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**Sent:** Friday, February 19, 2016 12:03 PM  
**To:** Springer, Darren; Recchia, Chris  
**Subject:** Fwd: Draft Rule Sent to ICAR  
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**From:** "Marren, Jake" <[Jake.Marren@vermont.gov](mailto:Jake.Marren@vermont.gov)>  
**Date:** February 19, 2016 at 11:19:33 AM EST  
**To:** "Duggan, Tim" <[Tim.Duggan@vermont.gov](mailto:Tim.Duggan@vermont.gov)>, "Hopkins, Asa" <[Asa.Hopkins@vermont.gov](mailto:Asa.Hopkins@vermont.gov)>, "Copans, Jon" <[Jon.Copans@vermont.gov](mailto:Jon.Copans@vermont.gov)>  
**Subject:** Draft Rule Sent to ICAR

Tim,

Here is the proposed rule.

Jake

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### **5.100 RULE PERTAINING TO CONSTRUCTION AND OPERATION OF NET-METERING SYSTEMS**

#### **5.101 Purpose and Scope**

- (A) This Rule governs the application for, and issuance, amendment, transfer, or revocation of, a certificate of public good for net-metering systems under the provisions of 30 V.S.A §§ 248, 8002, and 8010. In addition, this Rule governs the terms upon which any electric company shall offer net-metering service within its service territory.
- (B) This Rule applies to all net-metering installations in Vermont and applies to every person, firm, company, corporation, and municipality engaged in the site preparation, construction, ownership, or operation of any net-metering system that is subject to the jurisdiction of this Board.
- (C) No person shall commence site preparation for or construction of a net-metering system or convert an existing plant into a net-metering system without first obtaining a CPG under this Rule.

#### **5.102 Definitions**

For the purposes of this Rule, the following definitions apply:

“Account” means a unique identifier assigned by the electric company to a customer for billing purposes. A customer account may include one or more meters.

“Adjoining Landowner” means a person who owns land in fee simple that:

- (1) Shares a property boundary with the tract of land on which a net-metering system is located; or
- (2) Is adjacent to that tract of land and the two properties are separated only by a river, stream, railroad line, or public highway.

“Adjustor” means a positive or negative change to the blended retail rate based on factors related to site selection (Site Adjustor) and retention of tradeable renewable energy credits (REC Adjustor).

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“Applicant” means the entity that is seeking authorization to construct and operate a net-metering system. The applicant shall have legal control of the net-metering system.

“Billing Meter” means an electric meter that measures the consumption of electricity by a customer.

“Board” means the Public Service Board of the State of Vermont.

“Capacity” means the rated electrical nameplate for a plant, except that, in the case of a solar energy plant, the term shall mean the aggregate AC nameplate capacity of all inverters used to convert the plant’s output to AC power.

“Category I Net-Metering System” means a net-metering system that is not a hydroelectric facility and that has a capacity of 15 kW or less.

“Category II Net-Metering System” means a net-metering system that is not a hydroelectric facility, that has a capacity of more than 15 kW and less than 150 kW, and that is sited in any of the following ways:

- (1) On a new or existing structure, where the primary purpose of such structure is not the generation of electricity;
- (2) On a previously developed site. For purposes of this subsection, “developed” means that the area within the limits of disturbance of a proposed net-metering system previously hosted either structures or impervious surfaces. In no case shall a previously developed site include areas with material value as agricultural land or as wildlife habitat;
- (3) On a brownfield. For purposes of this subsection, “brownfield” means real property, the expansion, redevelopment, or reuse of which may be complicated by the release or threatened release of a hazardous material. Applicants seeking to establish that a site is a brownfield must file as part of their application for authorization to construct the net-metering system a letter from the Agency of Natural Resources confirming that the net-metering system is located on a brownfield;
- (4) On a landfill or former leach field. A minimum two-year period shall

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have elapsed between when the leach field stops being used actively and when any construction commences.

- (5) Over a parking lot or parking lot canopy;
- (6) In the disturbed portion of a gravel pit, quarry, or other similar extraction site;
- (7) On-site primary off-taker. Applicants seeking to receive this classification must demonstrate that more than 50% of the net-metering system's electrical output is allocated to a customer on the same or a contiguous parcel of land as the net-metering system. This allocation must exceed 50% during each of the first 10 years following project commissioning; or
- (8) On a "locally preferred" site. Applicants seeking to receive this classification must demonstrate that the net-metering system will be located on a site specifically designated by the host municipality for the development of distributed electric generation facilities and that the net-metering system will meet any development criteria recommended by the host municipality for that site.

"Category III Net-Metering System" means a net-metering system that is not a hydroelectric facility, that has a capacity of 150 kW and up to 500 kW, and that is sited in any of the following ways:

- (1) On a new or existing structure, where the primary purpose of such structure is not the generation of electricity;
- (2) On a previously developed site. For purposes of this subsection, "developed" means that the area within the limits of disturbance of a proposed net-metering system previously hosted either structures or impervious surfaces. In no case shall a previously developed site include areas with material value as agricultural land or as wildlife habitat;
- (3) On a brownfield. For purposes of this subsection, "brownfield" means real property, the expansion, redevelopment, or reuse of which may be

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complicated by the release or threatened release of a hazardous material.

Applicants seeking to establish that a site is a brownfield must file as part of their application for authorization to construct the net-metering system a letter from the Agency of Natural Resources confirming that the net-metering system is located on a brownfield;

- (4) On a landfill or former leach field. A minimum two-year period shall have elapsed between when the leach field stops being used actively and when any construction commences.
- (5) Over a parking lot or parking lot canopy;
- (6) In the disturbed portion of a gravel pit, quarry, or other similar extraction site;
- (7) On-site primary off-taker. Applicants seeking to receive this classification must demonstrate that more than 50% of the net-metering system's electrical output is allocated to a customer on the same or a contiguous parcel of land as the net-metering system. This allocation must exceed 50% during each of the first 10 years following project commissioning; or
- (8) On a "locally preferred" site. Applicants seeking to receive this classification must demonstrate that the proposed net-metering system will be located on a site specifically designated by the host municipality for the development of distributed electric generation facilities and that the proposed net-metering system meets any development criteria recommended by the host municipality for that site.

. "Category IV Net-Metering System" means a net-metering system that is not a hydroelectric facility, that has a capacity of more than 15 kW and less than 150 kW, and that does not meet a siting criterion set forth in Category II.

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

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“Certificate Holder” means one who holds a CPG. The certificate holder shall be the owner of the net-metering system.

“Certificate of Public Good” or “CPG” means a certificate of public good issued by the Board pursuant to 30 V.S.A. § 8010.

“Conditional Waiver of a Criterion of 30 V.S.A. § 248” means that the requirements for the presentation of evidence under the criterion, a specific review of the project by the Board under the criterion, and the development of specific findings of facts for the criterion by the Board is waived, unless the Board finds that the application raises a significant issue under the criterion.

“Commissioned” or “Commissioning” means the first time a plant is put into operation following the initial construction of the plant.

