STATE OF VERMONT

PUBLIC UTILITY COMMISSION

Case No. 24-0248-INV

In re: biennial update of the net metering program

COMMENTS OF ALLEARTH RENEWABLES, INC.

AllEarth Renewables, Inc. ("AER") offers these comments in response to the April 1, 2024 *Comments and Recommendations of the Department of Public Service Re: Biennial Update of the Net-Metering Program* ("the DPS filing") in this matter. For a number of reasons as set forth below, the Department's recommendation of yet another compensation drop misses the mark, and the Commission should set both Adjustors at zero rather than lower them by the additional two cents proposed by the Department.

1. *Net metering is still, and must remain, a successful program at getting Vermont renewable energy projects built.* The DPS filing accurately acknowledges that net metering has been the primary mechanism for the deployment of distributed generation in Vermont.[1] And while the Department again notes its advocacy for a different type of system going forward, it also recognizes that this biennial update is taking place under framework of the current Rule 5.100.[2] Experience under the Rule, coupled with recent amendments to it as discussed below in these Comments, underscore the need to reverse the use of downward Adjustors and restore net metering compensation toward something closer to the residential rates that are paid by Vermont electric customers.[3]

[1] DPS filing at 17.

[2] Id at 17-18.

[3] It should not be forgotten that net metering systems permitted since January 1, 2024, as well as the increasing number of systems that are reaching 10 years in age, pay full customer charges, efficiency charges and other ancillary charges associated with utility electric bills. Utilities also have full control over when and in what amount to seek rate increases and/or rate design changes to ensure that their customer charges are current and appropriate.

Agreement on the need to combat the climate crisis through beneficial electrification is broad, and reflected in Vermont's statutes including the Global Warming Solutions Act passed in 2020 and the mandates contained within Vermont's Renewable Energy Standard.[4] While many have touted offshore wind and other large-scale out-of-state projects as key options for Vermont to meet these mandates, such projects have proven difficult to construct and much more expensive than anticipated.[5] Larger scale in-state solar projects have also met with many challenges, and no wind project has been built in at least a decade. While it may take more small-scale projects than large ones to meet Vermont's renewable energy needs, small projects are not only more likely to be built but also afford such advantages as greater locational diversity, less concentrated grid impacts and opportunities for community solar projects under any of the many definitions of that term.

2. *The Commission should take into account the pendency of H 289.* As of the filing of these Comments, House Bill 289 is pending before the Vermont Legislature. That bill, entitled An Act Related to the Renewable Energy Standard, has passed the House[6] and is currently before the Senate.[7] Section 2 of H. 289 would substantially limit offsite net metering for CPG applications filed after the end of this year, restricting it to adjacent parcels but for a limited one-year additional time period for multifamily housing serving qualified low-income tenants.[8] H. 289 contains no replacement program for offsite net metering, opting instead for a study conducted by the Department in consultation with others and due to be finished on January 15, 2025. There is no subsequent process or commitment for any specific steps beyond the study.[9]

While neither the Commission nor the parties can predict or assume the outcome of pending legislation, this proceeding should not go forth heedless of its existence. It is incontrovertible that (1) the potential changes to the net metering program contained in H. 289 would materially

[4] The Department rightly acknowledges that "Vermont's progress toward reducing greenhouse gas emissions…will rely heavily on the adoption of heat pumps and EVs," and that the flat load growth of the past several years "is expected to change with significant electrification (see DPS filing at 11 and 29-30).
[5] See, for example, https://www.pbs.org/newshour/nation/offshore-wind-project-cancellations-jeopardize-bidens-clean-energy-goals; https://cleantechnica.com/2023/10/04/another-new-england-offshore-wind-ppa-cancelled/
[6] https://legislature.vermont.gov/Documents/2024/Docs/BILLS/H-0289/H-0289%20As%20passed%20by%20the%20House%20Official.pdf
[7] https://legislature.vermont.gov/bill/status/2024/H.289
[8] These changes would be achieved by modifications to the net metering definition contained in 30 VSA §8002(10).
[9] H. 289 at Section 8.

diminish the degree of net metering CPG applications filed during the 2024-2026 period that the next rates and Adjustors will be in effect; (2) there will not be a replacement program in place during most or all of this period; and (3) this major cutting back of a major state renewable energy procurement program would take place at the same time that the only other such program- Standard Offer- is also winding down.[10] While the zero-Adjustor recommendation of AllEarth in this proceeding would be the same even absent H. 289, that bill's passage would provide an even more compelling basis for the Commission to adopt those recommendations. AllEarth asks that the Commission continue to closely track and take into account that bill, as action on it may well occur after the deadline for the filing of these Comments but before the June 1st date upon which the Commission will issue its Biennial Order here.[11]

3. *The utility filings in this case make clear that the use of negative adjustors, coupled with the methodology for calculation of net metering rates, largely preclude meaningful access to net metering opportunities for ratepayers of Vermont's smaller municipal utilities.* The numbers set forth in the utility filings in this case tell the story with respect to this point. It appears that, since the last biennial update:

