STATE OF VERMONT
PUBLIC SERVICE BOARD

In Re: Revised net-metering rule pursuant to Act 99 of 2014	))

MOTION FOR RECONSIDERATION

Pursuant to Vermont Public Service Board ("Board" or"PSB") Rule 2.105 and V.R.C.P. 59(e), Renewable Energy Vermont ("REV") moves for reconsideration of the Board's June 30, 2016 order adopting a revised net-metering program and requests that the Board issue a further order that withdraws or suspends the June 30, 2016 Rule 5.100 and provide the public and stakeholders directly affected by the new program with the findings and analysis required by Section 5(d)(4) of Act 99. REV seeks reconsideration of the rule's retroactive customer charges; elimination of arbitrary annual net metering caps in any utility territory; elimination of an entire class of net metering projects in locations other than those identified for Category III systems and customer limits; and site adjusters for Category III and IV systems.

The hundreds of comments previously submitted to the Board offer a small snapshot into the tremendous customer and market anxiety and frustration caused by continued delays and uncertainty about the future of renewable energy and net metering in Vermont. We do sincerely appreciate the Board's efforts to maintain a more holistic value for small renewable energy net metered projects and recognize the significant benefits that continued net metered renewable energy provides all Vermonters. REV has received numerous calls from businesses who feel forced to prepare to lay off employees and limit or eliminate future work in Vermont and

frustrated customers who want local renewable energy but find their options now limited or eliminated due to the Board's Order.

Introduction

Taking effect on April 1, 2014, Act 99, required the Public Service Board to promulgate a rule maintaining a new net-metering that:

- Advances the goals and total renewables targets of chapter 89 of Title 30 and the goals of 10 V.S.A. § 578 (greenhouse gas reduction) and must be consistent with the criteria of 30 V.S.A. 248(b);
- Achieves a level of deployment that is consistent with the recommendations of the Electrical Energy and Comprehensive Energy Plans under sections 202 and 202b of Title 30, unless the Board determines that this level is inconsistent with the goals and targets identified in chapter 89 of Title 30, using the Plans most recently issued at the time the Board adopts or amends the rules;
- Ensures, to the extent feasible, that net metering does not shift costs included in each retail electricity provider's revenue requirement between net metering customers and other customers;
- Accounts for all costs and benefits of net metering, including the potential for net metering to reduce consumption of fossil fuels for heating and transportation and contribute toward relieving supply constraints in utility transmission and distribution systems;
- Ensures that all customers who want to participate in net metering will have the opportunity to do so;
- Over time, balance the pace of deployment and cost of the program with the program's impact on rates; and
- Accounts for changes in the cost of technology over time.

2013 No. 99, § 4(c)(1) (Adj. Sess.) (codified at 30 V.S.A. § 8010(c)). The Act also requires the Board to report to the House Committees on Commerce and Natural Resources and Energy and the Senate Committees on Finance and Natural Resources and Energy no later than January 1, 2016, (1) summarizing public comments on the proposed rules, (2) the Board's evaluation of the existing net-metering program's effectiveness, (3) the alternatives to the proposed rules that the Board considered, and (4) summarizing the text of the proposed rules. 2013 No. 99, § 5(d)(4) (Adj. Sess.). If, by July 1, 2016, the Board was unable to complete final adoption of its proposed rules, Section 5(d)(5) of Act 99 allowed it to adopt a new net metering program through an order, provided that the final rules were adopted within "a reasonable period." *Id*. § 5(d)(5).

Although a net-metering report from the Board to the legislative committees identified in Section 5(d)(4) of Act 99 was not submitted in January 2016, the Board continued to work on a new net-metering program and published two pre-rulemaking iterations of a new rule on December 7, 2015 and February 19, 2015. REV appreciated the opportunity for public comment on these drafts and improvements made by the Board in those drafts in response to public feedback. In late March, the Board filed a further revised net-metering rule with the Vermont Secretary of State. The Board held two public hearings on the proposed rule in early May 2016, and it received more than 500 public comments on the March version of the proposed rule.