“Customer” means a retail electric consumer.

“Department” means the Department of Public Service of the State of Vermont.

“Electric Company” means the utility company serving the net-metering customer or the company that would serve an applicant seeking authorization to construct and operate a net-metering system, as the context indicates.

“Environmental Attributes” means the characteristics of a plant that enable the energy it produces to qualify as renewable energy and include any and all benefits of the plant to the environment, such as avoided emissions or other impacts on air, water, or soil that may occur through the plant’s displacement of a non-renewable energy source.

“Excess Generation” means the number of kWh produced by a customer’s net-metering system in excess of the kWh delivered by the electric company to the customer during a billing period. Excess generation also means the kWh allocated to a member of a net-metering group that exceed that group member’s individual kWh consumption for that billing period.

“Existing Hydroelectric Facility” means a hydroelectric facility commissioned before January 1, 2017.

“File” means the submission of documents, exhibits, plans, information, or other materials to the Board through the Board’s electronic filing system, by delivery to the Board’s

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offices, or by delivery to the Board during the course of a hearing.

“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 combine meters in order to offset billing against a net-metering system.

“Host Landowner” means the owner of the property on which the net-metering system is or will be located.

“kW” means kilowatt or kilowatts (AC).

“kWh” means kilowatt hours.

“Limits of Disturbance” means the boundary within which all construction, materials storage, grading, landscaping, and any other activities related to site preparation, construction, operation, maintenance, and decommissioning take place as a result of the net-metering system.

“Major Amendment” means one or more of the following changes to the physical plans or design of a net-metering system:

- (1) increasing the nameplate capacity of the net-metering system by more than 5%;
- (2) moving the limits of disturbance by more than 50 feet;
- (3) changing the fuel source of the net-metering system; or
- (4) any other change that the Board, in its discretion, determines is likely to have a significant impact under one or more of the criteria of Section 248 applicable to the net-metering system.

“Minor Amendment” means one or more of the following changes to the physical plans or design of a net-metering system:

- (1) reducing the nameplate capacity of the net-metering system; or
- (2) any other change to the physical plans or design of the system that is not a major amendment.

“Net Metering” means the process of measuring the difference between the electricity supplied to a customer and the electricity fed back by a net-metering system(s) during the customer’s billing period:

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- (1) using a single, non-demand meter or such other meter that would otherwise be applicable to a customer's usage but for the use of net metering; or
- (2) if the system serves more than one customer, using multiple meters. The calculation shall be made by converting all meters to a non-demand, non-time-of-day meter, and equalizing them to the tariffed kWh rate.

"Net-Metering System" means a plant, as defined in this Rule, that is:

- (1) no more than 500 kW capacity, operates in parallel with facilities of the electric distribution system, is intended primarily to offset part or all of a net-metering customer's or group's own electricity consumption, and employs a renewable energy source produced using a technology that relies on a resource that is being consumed at a harvest rate at or below its natural regeneration rate pursuant to 30 V.S.A. § 8002(2); or
- (2) is a qualified micro-combined heat and power system of 20 kW or less that meets the definition of combined heat and power in 30 V.S.A. § 8015(b) and uses any fuel source that meets air quality standards.

"New Hydroelectric Facility" means a hydroelectric facility commissioned on or after January 1, 2017.

"Party" means any person who has obtained party status under Section 5.118 of this Rule.

"Plant" means an independent technical facility that generates electricity from renewable energy. A group of facilities, such as wind turbines, shall be considered one plant if the group is part of the same project and uses common equipment and infrastructure, such as roads, control facilities, and connections to the electric grid. Common ownership, control, contiguity in time of construction, and proximity of facilities to each other shall be relevant to determining whether a group of facilities is part of the same project.

"Production Meter" means an electric meter that measures the amount of kWh produced by a net-metering system.

"Time-of-Use Meter" means an electric meter that measures the consumption of electricity during defined periods of the billing cycle.



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“TOU” means time-of-use.

“Tradeable Renewable Energy Credit or REC” means all of the environmental attributes associated with a single unit of energy generated by a renewable energy source where:

- (1) Those attributes are transferred or recorded separately from that unit of energy;
- (2) The party claiming ownership of the tradeable renewable energy credits has acquired the exclusive legal ownership of all, and not less than all, the environmental attributes associated with that unit of energy; and
- (3) Exclusive legal ownership can be verified through an auditable contract path or pursuant to the system established or authorized by the Board, or any program for tracking and verifying the ownership of environmental attributes of energy that is legally recognized in any state and approved by the Board.

### **5.103 Electric Company Tariffs**

- (A) Tariffs. Pursuant to 30 V.S.A. § 225, an electric company shall propose to the Board a rate schedule to implement a net-metering program in its service territory pursuant to this Rule to take effect on January 1, 2017. Initial tariffs filed pursuant to this Rule shall be submitted to the Board no later than September 1, 2016, and they shall conform to the requirements of this Rule.
- (B) Grandfathering of Existing Net-Metering Customers.
  - (1) For applicants who filed a completed application with the Board prior to January 1, 2017, and whose completed applications were filed at a time when net metering was still available for that net-metering system because the electric company had not yet reached its cap as specified in the version of 30 V.S.A. §219a (h)(1)(A) that existed on December 31, 2016:
    - (a) Customers using such net-metering systems shall, for a period of 10 years from the date of the net-metering system’s commissioning, continue to take service pursuant to the terms of the electric company’s approved net-metering tariff on file with the

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Board on December 31, 2016. At the end of this 10-year period, such customers shall take service pursuant to the electric company's net-metering tariff on file with the Board at that time, except as provided for in section (b) below.

- (b) In no event shall such customers be eligible for any siting adjustors or REC adjustors established under this Rule at the conclusion of the 10-year period set forth in subsection (a) above.
  - (c) Any tradeable renewable energy credits created by grandfathered net-metering systems shall continue to be either retained by the customer or transferred to the electric company per the election made by the applicant at the time of application for its CPG. For CPG applications filed prior to the time when such election was available, tradeable renewable energy credits shall be retained by the customer.
  - (d) Customers shall not be grandfathered if they use a net-metering system that underwent a major amendment after January 1, 2017.
- (2) All other net-metering systems shall be subject to the electric company's net-metering tariff on file with the Board.

#### **5.104 Energy Measurement for Net-Metering Systems**

- (A) Electric energy measurement for net-metering systems shall be performed in the following manner:
  - (1) At its own expense, the applicant shall install a production meter to measure the electricity produced by the net-metering system.
  - (2) The electric company shall measure the amount of electricity produced by a net-metering system and the electricity consumed by a net-metering customer in kWh during a billing period, in accordance with normal metering practices.

