the workshop process to assist the Board in drafting a revised rule. Please contact me if you should have any questions.

Sincerely,

A handwritten signature in black ink, appearing to read 'Judith L. Dillon', written in a cursive style.

Judith L. Dillon, Esq.  
Senior Legal Counsel

cc: Act 99 email list