REV and its members appreciate the Board's dedicated effort to consider numerous highly complex issues to develop a new net metering program that must meet all of the policy priorities enumerated in Act 99. Several of the Board's policy

choices depart from the Board's earlier drafts of the new rule and have caused grave concern for REV, thousands of renewable energy customers, and thousands of families supported through employment by our members and the extensive supply chain reliant on a stable and ongoing net metering program. The Board defaulted to publishing an entirely new version of Rule 5.100 which it intends to have the effect of law immediately and until a later version is developed. Not only does the new rule add dramatically new requirements and limitations not previously proposed in the prior drafts, the Board provided no rationale for the policy choices reflected in the new net-metering rule. Given limited time and the rule making process still ahead, REV limited this motion to respectfully ask the Board to reconsider four most impactful policies in the new rule. REV further requests that the Board provide stakeholders and legislators with findings and analysis on how the new rule meets the legislative objectives set out in Act 99 and why the Board chose to include recommendations from some stakeholders and not others.

Standard of Review Under V.R.C.P. 59

The Board applies the Vermont Rule of Civil Procedure ("V.R.C.P.") to its proceedings pursuant to Board Rule 2.105. V.R.C.P.59(e) gives the Board broad power to alter or amend a judgment to make any appropriate modification or amendment. Vermont Rule of Civil Procedure 59(e), which is substantially identical to Federal Rule 59(e), "gives the court broad power to alter or amend a judgment on motion within ten days after entry thereof." *Drumheller v. Drumheller*, 2009 VT 23, ¶ 28 (citing V.R.C.P. 59, Reporter's Notes). A Rule 59(e) motion "allows the trial court to revise its initial

judgment if necessary to relieve a party against the unjust operation of the record resulting from the mistake or inadvertence of the court and not the fault or neglect of a party." *Rubin v. Sterling Enterprises, Inc.*, 164 Vt. 582, 588 (1996) (citing *In re Kostenblatt*, 161 Vt. 292, 302 (1994)). In addressing a Rule 59(e) motion "the [Board] may reconsider issues previously before it, and generally may examine the correctness of the judgment." *In re Robinson/Kier Partnership*, 154 Vt. 50, 573 A.2d 1188 (1990). It is "well within" the Board's discretion to consider questions of law intrinsic to an underlying order whether or not the issue is asserted for the first time in a Rule 59(e) motion. *In re SP Land Co.*, 2011 VT 104, ¶¶ 15-19, 190 Vt. 418, 35 A.3d 1007.[1]

Argument

REV seeks four specific changes to the new program adopted by the June 30, 2016 Order in order to remain more consistent with past rule drafts and Act 99 requirements. Additionally, REV argues that revisions to the rule are necessary in order to prevent manifest injustice and comport with established protections afforded by the Vermont Constitution and the Vermont Administrative Procedures Act.

First, net-metering credits should continue to apply to all charges on an existing net-metering customer's bill utility for at least a minimum of ten years from the date the

[1] The *SP Land* Court distinguished a prior statement in *Northern Security Insurance Co. v. Mitec Electronics*, Ltd., 2008 VT 96, ¶ 44, 184 Vt. 303, 965 A.2d 447—that a Rule 59(e) motion may not be used to raise arguments that could have been raised prior to the entry of judgment—on the basis that "*Northern Security* involved an additional claim for relief, in contrast to the interpretation of law at issue [in *SP Land*]." *In re SP Land Co.*, 2011 VT 104, ¶ 19. The majority also rejected the dissent's "narrow interpretation" of Rule 59(e) to prevent a party from advancing new arguments that could and should have been presented to the trial court prior to the judgment. *Compare Id.* ¶ 16, *with Id.* ¶¶ 30, 33 (Reiber, C.J., dissenting).

customer's system is commissioned. Second, the new program should not include an annual cap on the number or capacity of net metering in any utility territory. Third, the program should allow customers to site up to 500 kW net-metering systems in locations other than those identified for Category III systems. Fourth, restore more reasonable adjusters to Category III and IV systems included in version of the rule filed with the Secretary of State on March 30, 2016.