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- (3) For the purposes of calculating net-metering customer bills, the electric company shall monetize and net electricity produced and electricity consumed in each billing period, as follows:
- (a) Electricity produced during the billing period shall be measured in dollars and calculated by multiplying the total number of kWh generated during the billing period times the sum of the following:
    - (i) the applicable blended residential rate, as calculated pursuant to Section 5.105, below;
    - (ii) for the first 10 years after the system is commissioned, any zero or positive REC adjustor set forth in the net-metering facility's CPG (negative REC adjustors remain in place); and
    - (iii) for the first 10 years after the system is commissioned, any zero or positive siting adjustor set forth in the net-metering facility's CPG (negative site adjustors remain in place).
  - (b) Electricity consumed during the billing period shall be valued in dollars and calculated by multiplying the total number of kWh used by the customer or group during the billing period times the customer's applicable usage rate (e.g., general residential, time-of-use, demand, etc.).
  - (c) At the end of the billing period, the electric company shall net electricity produced with electricity consumed.
    - (i) If the value of electricity consumed by the customer or group exceeds the value of electricity produced by the net-metering system, the customer or group shall be billed the difference, net of any credit accumulated in the preceding 12 months.
    - (ii) If the value of electricity produced by the net-metering

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system exceeds the value of electricity consumed, the customer or group shall be credited the difference. Such credits shall be tracked, applied, or carried forward on customer bills, as described in section 5.107.

#### **5.105 Determination of Applicable Rates and Adjustors**

(A) The blended residential rate shall be determined as follows:

- (1) For electric companies that do not employ inclining block rates, the \$/kWh charge set forth in that utility's tariff for general residential service; or
  - (a) For electric companies that do employ inclining block rates, a blend of those rates determined by adding together all of the revenues to the company during the most recent calendar year from kWh sold under those block rates and dividing the sum by the total kWh sold by the company at those rates during the same year. Each electric company that employs inclining block rates shall perform this calculation (1) by May 15 of each even-numbered year and (2) within 15 days of the effective date of a new tariff for general residential service that includes a change in rates of more than 5%. To the extent the calculation shows that there has been a change from the the rate then in effect, the electric company shall file by that same date a revision to its net-metering tariff to reflect the change. Any change to the blended residential rate calculated pursuant to this section may be included in a tariff compliance filing made pursuant to section 5.106(H) of this Rule.

(B) The REC adjustors shall be determined as follows:

- (1) All RECs shall be transferred to the electric company unless the customer elects to retain ownership of such credits. An applicant must make this election at the time an application for authorization to construct the net-

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metering system is filed with the Board. This election is irrevocable. The electric company shall retain such transferred RECs for application toward compliance with 30 V.S.A. §§ 8004 and 8005.

- (2) The REC adjustor for a net-metering system shall be calculated in dollars per kWh (\$/kWh) at the time the Board issues the net-metering system a CPG. A zero or positive REC adjustor shall apply for a period of 10 years from the date the system is commissioned; a negative REC adjustor shall remain in place. Both the amount and the term of the REC adjustor shall be reflected in the net-metering system's CPG.
- (3) Initial REC adjustors at the time this Rule becomes effective (January 1, 2017) are as follows:
  - (a) REC Adjustor (Retention) = negative 6 cents per kilowatt hour;
  - (b) REC Adjustor (Transfer) = 0 cents per kilowatt hour.
- (C) The siting adjustors shall be determined as follows:
  - (1) In order to provide incentives for the appropriate and beneficial siting of net-metering systems, each net-metering system shall receive the highest-value siting adjustor for which it meets the applicable criteria. The net-metering system's siting adjustor shall be expressed in dollars per kWh (\$/kWh) at the time the Board issues the net-metering system a CPG. A zero or positive siting adjustor shall apply for a period of 10 years from the date the system is commissioned; a negative siting adjustor shall remain in place. Both the amount and the term of the siting adjustor shall be reflected in the net-metering system's CPG.
  - (2) The initial siting adjustors at the time this Rule becomes effective (January 1, 2017) shall be as follows:
    - (a) Category I = 3 cents per kilowatt hour;
    - (b) Category II = 1 cent per kilowatt hour;
    - (c) Category III = 0 cents per kilowatt hour;

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- (d) Category IV = negative 2 cents per kilowatt hour;
- (e) Category V = negative 3 cents per kilowatt hour;
- (f) New hydroelectric facilities = 0 cents per kilowatt hour;
- (g) Existing hydroelectric facilities = negative 3 cents per kilowatt hour.

**5.106 Biennial Update Proceedings**

- (A) The Board shall conduct a biennial update in 2018 and every two years thereafter to update the following:
  - (1) REC adjustors;
  - (2) siting adjustors; and
  - (3) criteria applicable to different categories of net-metering systems.
- (B) In updating the REC adjustors, the Board shall consider:
  - (1) the pace of renewable energy deployment necessary to be consistent with the Renewable Energy Standard program, the Comprehensive Energy Plan, and any other relevant State program;
  - (2) the total amount of renewable energy capacity commissioned in Vermont in the most recent two years;
  - (3) the disposition of RECs generated by net-metering systems commissioned in the past two years; and
  - (4) any other information deemed appropriate by the Board.
- (C) In updating the siting adjustors, the Board shall consider:
  - (1) the number and capacity of net-metering systems receiving CPGs in the most recent two years;
  - (2) the extent to which the current siting adjustors are affecting siting decisions;
  - (3) whether changes to the qualifying criteria of the Categories are necessary;
  - (4) the overall pace of net-metering deployment; and

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- (5) any other information deemed appropriate by the Board.
- (D) On or before February 1 of each even-numbered year, each electric company shall file with the Board and the Department of Public Service the following information regarding the state of the electric company's net-metering program:
  - (1) the number of net-metering systems interconnected with the electric company's distribution system during the past two years;
  - (2) the capacity of each system;
  - (3) the fuel source of each system;
  - (4) the REC disposition of each system;
  - (5) the siting adjustor applicable to each system; and
  - (6) any other information the electric company believes to be relevant to the biennial update.
- (E) By no later than March 1 of each even-numbered year, the Department of Public Service and Agency of Natural Resources shall propose updates to the items specified in section 5.106(A)(1)-(3) and reasons therefor.
- (F) Any person may comment on the filings under (D) and (E), above, by March 15.
- (G) By May 1 of each even-numbered year, the Board shall by order update the items specified in section 5.106(A)(1)-(3), as necessary. Adjustors shall be determined to ensure that net-metering deployment occurs at a reasonable pace and in furtherance of State energy goals.
- (H) Electric companies shall file no later than May 15 revisions to their net-metering tariffs that incorporate the new values set forth by the Board in its biennial update order. Such tariffs shall have an effective date of July 1. This tariff compliance filing shall not include any other proposed changes to the utility's net-metering tariff, except for a proposed change to the utility's blended residential rate calculated pursuant to section 5.105(A)(1)(a) of this Rule.
- (I) Notwithstanding the above, the Board may conduct an update sooner than biennially at its own discretion or upon petition by the Department.