- Swanton had 6 net metering installations, the largest of which was 11.4 kW
- Orleans had 2 installations, totaling 23.8 kW
- Northfield had 8 installations, the largest of which was 11.34 kW
- Ludlow had 7 installations. One was 35.77 kW and the next largest 13.6 kW
- Enosburg had 6 installations, the largest of which was 15 kW
- Jacksonville had 5 installations, the largest of which was 7.6 kW
- Johnson had 2 installations, the larger of which was 12 kW

The dynamic here is clear: the combination of negative Adjustors with the blended rate calculation methodology greatly impacts the viability of net metering systems for ratepayers in a number of Vermont's smaller municipal utilities, to a degree that is contrary to Vermont's statutory mandate that the state's net metering program "ensures that all customers who want to

[10] See 30 VSA §8005a(c) (setting forth pace and cumulative capacity for Standard Offer program).

[11] The bill is in fact on the Senate Action Calendar as of the filing of these Comments. If H. 289 were to pass, it would substantially increase the renewable energy procurement obligations of Vermont's electric utilities, thereby simultaneously leaving *fewer* net metering opportunities at the same time that *more* of the renewable energy produced by net metering systems is necessary. This is a compelling reason to provide greater incentive, and not less, to the surviving class of net metering opportunities.

participate in net metering have the opportunity to do so."[12] The calculation method itself, which is embodied in Rule 5.100 and which lowers the blended net metering rate through inclusion of the NYPA block for most publicly-owned utilities,[13] is not a subject of this biennial update. The Commission does, however, have broad discretion relative to the setting of the Adjustors, and it should exercise that discretion in a manner that lessens and not increases this wide disparity in net metering opportunities for Vermont electric customers.

4. *Since the Rule 5.100 changes that took effect March 1st allow utilities to propose locational tariffs for grid-congested areas, any locational issues surrounding net metering systems should not factor into the determination of Adjustors.* The DPS Filing asserts that:

> Net-metering is also contributing to a dynamic where, if it continues to be developed according to historic geographic and temporal patterns, it will necessitate, rather than avoid, the need for additional transmission and distribution infrastructure. In addition to being at odds with the 30 V.S.A. § 8010(c)(1)(D) requirement for a program that, in part, "accounts for all costs and benefits of net-metering, including the potential for net-metering to contribute toward relieving supply constraints in the transmission and distribution systems. . ." adding to transmission costs would exacerbate the overall cost shift from participants to non-participants.[14]

AllEarth submits that these considerations, even if valid, should not factor into the Commission's determination of Adjustors in this proceeding. The recent amendments to Rule 5.100 include the addition of section 5.136, which provides:

> **5.136 Locational Adjustor Fee**
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> An electric company may propose for Commission approval a tariff assessing a locational adjustor fee on new net-metering systems located in constrained or limited-headroom areas of the grid. The fee will be assessed on a per-kilowatt basis and collected before a net-metering system is energized. The amount of the fee must reflect the incremental economic harm caused by constructing additional generation in the area or the incremental cost to ratepayers of expanding the available grid capacity in the area. The electric company tariff must describe the physical boundaries of the constrained area or limited headroom area; existing and forecasted load and

[12] See 30 VSA §8010(c)(1)(E).
[13] See Rule 5.127(A)(2).
[14] DPS Filing at 25-26.

> generation within the area; the capacity of the distribution, sub-transmission, or transmission system within the area; any other affected distribution utility, or VELCO, that is potentially affected by the addition of generation to the area, particularly in cases where it is the sub-transmission or transmission system that is facing a constraint; and any other factors relevant to the determination of whether a locational adjustor is just and reasonable. The tariff must also provide a method for allocating any fees collected among other electric companies affected by the constraint. A tariff proposed under this section may apply to new electric generation facilities other than net metering systems.

It is clear that section 5.136 affords a comprehensive and exclusive method for utilities to address any grid congestion concerns they may have around net metering systems. Any generic adjustment or consideration of these issues in the context of the overall setting of Adjustors in this proceeding would be inappropriate.

5. *The lack of opportunity for interim net metering rate updates under the recent amendments to Rule 5.100 should be considered in establishing Adjustors here*. Prior to the amendments to Rule 5.100 that took effect on March 1st of this year, section 5.127(A)(2) of the Rule required that a utility recalculate and implement a revised net metering rate "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%." The March 1st amendments eliminated this provision, meaning that a utility's net metering rate will remain unchanged for two years even if that utility has one or more significant rate increases. This increasing lag is far from a hypothetical in the current environment; there have been an increasing number of utility rate cases since the last biennial update, and at least three, including one for the state's second largest utility were pending at the time that the Department submitted its blended rate calculations in this case.[15] It is appropriate to recognize this impact in the determination of the appropriate Adjustors for this biennial.