1. <u>Grandfather Existing Customers</u>

Existing customers invested in renewable energy net-metering systems under the exiting program, which allows net-metering credits to fully offset electricity charges on a customer's bill. As written, the rule does not honor the thousands of existing net-metering customers who made their capital investment in reliance on the existing program's structure. That reliance was reasonable, and as recently as May 2016, the Board appeared to agree that radical program changes proposed for effect on January 1, 2017 would not impact existing customers for a grace period of twenty years. Chairman Volz emphasized this important policy choice during the May 4, 2016 public hearing on the March 30th version of the rule:

> One I want to call your attention in particular. The rule would apply to new net metering customers who apply for a Certificate of Public Good after January 1, 2017. Current net metering customers would not be affected by this rule until 20 years after the date that their net metering systems were installed. So there is a 20-year grace period for people who already have a net metering system in place before this rule would apply to them. So if you are concerned about that or you came here tonight to tell us about your concern, tonight it may not be necessary to do that.

In re: Proposed Net Metering Rule 5.100, Transcript of May 4, 2016 Public Hearing at 5.

The Chairman repeated this policy on May 5th:

> And I would also like to point out that the rule would apply to new net-metering customers who apply for a Certificate of Public Good after January 1, 2017. Current net-metering customers would not be affected by this new rule until 20 years after the date that their net-metering systems were installed. So if you are under the impression – if you have a system and you're under the impression that was going to affect you now, that's not the case. I just wanted to be clear about that.

In re: Proposed Net Metering Rule 5.100, Transcript of May 5, 2016 Public Hearing at 6-7.

In the current draft the Board abandons existing customers and exposes their capital investments to unexpected and unquantifiable negative impacts. The policy reversal not only imposes harm on the customers affected, but future investment in Vermont as individuals and businesses no longer trust that the State of Vermont will honor past agreements with customers.

It is unreasonable to fundamentally change the right of existing customers to fully use their net-metering credits to offset their electric bills. Due to this retroactive change, customers with renewable energy systems designed to fully meet their current electric costs now must forfeit those credits to the utility. Among other issues, this change actually encourages customers to waste electricity and reduce their energy efficiency, completely counter to the State's statutory and policy goals.

The retroactive change also violates Vermont's vested rights doctrine. Rules for the vested rights doctrine are found both in the common law reflected in decisions of the Vermont Supreme Court and in statutes enacted by the legislature. Vermont is an

"early vesting" state, giving the developer vested rights in the law as it stood at the time of the application for a permit. (In contrast, the majority of states follow the so-called "late-vesting" rule under which rights vest in the law only as it is after the developer has received a validly issued permit and has incurred substantial liabilities in good faith reliance on the permit.). The Vermont Supreme Court first embraced the early vesting rule in *Smith v. Winhall Planning Commission*, 140 Vt. 178, 436 A.2d 760 (1981). In that case, the Court considered whether a landowner's application for approval of a subdivision should be governed by zoning regulations in effect at the time of the application or by later amendments. The Court held that the applicant's rights vested under the "then existing regulations as of the time when proper application is filed" , and explained that fairness and certainty in the regulatory process underpinned its decision:

> The minority rule is, we feel, the more practical one to administer. It serves to avoid a great deal, at least, of extended litigation. It makes for greater certainly in the law and its administration. It avoids much of the protracted maneuvering which too often characterizes zoning controversies in our communities. It is, we feel, the more equitable rule in long run application, especially where no amendment is pending at the time of the application.

Smith v. Winhall Planning Commission, 140 Vt. at 181-82, 436 A.2d at 761.

Two years later, the Court expanded its rationale where a municipality improperly attempted to impose new draft zoning rules on a developer that had filed its application prior to the draft rules. *In re Handy***.** 171 Vt. 336, 764 A.2d 1226 (2000). The Supreme Court found the original version of what is now 24 V.S.A. § 4449(d) unconstitutional because it lacked standards. A revised application for a project earlier rejected by the Planning Commission had been filed between the date of notice of a public hearing on

proposed amendments to the bylaws and the date of the hearing at which they were adopted. The Court focused on the fact that 24 V.S.A. § 4443(d) did not spell out the process that the municipalities must follow in implementing the statute, and based on the absence of clear standards for applying the statute, the Court rendered it unconstitutional for the following reasons:

(1) a delegation of legislative power without adequate standards violates the separation of powers required by the state constitution;

(2) the power to grant or refuse zoning permits without standards denies applicants equal

protection of the laws; and

(3) administration of zoning without standards denies landowners due process of law because it does not give them notice of what land uses are acceptable.