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**5.107 Billing Standards and Procedures**

- (A) Customer Billing Requirements. The bill of a net-metering customer shall include the following:
- (1) the dollar amount of any credits carried forward from the previous months;
  - (2) the dollar amount of credits that have expired in the current month;
  - (3) the dollar amount of credits generated in the current month;
  - (4) the dollar amount of credits remaining; and
  - (5) the total kWh generated by the net-metering system in the current month.
- (B) Accumulated Bill Credits. Any accumulated bill credit shall be used within 12 months from the month it is earned, or it shall revert to the electric company without any compensation to the net-metering system customer. Bill credits may not be transferred independently of a transfer of ownership of a net-metering system.
- (C) Membership in Multiple Net-Metering Groups. Individual customer accounts may be enrolled in only one net-metering group at a time. Customers with multiple accounts may enroll each account in a separate net-metering group. In addition, groups may, subject to Board approval, have more than one generation facility attributed to the group, may increase the capacity of existing generation attributed to the group, and may merge separate groups.
- (D) Group Member Allocations. Where the customer has, at its own expense, provided a separate meter for measuring production, the kWh produced by a net-metering system may be allocated on a percentage basis to the accounts of a single customer or the accounts of group members, or the kWh may be allocated such that the bill of one member or account is first offset, with any additional kWh credits applied to the next group member(s) or account(s) in an order selected by the customer or group. Where there is no separate production meter,



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the excess generation may be allocated in order of priority for offsetting the bills of accounts belonging to a single customer or to the accounts of members of a group.

**5.108 Group System Requirements**

- (A) In addition to any other requirements in 30 V.S.A. §§ 248 and 8010, and in any applicable Board rules, before a group system may be formed and served by an electric company, the group shall file the following information with the electric company:
- (1) The meters to be included in the group system, which shall be located within the same electric company service territory;
  - (2) A process for adding and removing meters in the group and an allocation that shall be used by the electric company to allocate any credits among the members of the group. This allocation arrangement may be changed only on written notice to the electric company by the person designated under 5.108(A)(3), and any such change may only apply on a prospective basis;
  - (3) The name and contact information for a designated person who shall be responsible for all communications from the group system to the serving electric company, except for communications related to billing, payment, and disconnection; and
  - (4) A binding process for resolving any disputes among the members of a group relating to the net-metering system. This dispute resolution process shall not in any way require the involvement of the electric company, the Board, or the Department. This process does not apply to disputes between the electric company and individual group members regarding billing, payment, or disconnection.
- (B) The electric company shall implement appropriate changes to a net-metering

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group within 30 days after receiving written notification of such changes from the person designated under subsection 5.108(A)(3). Written notification of a change in the person designated under subsection 5.108(A)(3) shall be effective upon receipt by the electric company. The electric company shall not be liable for the consequences from actions based on such notification.

- (C) For each group member's customer account, the electric company shall bill that group member directly and send directly to that group member all communications related to billing, payment, and disconnection of that group member's customer account. Any volumetric charges for any account so billed shall be based on the individual meter for the account.

**5.109 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;
  - (2) Shall track credits by the month and year created and apply them on a first-created, first-used basis;
  - (3) Shall not apply any credits toward the customer's energy efficiency charge or energy assistance program fee;
  - (4) May charge a reasonable fee for establishment, special meter reading, accounting, account correction, and account maintenance for a net-metering system;
  - (5) May, prior to interconnection, charge a reasonable fee to cover the cost of electric company distribution system improvements necessary to safely and reliably serve the net-metering customer;
  - (6) May require that all meters included within a group system be read on the same billing cycle; and
  - (7) May, as part of its tariff, require energy efficiency audits for customers

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seeking to install and operate a net-metering system if they are:

- (a) a residential customer with historic energy consumption of 750 kWh or more per month; or
- (b) a commercial or industrial customer.

(B) Grid Service Fee. An electric company may propose a cost-based grid service fee, in \$/kWh of energy produced from a net-metering system, in accordance with this subsection.

(1) An initial grid service fee, as well as any adjustments to that fee thereafter, must be proposed by the electric company pursuant to 30 V.S.A. § 225, and it must be designed to achieve either of the following results:

- (a) Capture the fixed costs necessary to support the electric company's infrastructure and the administrative costs associated with net metering; or
- (b) Reduce the extent to which costs associated with a net-metering program are disproportionately shifted onto non-net-metering customers.

(C) Contracts. Notwithstanding the provisions of Section 5.107(B), an electric company may contract to purchase all or a portion of the output products from a net-metering system, pursuant to the provisions of Rule 4.100.

**5.110 Conditional Waiver of 30 V.S.A § 248(b) Criteria**

Pursuant to 30 V.S.A. § 8010, which provides that the Board may waive the requirements of 30 V.S.A. § 248(b) that are not applicable to net-metering systems, the Board conditionally waives the following criteria:

- (A) For net-metering systems that are installed on or in a new or existing structure that has a primary purpose other than the generation of electricity or that are existing hydroelectric facilities, all criteria under 30 V.S.A. § 248(b), with the exception of 30 V.S.A. § 248(b)(3) (stability and reliability).

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- (B) For net-metering systems that do not qualify under (A) above and that elect to transfer the tradeable renewable energy credits to the electric company: 30 V.S.A. § 248(b)(2) (need), (4) (economic benefit), (5) (water supply, transportation, educational services, municipal services, and public investments), (6) (consistency with least-cost plan); (7) (compliance with energy plan); and (9) (waste-to-energy facility).
- (C) For net-metering systems that do not qualify under (A) above and that elect to retain the tradeable renewable energy credits generated by the net-metering system: 30 V.S.A. § 248(b) (5) (water supply, transportation, educational services, municipal services, and public investments), (6) (consistency with least-cost plan), and (9) (waste-to-energy facility).

**5.111 Aesthetic Evaluation of Net-Metering Projects**

- (A) Quechee Test. In determining whether a net-metering system satisfies the aesthetics criterion contained in 30 V.S.A. § 248(b)(5), the Board applies the so-called “Quechee test” as described in the case *In Re Halnon*, 174 Vt. 515 (2002) (mem.), described below:
  - (1) Step one: Determine whether the project would have an adverse impact on aesthetics and the scenic and natural beauty of an area because it would not be in harmony with its surroundings. If no, then the project satisfies the aesthetics criterion. If yes, move on to step two.
  - (2) Step two: The adverse impact will be found to be undue if any one of the three following questions is answered affirmatively:
    - (a) Would the project violate a clear, written community standard intended to preserve the aesthetics or scenic, natural beauty of the area?