6. *The solar industry as a whole faces challenging times, and strong rates are needed to ensure that new projects can be built*. Panel prices are highly likely to rise as early as this summer, as the Biden administration appears almost certain to let its two-year tariff exemption on bifacial

[15] See DPS Rate Calculations filed in this Case on April 1, 2024 (noting pending rate cases for Vermont Electric Cooperative, Johnson and Ludlow).

panels expire.[16] Just last week, a petition was filed with the United States Department of Commerce seeking imposition of "anti-dumping" duties as high as 271% against four countries.[17] Labor costs, inflation, and permitting costs continue to rise as well.

Considered against this backdrop, the Department's position that Adjustors should be decreased to offset the increase in the underlying utility net metering rates is not a sound one. What in isolation may appear to be a holding of net metering compensation steady is in reality a lessening of that compensation, for we do not live in inflation-free times. Interest rates continue to remain relatively high, world tensions and domestic economic conditions continue to create supply chain challenges, increased costs and workforce shortages. While the Department may find it "difficult to clearly identify the cause of reduction in overall CPG applications" from 2022 to 2023,[18] the above factors are obvious ones, exacerbated by increasing onerous imposition of negative Adjustors that attach to Vermont net metering projects "in perpetuity" irrespective of their future value to our grid and our citizens.[19] It is also a reality that 2023 CPG applications fell even with the well-known availability of the 30% federal tax credit that year.[20] The Department's sense that this combination of inflation, workforce shortages, supply challenges and an already-in-place tax credit "forecast an increased pace of deployment" for net metering systems[21] simply doesn't make sense, and the decline in CPG applications from 2022-2023 tells the true story.

7. *The extensive public engagement process conducted by the Department, as well as the many public comments filed in this case, show strong continued support for net metering and its benefits.* This past month, the Department released its 77-page report entitled *Reviewing Vermont's Renewable Electricity Policies & Programs.*[22] The Report followed an extensive public engagement process carried out pursuant to a Public Engagement Plan issued in late

[16] https://www.reuters.com/world/us/us-plans-restore-tariffs-dominant-solar-technology-sources-say-2024-04-17/
[17] https://www.sidley.com/en/insights/newsupdates/2024/04/new-antidumping-and-countervailing-duty-petitions-filed-on-us-imports-of-certain-solar-cells
[18] DPS filing
[19] See Rule 5.127(B)(2).
[20] The 30% ITC was restored by the Inflation Reduction Act in 2022. https://www.energy.gov/eere/solar/homeowners-guide-federal-tax-credit-solar-photovoltaics
[21] DPS fiiling at 9.
[22] https://publicservice.vermont.gov/sites/dps/files/documents/Clean%20%26%20Renewable%20Electricity%20Review%20Final%20Report.pdf

2022.[23] While concerns for affordability and reliability of electricity were given a high priority by participants as would be expected, the Report also found that:

> Participants expressed a clear preference for solar, particularly small or community-scale systems. Although many focus group participants were not initially aware of community solar, discussions highlighted it as a way for renters to benefit from renewable electricity. Community-solar was a common theme across the regional event series, although was not specifically defined in the context of these conversations and could mean different things to different stakeholders. Conversations of larger systems highlighted land use and siting concerns, with a preference for use of existing structures.[24]

Vermont's net metering program is the primary and best current vehicle for small-scale renewable energy systems, on both individual and community solar levels. As the Report accurately notes, the term "Community Solar" has many different meanings to many different people. A Vermont-scale net metering project can accommodate most if not all of those meanings, whether they encompass an investor-owned project selling power to individuals or businesses through purchase power agreements, collective ownership of a project, or some combination of the two in which a landowner, municipality or other entity has a right to buy the project from an initial private investor. While there may be legislative, regulatory and other discussions about potential additional or replacement small-scale renewable programs in the future, those programs are not here now, and our collective need to address the climate crisis is not going to wait for them. The Department's *Report* accurately captured the degree to which Vermonters value net metering systems, and that fact is well reinforced by the many public comments that have been and continue to be filed in this case.[25]

CONCLUSION

The Commission should adopt the straightforward approach of simply setting Adjustors at zero for the 2024-2026 biennial period. Vermont's societal need and legal requirements for the use of renewable energy will require vast deployment of renewable energy projects, including

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[23] See *Report* at 7 (summary of events and processes); https://publicservice.vermont.gov/sites/dps/files/documents/Final%20RES%20Public%20Engagement%20Plan_11-29-22.pdf (Public Engagement Plan).
[24] *Report* at 46.
[25] https://epuc.vermont.gov/?q=node/64/195663/FV-Public%20Comments-Portal

net metering ones. The power supply cost associated with existing systems is coming down as those systems reach the 10-year mark, all new systems pay the full customer charge and other ancillary charges, and the March 1st amendments to Rule 5.100 provide the utilities full and fair opportunity to address project locational concerns through a tariff filing process with which utilities are well familiar. There is also much to be said for restoring at least some simplicity to a program which, as well reflected by the Department's *Summary of Net Metering Programs and Adjustors*,[26] embodies a level of complexity that makes it difficult to comprehend for those outside of the industry and for many within it.

Thank you for this opportunity to comment.

Dated this 1st day of May, 2024.

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[26] DPS filing at 14.