Customers made their investments in reasonable reliance on the fact that the credits as applied under the then-existing Rule would govern their investments – because legally they had a vested right in the then existing Rule.

REV requests that the Board modify its June 30th decision and restore the status quo for existing customers for at minimum a reasonable period of time after January 1, 2017. Consistent with Chairman Volz's announcement on behalf of the Board on May 4 and 5, amending Rule 5.124(H)(3) to read as follows (new text underlined): "(3) 5.125 (Energy Measurement), except that credits may be applied to non-by-passable charges for at least 10 years from the date of the net-metering system's commissioning."

2. No Cap Based On "Interconnection Requests"

Customer demand for renewable net-metered energy continues to outpace the artificial cap placed on the program by law as evidenced by three net metering cap increases by the General Assembly in the last 5 years. The Order imposes an arbitrary annual cap that is based on the number of "interconnection requests" received by each utility annually.[2] As evidenced in Vermont and several other states across the country, annual caps create harmful market disruption and distortions, causing major and even catastrophic impacts on renewable energy customers and businesses.

Aggravating an already problematic policy that enhances market power for monopoly utilities, the cap is based on the number of interconnection *requests*, irrespective of whether the requests are accompanied by complete applications, or propose net-metering systems that are ineligible for the program due to location or size, and without regard to whether interconnection of the request is even feasible or the requester able to pay the costs of interconnection studies. Moreover, the rule does not exempt interconnection requests submitted by the utility to itself, so a utility need only submit the requisite number of interconnection requests to itself to shut down the program and keep its customers captive and unable to benefit from net-metering services provided by Vermont's numerous non-utility service providers. Under the existing program, utility net-metering has proven to produce few results for customers as Vermont Electric Cooperative ("VEC")'s experimental program has demonstrated. More than a year after VEC was issued a certificate of public good ("CPG") for a 1 MW

[2] Net metering is allowed until "the cumulative capacity of interconnection requests for net-metered systems submitted to the electric company in the current calendar year exceeds 4% of the electric company's peak demand for the most recent calendar year that data is available." Rule 5.132(A)(1).

solar net-metering facility to serve its members, the Board approved a third transfer of VEC's CPG this spring (May 27, 2016) to enable VEC to begin construction and fulfill the commitment it made to its members, meanwhile the non-utility industry has been at standstill because the cap on net metering in VEC's service territory was met.[3] *Petition of Vermont Electric Cooperative, Inc., pursuant to 30 V.S.A. § 219a(n), 30 V.S.A. § 248(j), and the Board's Section 8007(b) Order, for a certificate of public good authorizing the construction of a 1.0 MW Group Net-Metered Photovoltaic Electric Generation Facility in Alburgh, Vermont*, Docket 8439, Order of May 27, 2016.

Instead of the cap set forth in the rule adopted by the Board's June 30th order, the Board could include a pacing mechanism. A pacing mechanism whereby a review of program rates is conducted once the annual incremental installed capacity of net-metering systems or the annual incremental issued CPGs reaches at least 4% of peak statewide demand in the previous year. The program should remain open for systems with capacities of at a minimum 15 kW or less and community solar projects pending a rate adjustment for larger systems, if needed. This mechanism would have the intended impact of ensuring the net metering program proceeds at a prudent pace for all customers whether or not they participate in the net-metering program. The rationale for allowing 15 kW and below systems to continue while the program pace is reviewed rests on the benefit that such small systems have to the interconnecting utility and its ratepayers by being located at the customers' load. Furthermore, these small systems and the installers/service providers offering them are the most susceptible to adverse

[3] REV notes that unlike CPGs issued for competitive net-metering service providers, VEC's net-metering CPG does not expire if the project is not built and commissioned in one year.

consequences when the market stops, as we currently see in markets today due to the existing cap.

Finally, a pacing mechanism as described above should be bi-directional in its concept of pace. The Board should have the opportunity to conduct an expedited review the program should the pace of deployment not be meeting the statutory requirements. REV suggests a review to adjust rates upward if at the start of Q4 the incremental capacity in CPGs does not meet 1% of peak statewide demand.