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- (b) Would the project offend the sensibilities of the average person?
  - (c) Have the applicants failed to take generally available mitigating steps that a reasonable person would take to improve the harmony of the proposed project with its surroundings?
- (B) Adverse Aesthetic Impact. In order to determine that a project would have an adverse impact on aesthetics and the scenic and natural beauty under subsection (A)(1), above, the Board must find that a project would be out of character with its surroundings. Specific factors used in making this evaluation include the nature of the project's surroundings, the compatibility of the project's design with those surroundings, the suitability of the project's colors and materials with the immediate environment, the visibility of the project, and the impact of the project on open space.
- (C) Clear, Written Community Standard. In order to find that a project would violate a clear, written community standard, the Board must find that the Project is inconsistent with a provision of the applicable town or regional plan that:
  - (1) Designates specific scenic resources in the proposed project area. Statements of general applicability do not qualify as clear, written community standards. For example, the general statement that "agricultural fields shall be preserved" would not qualify because the statement does not designate specific resources as scenic. The statement "the agricultural fields to the west of Maple Road are scenic resources that shall be preserved" would qualify because it designates specific resources as scenic.
  - (2) Provides specific guidance for project design. For example, the statement "only dwellings, forestry, and agriculture are permitted within the Maple Road scenic protection area" would be a clear standard because it states

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with specificity what type of development is permitted. The statement “all development in the Maple Road scenic protection area shall maintain the rural character of the area” would not be a clear standard because it does not state with specificity what type of development is permitted.

- (D) Offend the Sensibilities of the Average Person. A project will be found to offend the sensibilities of the average person if the project would be so out of character with its surroundings or so significantly diminish the scenic qualities of the area as to be offensive or shocking to the average person. In determining whether a project would offend the sensibilities of an average person, the Board will consider the perspective of an average person viewing the project from both adjoining residences and from public vantage points.
- (E) Generally Available Mitigating Steps. In determining whether an applicant has taken generally available mitigating steps, the Board may consider the following:
- (1) what steps, such as screening, the applicant is proposing to take;
  - (2) whether the applicant has adequately considered other available options for siting the project in a manner that would reduce its aesthetic impact;
  - (3) whether the applicant has adequately explained why any additional mitigating steps would not be reasonable; and
  - (4) whether mitigation would frustrate the purpose of the Project.
- (F) Setbacks. Applicants seeking authorization to construct a ground-mounted net-metering system shall comply with the following minimum setback requirements:
- (1) From a state or municipal highway, measured from the edge of the traveled way:
    - (a) 100 feet for a solar facility with a plant capacity exceeding 150 kW; and
    - (b) 40 feet for a solar facility with a plant capacity less than or equal to 150 kW but greater than 15 kW.
  - (2) From each property boundary that is not a state or municipal highway:

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- (a) 50 feet for a solar facility with a plant capacity exceeding 150 kW;  
and
  - (b) 25 feet for a solar facility with a plant capacity less than or equal to 150 kW but greater than 15 kW.
- (3) This subsection does not require a setback for a solar facility with a plant capacity equal to or less than 15 kW.
- (4) In the case of a net-metering wind turbine, the facility shall be set back from all property boundaries and public rights-of-way by a distance equal to at least twice the height of the turbine, as measured from the tip of the blade.
- (5) On review of an application, the Board may either require a larger setback than this subsection requires, or approve an agreement to a smaller setback among the applicant, the municipal legislative body, and each owner of property adjoining the smaller setback.

**5.112 Computation of Time**

- (A) Computation. In computing any period of time prescribed or allowed by this Rule, by order of the Board, or by any applicable statute, the day from which the designated period of time begins to run shall not be counted. The last day of the period shall be counted, unless it is a Saturday, a Sunday, or a state or federal legal holiday, or a day on which weather or other conditions have made the Board's office or the Board's electronic filing system unavailable, in which event the period runs until the end of the next day that is not one of the aforementioned days. Intermediate Saturdays, Sundays, and legal holidays shall not be counted when the period of time prescribed or allowed is less than 11 days.
- (B) Enlargement. The Board for cause shown may at any time in its discretion:
  - (1) Grant an extension of time if it is requested before the expiration of the period originally prescribed, or

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- (2) Upon request made after the expiration of the specified period, grant an extension where the failure to act was the result of excusable neglect.
- (C) Additional Time After Service. Whenever a person has the right to or is required to do some act within a prescribed time period after the service of a document upon that person, three calendar days shall be added to the prescribed time period after that time period has been computed pursuant to subdivision (A) of this Rule.

**5.113 Certificates of Public Good**

- (A) No person shall commence site preparation for or construction of a net-metering system or convert an existing plant into a net-metering system without first obtaining a CPG under this Rule.
- (B) Rules and Processes Not Applicable to the Review of Net-Metering Applications. The following provisions of Board Rule 2.200 (Procedures Generally Applicable) shall not apply in the review of a net-metering application or a hearing thereon: Board Rules 2.202 (initiation of proceedings), 2.204(A)-(G) (filing and service requirements), 2.205 (notice), 2.207 (time), 2.213 (prefiled testimony), 2.214 (A)(discovery), 2.216(A)-(C) (evidence).
- (C) Discovery. Discovery may be obtained in Board Rule 5.100 CPG proceedings only upon request of a party and upon order of the Board. Discovery shall only be permitted upon a finding that the requested discovery would not be unduly burdensome or expensive, taking into account such factors as the needs of the case, limitations on the parties' resources, and the importance of the issue in the case.
- (D) Prehearing Conferences and Status Conferences. Upon request of a party or upon its own motion, the Board, upon reasonable notice, may conduct a prehearing conference when the Board determines that such conference will be useful in providing information to all parties and to expedite its proceedings. Such conferences may, upon request of a party and in the discretion of the Board, be



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conducted telephonically. Such conferences may be convened to accomplish the following purposes:

- (1) clarifying the issues and, if possible, narrowing them;
- (2) determining party status;
- (3) identifying evidence, documents, witnesses, stipulations, and other offers of proof to be presented at a hearing;
- (4) promoting the expeditious, informal, and nonadversarial resolution of issues and the settlement of differences;
- (5) requiring the timely exchange of information concerning the application; and
- (6) such other matters as the Board deems appropriate.

(E) Hearings.

- (1) Process for Hearings. A hearing to review a net-metering application under this Rule shall be conducted pursuant to the provisions of 3 V.S.A §§ 809 and 810. Such hearings shall include an opportunity for all parties to present evidence and argument on all issues identified by the Board. Parties may present live direct testimony and such exhibits as are relevant and helpful to the Board in understanding that party's position. At the discretion of the Board, parties may request to present live rebuttal testimony. Parties are strongly encouraged to prefile testimony or exhibits at least 48 hours prior to a hearing, and to provide copies of such filings to the applicant and other parties. The hearing shall be transcribed and a transcript shall be made available to the public by the Board.
- (2) Requests for Hearing. A request for a hearing must be filed within 30 days from the date of notification by the Board that the application is administratively complete. The request shall identify the proposed issues to be resolved through the hearing.
  - (a) Hearings requested by the persons with party status pursuant to

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Section 5.118(A)(1)-(3) shall be granted automatically, provided the proposed issues are within the Board's jurisdiction to resolve.

- (b) Otherwise, upon receipt of the request for hearing, the Board shall determine whether or not the request raises:
  - (i) one or more substantive issues under the applicable Section 248 criteria; or
  - (ii) a substantive issue that is within the Board's jurisdiction to resolve.

Unless the request is made by the Department of Public Service, the Agency of Natural Resources, or the applicant, a request for a hearing must be accompanied by a motion to intervene made pursuant to Board Rule 5.118.

- (3) Scope of Hearings. Unless the Board determines otherwise, the scope of any such hearing shall be limited to the issues that were described in the hearing request, and in the case of hearings requested under (b)(ii), above, that the Board found to be substantive.

(F) Registration of Category I Net-Metering Systems, Existing Hydroelectric Facilities, and Roof-Mounted Photovoltaic Net-Metering Systems of Any Capacity.

- (1) Applicability. The registration procedure is only applicable to Category I net-metering systems, existing hydroelectric facilities, and photovoltaic net-metering systems that are mounted on a roof. This registration procedure is not subject to the requirements of 5.113(C)-(E) (discovery, prehearing and status conferences, and hearings).
- (2) Form and Content. A net-metering system under this subsection shall be registered with the Board in accordance with the filing procedures and registration form prescribed by the Board and shall contain all of the information required by the instructions for completing that form.

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- (3) Timeframes. Unless a letter raising interconnection issues is timely filed with the Board by the interconnecting utility, a CPG shall be deemed issued by the Board without further proceedings, findings of fact, or conclusions of law, and the applicant may commence construction of the system according to the following timeframes:
- (a) in the case of a net-metering system with a capacity of 15 kW or less, the eleventh business day following the filing of the form; and
  - (b) in the case of a net-metering system with a capacity of greater than 15 kW, the thirty-first day following the filing of the form.
- (4) Service. Upon filing the net-metering registration form with the Board, the applicant must also cause notice of the form to be sent to the serving electric company and to the Department via the Board's electronic filing system.
- (5) Interconnection. If the interconnecting electric company believes that the interconnection of the net-metering system raises concerns, the electric company must convey these concerns in writing to the applicant and the Board within the timeframes in (3), above. The electric company's filing must include a recommendation as to how the interconnection issues could be resolved by the applicant. The company must also convey a copy of the letter to the installer of the system named on the form. If an objection to the interconnection has been timely filed by the interconnecting electric company, the applicant shall not commence construction of the project until the interconnection issues have been resolved.
- (G) Applications for Category II and III Net-Metering Systems That Are Not Roof-Mounted Photovoltaic Systems.
- (1) Form and Content. An application for a CPG under this subsection shall be filed with the Board in accordance with the Board's current filing

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procedures, using the application form prescribed by the Board, and shall contain all of the information required by the instructions for that form.

- (2) Review for Administrative Completeness. Board staff will review all filed applications to determine whether they are administratively complete enough to process. Applicants should receive an e-mail message with the results of this review within 5 business days of the date the Board received the application; however, the expiration of this time period without the receipt of an e-mail message does not constitute a determination that the application is administratively complete enough to process. If the application is found to be complete, the applicant shall provide copies of the application to other persons as set forth in section 5.113(G)(3), below. If the application is found to be incomplete, the applicant will be informed of the deficiencies and will be given an opportunity to cure them. A determination that an application is administratively complete enough to process is not a legal determination regarding the sufficiency of the information included on the application.
- (3) Service of Applications. Within one business day after the application is determined to be administratively complete, the applicant shall provide by certified mail copies of the completed application form to the following persons:
- (a) the host landowner;
  - (b) all adjoining landowners; and
  - (c) the municipal legislative bodies and municipal and regional planning commissions in the communities where the project will be located.

The applicant shall cause notice of the completed application form to be transmitted to the following persons using the Board's electronic filing system, unless the applicant filed the application in paper form, in which

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case a copy of the entire application form and any attachments shall be served by certified mail:

- (a) the Department of Public Service;
- (b) the Agency of Natural Resources;
- (c) the Division for Historic Preservation; and
- (d) the electric company.

With permission of the intended recipient, the applicant may serve a copy of the completed application form via electronic mail, in which case the date the electronic mail is sent shall be within one business day after the application is determined to be administratively complete. All certified mail shall be postmarked within one business day of the date on which the application is determined to be administratively complete. The Board shall liberally grant extensions of time for the above-listed persons to file comments when the applicant fails to cause timely service of the application.

- (4) Submission of Comments. All comments concerning an application must be filed with the Board, with a copy to the applicant, within 30 days from the date of notification by the Board that the application is administratively complete. The applicant shall file a response to all timely filed comments within 15 calendar days of the close of the 30-day comment period.
- (5) Approval. In cases where there are no objections or requests for hearing and the Board determines that the application does not raise a significant issue, the Board will issue a certificate of public good without further proceedings, findings of fact, or conclusions of law, following the 30-day comment period.

- (H) Applications for Category IV and V Net-Metering Systems and New Hydroelectric Facilities.

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(1) Notice Requirements. The applicant must provide written notice by certified mail, at least 45 days in advance of filing a Section 8010 application, to the following persons:

- (a) the municipal legislative bodies and municipal and regional planning commissions in the communities where the project will be located; and
- (b) all adjoining landowners.

The applicant shall cause notice to be transmitted to the following persons using the Board's electronic filing system, unless the applicant is making a paper filing in accordance with the Board's rules, in which case service shall be by certified mail:

- (a) the Department of Public Service;
- (b) the Agency of Natural Resources;
- (c) the Division for Historic Preservation; and
- (d) the electric company.

With permission from the intended recipient, any applicant may serve a copy of the notice via electronic mail. The notice shall state that the applicant intends to file a Section 8010 application, identify the location of the project site, and provide a description of the proposed project that contains sufficient detail about the proposed project to afford the recipient reasonable notice of the nature of the project so that the recipient is able to make an informed judgment as to any potential impact the construction or operation of the project may have on any interest of the recipient that is within the Board's jurisdiction to address. The notice shall provide contact information and state that the recipient may file inquiries or comments with the applicant about the project and that the recipient will also have an opportunity to file comments with the Board once the application is filed. If, within 180 days of the date of the advance notice,

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the applicant has not filed a complete application for the project that fully complies with the filing requirements of this Rule, the notice shall be treated as withdrawn without further action required by the Board.

- (2) Pre-Application Information Session and Consultation. No less than 15 days prior to filing, the Applicant shall conduct a public information session in the town where the net-metering system would be located. Notice of the time, date, and location of the session shall be included in the applicant's 45-day advance notice under (1), above. As part of the public information session, the applicant shall solicit recommendations regarding the siting of the net-metering system.
- (3) Review for Administrative Completeness. Board staff will review all filed applications to determine whether they are administratively complete enough to process. Applicants should receive an e-mail message with the results of this review within 5 business days of the date the Board received the application; however, the expiration of this time period without the receipt of an e-mail message does not constitute a determination that the application is administrative complete enough to process. If the application is found to be complete, the applicant shall provide copies of the application to other persons as set forth in section 5.113(H)(4), below. If the application is found to be incomplete, the applicant will be informed of the deficiencies and will be given an opportunity to cure them. A determination that an application is administratively complete enough to process is not a legal determination regarding the sufficiency of the information included on the application.
- (4) Service of Applications. Within one business day after the application is determined to be administratively complete, the applicant shall provide by certified mail:
  - (a) copies of the completed application to the municipal legislative

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bodies and the municipal and regional planning commissions where the net-metering system will be located; and

- (b) notice to the host landowner and all adjoining landowners that the application has been filed with the Board.

The applicant shall cause notice of the completed application to be transmitted to the following persons using the Board's electronic filing system, unless the applicant filed the application in paper form, in which case a copy of the entire application and any attachments shall be served by certified mail:

- (a) the Department of Public Service;
- (b) the Agency of Natural Resources;
- (c) the Division for Historic Preservation; and
- (d) the electric company.

With permission of the intended recipient, any applicant may serve a copy of the completed application via electronic mail, in which case the date the electronic mail is sent shall be within one business day after the application is determined to be administratively complete. All certified mail shall be postmarked within one business day of the date on which the application is determined to be administratively complete. The Board shall liberally grant extensions of time for the above-listed persons to file comments when the applicant fails to cause timely service of the application.

- (2) Filing Requirements. Category IV and V and new hydroelectric facility applications shall contain the following information. Failure to provide any required information will result in the application being deemed incomplete:

- (a) Applicant name. The application shall include the legal name (and the "doing business as" name, if different), contact information,



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Vermont business registration number (if applicable), and a description of the company or person making the application. For example:

XYZ Corporation (d/b/a ABC Solar)

Headquarters at 123 Maple Lane, Anytown, VT 05600

Service Agent: Jane Doe, Esq.

VT Business ID#: 12345

- (b) Host landowner. The application shall include the name and address of the legal owner of the land upon which the proposed net-metering system would be built.
- (c) Adjoining landowners. The application shall include the names and addresses of all adjoining landowners. This information shall be obtained from the most recent version of the town's grand list.
- (d) Certification that notice requirements have been met. The applicant shall certify that it has complied with the advance notice requirements listed above.
- (e) Site plans. The applicant shall provide a site plan for each project. A site plan shall include:
  - (i) Proposed facility locations and any incidental project features;
  - (ii) Approximate property boundaries and setback distances from those boundaries to the nearest corners of each related structure, approximate distances to any nearby residences, and dimensions of all proposed improvements;
  - (iii) Proposed utilities, including approximate distance from source of power, sizes of service available and required, and approximate locations of any proposed utility or communication lines;

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- (iv) A description of any areas where vegetation is to be cleared or altered and a description of any proposed direct or indirect alterations to or impacts on wetlands or other natural resources protected under 30 V.S.A. § 248(b)(5), including the limits of disturbance and the total acreage of any disturbed area;
  - (v) Detailed plans for any drainage of surface and/or sub-surface water and plans to control erosion and sedimentation both during construction and as a permanent measure;
  - (vi) Locations and specific descriptions of proposed screening, landscaping, groundcover, fencing, exterior lighting, and signs;
  - (vii) Plans of any proposed access driveway, roadway, or parking area at the project site, including grading, drainage, and traveled width, as well as a cross-section of the access drive indicating the width, depth of gravel, paving, or surface materials; and
  - (viii) The latitude and longitude coordinates for each proposed project.
- (f) Elevation drawings.
- (i) For each proposed structure, the applicant shall provide elevation drawings.
  - (ii) The elevation drawings shall be to appropriate scales but no smaller than 1"/20'.
  - (iii) The applicant shall include two elevation drawings of the proposed structures drawn at right angles to each other, showing the ground profile to at least 100 feet beyond the

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edge of any proposed clearing, and showing any guy wires or supports. The elevation drawing shall show height of the structure above grade at the base, and describe the proposed finish of the structure.

- (iv) The elevation drawing shall indicate the relative height of the facility to the tops of surrounding trees as they presently exist.
- (v) Each plan sheet shall be clearly labeled with the project title, date, revision date(s), scale, and name of the person or firm that prepared the plan.

- (g) Testimony, exhibits, proposed findings, and proposed CPG. The applicant shall address each of the applicable Section 248 criteria through testimony and exhibits. To the extent that the proposal will result in an adverse impact affecting any of these criteria, the applicant shall describe what measures, if any, will be taken to minimize any such impact.

Any witness sponsoring an exhibit or testimony must file a notarized affidavit stating that the information provided is accurate to the best of the witness's knowledge. All exhibits shall be sponsored by a witness. The witness must further attest to having personal knowledge to be able to testify as to the validity of the information contained in the exhibit or testimony. The applicant shall file proposed findings of fact and a proposed CPG with the application.

- (h) Local and regional plans. The applicant shall provide copies of the relevant sections of the Town Plan and Regional Plan in effect in the community in which the proposed facility will be located. The applicant shall include testimony describing how the project

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complies with or is inconsistent with the land conservation measures in those plans.

- (i) Wetland delineation. The applicant shall provide either a wetland delineation prepared by a qualified professional or a letter from the district wetland ecologist stating that no delineation is necessary because the net-metering system will not be proximate to any significant wetlands.
  - (j) Interconnection. The applicant shall file as part of the application a letter from the electric company stating that the proposed net-metering system may be safely interconnected with the company's distribution grid without having an impact on system stability or reliability. The letter shall also describe all improvements to the grid necessary to interconnect the net-metering system.
  - (k) Response to recommendations of municipalities and adjoining landowners. The applicant shall file a document summarizing the comments and recommendations received in response to the 45-day notice and those received at the public information session. The document shall respond to the issues raised in those comments and recommendations and shall state what steps the applicant has taken to address those issues or why the applicant is unable to do so.
- (3) Submission of Comments. All comments concerning an application must be filed with the Board within 30 days from the date of notification by the Board that the application is administratively complete.

**5.114 Amendments to Pending Applications**

- (A) Minor Amendment. Applicants shall provide notice of all minor amendments to the Board, the Department of Public Service, the Agency of Natural Resources,

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and the electric company. The notice shall provide sufficient information so that the Board can understand the nature of the proposed change and its impact, if any, on any of the Section 248 criteria. The filing of a minor amendment shall not extend the applicable comment period for the application. The Board may request additional information from the applicant regarding a proposed minor amendment at any time during the review of a net-metering system.

- (B) Major Amendment. Applicants seeking a major amendment shall refile the amended application in accordance with Rule 5.113, which governs the procedures for the applicable category of net-metering system.

**5.115 Amendments to Approved Net-Metering Systems**

- (A) Minor Amendments. A certificate holder shall provide notice of all minor amendments to the Board, the Department of Public Service, the Agency of Natural Resources, and any party to the proceeding in which the net-metering system was granted a CPG. The notice shall provide sufficient information so that the Board can understand the nature of the proposed minor amendment and its impact, if any, on any of the Section 248 criteria. The certificate holder may implement the proposed minor amendments without further action by the Board unless a written objection is filed with the Board within 10 business days after the minor amendment notice. If an objection is filed by any of the persons specified in this subsection, the certificate holder shall not implement the proposed minor amendment until the objection has been withdrawn or resolved by the Board.
- (B) Major Amendments. The procedure for obtaining authorization to implement a major amendment shall be the same as the application procedure for the category of net-metering system applicable to the amended net-metering system.

**5.116 Transfer and Abandonment of CPGs**

- (A) Transfer. A CPG for a net-metering system is deemed to be automatically

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transferred when the property hosting a net-metering system is sold or legal title is otherwise conveyed to a new owner. The new owner may continue operating the net-metering system provided that:

- (1) the new owner agrees to operate and maintain the net-metering system according to all terms and conditions of the CPG and complies with this Rule 5.100; and
  - (2) within 30 days after acquiring ownership of the system, the new owner completes and files an official Transfer Form with the Board, the Department of Public Service, the Agency of Natural Resources, and the electric company.
- (B) Abandonment. Non-use of a CPG for a period of two years following the date the certificate is issued shall constitute an abandonment of the net-metering system, and the CPG shall be considered revoked. For the purpose of this section, for a CPG to be considered used, the net-metering system must be commissioned. An extension of the time for using a CPG shall only be granted for good cause shown. A certificate holder may abandon a CPG at any time upon written notice thereof to the Board, the Department, the Agency of Natural Resources, and the electric company.

**5.117 Compliance Proceedings**

- (A) In response to a complaint filed by any member of the public or on its own motion, the Board shall refer matters concerning whether an approved net-metering system is complying with the terms of its CPG to the public advocate of the Department of Public Service for investigation and to make a recommendation as to whether the Board should open a compliance proceeding or take any other steps necessary to ensure that the net-metering system continues to serve the public good.
- (B) After considering the public advocate's recommendation, the Board may take any

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or all of the following steps to ensure that a net-metering system is constructed and operated in compliance with the terms and conditions of the CPG issued for that net-metering system and any related Board order:

- (1) Direct the certificate holder to provide the Board with an affidavit under oath or affirmation attesting that the person, company, or corporation or any facility or plant thereof is in compliance with the terms and conditions of the CPG pursuant to 30 V.S.A. 30(g);
- (2) Direct the certificate holder to provide additional information;
- (3) After notice and opportunity for hearing, amend or revoke any CPG for a net-metering system, impose a penalty under 30 V.S.A. § 30, or order remedial activities for any of the following causes:
  - (a) The CPG or order approving the CPG was issued based on material information that was false or misleading;
  - (b) The system was not installed, or is not being operated, in accordance with the National Electrical Code or applicable interconnection standards;
  - (c) The net-metering system was not installed or is not being operated in accordance with the plans and evidence submitted in support of the application or registration form or with the findings contained in the order approving the net-metering system;
  - (d) The holder of the CPG has failed to comply with one or more of the CPG conditions, the order approving a CPG for the net-metering system, or this Rule; or
  - (e) Other good cause as determined by the Board in its discretion.

**5.118 Party Status in Net-Metering Proceedings**

- (A) The following persons shall obtain party status as follows:
  - (1) The Vermont Department of Public Service shall have party status in any

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proceeding under this Rule.

- (2) Except for Category I net-metering systems, the Agency of Natural Resources shall have party status in any proceeding under this Rule.
- (3) The following persons shall be granted party status as of right, pursuant to Board Rule 2.209(A) upon the filing of a motion to intervene. The Board will provide a form for such purpose:
  - (a) the electric company;
  - (b) the legislative body and the planning commission of the municipality in which a facility is located, pursuant to 30 V.S.A. § 248(a)(4)(F);
  - (c) the regional planning commission of the region in which a facility is located;
  - (d) adjoining landowners;
  - (e) the Vermont Agency of Agriculture Food and Markets; and
  - (f) the Vermont Division for Historic Preservation.
- (B) Any other person seeking to participate in a net-metering proceeding as a party must file a motion to intervene either in accordance with Board Rule 2.209 or by filing a form developed by the Board for use under this Rule.
- (C) Any person who obtains party status acquires all of the legal rights and obligations of a party in a Board proceeding. The filing of comments on an application and the consideration of such comments by the Board do not confer party status. Party status is conferred only upon issuance of an order from the Board granting a duly filed motion to intervene.

**5.119 Interconnection Requirements**

The interconnection of all net-metering systems shall be governed by Board Rule 5.500. The applicant shall bear the costs of all equipment necessary to interconnect the net-metering system to the distribution grid and any distribution system upgrades necessary to ensure system



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stability and reliability.

**5.120 Disconnection of a Net-Metering System**

The following procedures shall govern disconnection of a net-metering system from the electrical system. These procedures apply to net-metering systems only and do not supplant Board Rules 3.300 and 3.400 relating to company disconnection in general.

- (A) A customer who initiates a permanent disconnection of a net-metering system shall notify the electric company. The electric company shall notify the Board and the Department of the disconnection.
- (B) In the event the electric company must perform an emergency disconnection of a net-metering system, the electric company must notify the customer within 24 hours after the disconnection. For the purpose of this section, the term “emergency” shall mean a situation in which continued interconnection of the net-metering system is imminently likely to result in significant disruption of service or endanger life or property.
  - (1) If the emergency is not caused by the operation of the net-metering system, the company shall reconnect the net-metering system upon cessation of the emergency.
  - (2) If the emergency is caused by the operation of the net-metering system, the electric company shall communicate the nature of the problem to the customer within 5 days, and attempt to resolve the problem. If the problem has not been resolved within 30 days of an emergency disconnection, the electric company shall file a disconnection petition with the Board.
- (C) Non-emergency disconnections shall follow the same procedure as emergency disconnections in subsection B above, except that the electric company shall give written notice of the disconnection no earlier than 10 days and no later than 3 working days prior to the first date on which the disconnection of the net-

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metering system is scheduled to occur. Such notice shall communicate to the customer the reason for disconnection and the expected duration of the disconnection. With written consent from the customer, an electric company may arrange to provide the customer with notice of non-emergency disconnections on terms other than those set forth in this Rule, provided that the electric company first informs the customer of the provisions of this Rule and that the customer may contact the Consumer Affairs and Public Information Division of the Vermont Department of Public Service. For group systems, such consent may be obtained from the person designated under Section 5.108(A)(3).

- (D) A customer who is involuntarily disconnected may file a written complaint with the Board at any time following disconnection. The customer shall provide a copy of the complaint to the electric company and the Department of Public Service. Within 30 days of the date the complaint is filed, the Board may hold a hearing to investigate the complaint. In the event of the filing of such a complaint, the electric company shall carry the burden of proof to demonstrate the reasonableness of disconnection.

### **5.121 Tracking of Net-Metering Systems**

Each electric company with net-metering customers shall maintain current records of the number, individual capacity, cumulative capacity, and disconnections of net-metering generation installed within its service territory.

### **5.122 Decommissioning**

- (A) All applications for net-metering systems with capacities greater than 150 kW shall include a decommissioning plan. The decommissioning plan shall address the following:
- (1) the removal and safe disposal of project components; and
  - (2) the restoration of any prime agricultural soils, if present within the limits

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of disturbance.