An annual cap is not necessary as the Board's Order already contains numerous provisions to slow the pace of net metered renewable energy development including (a) significantly reduced rates; (b) limited areas in the State that qualify for positive siting adjustors; (c) the Board's reserving its right to make adjustments to the program on a biennium basis or sooner; and (d) the Department of Public Service's ability to petition the Board to adjust the program. Additionally unavoidable costs imposed on net metering customers due to grid limitations and interconnection costs further limit and pace future growth.

3. <u>Restore Category V Net-Metering Systems</u>

The June 30, 2016 Order unexpectedly departed from all past draft rules and eliminated an entire category of net-metering systems from the new program. Systems with capacities between 150 kW and 500 kW that are not located on "preferred" sites, such as a fully reclaimed gravel pit (but not one in current use), contaminated land listed in the National Priorities List, and sanitary landfills (but only those that the Secretary of the Agency of Natural Resources certifies are "suitable" for a net-metering

system[4]), are defined out of the proposed program. Green Mountain Power's ("GMP") prior comments state that net metered 500 kW systems represent "over 80%" of the net metering market in its territory. Thus, the Board's latest draft rule eliminates a substantial method of customer access to renewable energy and net metering.

Eliminating an entire category of and the vast majority of potential net metering systems representing over 80 percent of the current net metering market contradicts the stated goals in Act 99 that the program must "advance the goals and total renewables targets of chapter 89 of Title 30 and the goals of 10 V.S.A. § 578 (greenhouse gas reduction) and must be consistent with the criteria of 30 V.S.A. 248(b)" and "Achieve a level of deployment that is consistent with the recommendations of the Electrical Energy and Comprehensive Energy Plans under sections 202 and 202b of Title 30, unless the Board determines that this level is inconsistent with the goals."

Further, no language in Act 99, nor any of the policy goals in the Act, authorize the Board to eliminate an entire category of net-metering systems by defining them out of the program through locational requirements.

By law effective January 1, 2017, a net-metering system means the following:

> . . . a plant for the generation of electricity that:
>
> (A) is of no more than 500 kW capacity;

[4] In the absence of enabling legislation, it is legally questionable how the Public Service Board can grant the Secretary of the Agency of Natural Resources authority to determine which sanitary landfill sites are "suitable" to host a net-metering system or what standards the Secretary must employ when making that such a discretionary determination. Since the Board's June 30th order lacks an explanation for this policy decision and contains no legal analysis explaining the basis for it, REV is unable to comment further on whether the Board's delegation of authority to the Secretary is lawful.

(B) operates in parallel with facilities of the electric distribution system;

(C) is intended to primarily offset the customer's own electricity requirements; and

(D) (i) employs a renewable energy source; or

(ii) is a qualified micro-combined heat and power system of 20 kW or fewer that meets the definition of combined heat and power in subsection 8015(d) of this title and uses any fuel source that meets air quality standards.

2013 No. 99, § 3 (Adj. Sess.) (codified at 30 V.S.A. § 8002(16)).

This definition has no room for exceptions based on where a system might be located. Appropriate siting of net-metering systems is addressed through the application of 30 V.S.A. § 248, which Act 99 requires the Board to implement, with some limited discretion. Specifically, Act 99 authorizes the Board to (1) waive the requirements of Section 248 "that are inapplicable to net metering systems"; (2) modify Section 248's notice and hearing requirements as it deems appropriate; (3) "simplify the application and review process as appropriate"; and (4) utilize the so-called *Quechee* test for assessing a system's aesthetic impacts. 2013 No. 99 § 4 (Adj. Sess.). The legislative authorization to modify how Section 248 applies to net-metering systems cannot reasonably be read to grant the Board authority to except out of the program a whole category of net-metering systems without regard to whether those systems would have an undue adverse impact on the applicable Section 248(b) criteria.

To maintain consistency with statute an minimize harmful impacts to Vermont's economy and electricity customers demanding more renewable energy, the Board

should modify its June 30th order by restoring Category V net-metering systems into the new program with rate similar to the previously drafted rule in March of 2016. These rates were already drastically lower than the current market and utilities would gain the added value of the RECs associated with these system and project rates that are pushed event lower.

4. <u>Restore Reasonableness in the Rate Adjusters</u>

While REV does not agree that Act 99 gives the Board authority to use rate incentives to accomplish siting policies that were not legislated in Act 99, the incentives for Category III and IV net-metering systems should be revised to be more reasonable. Without modification, and with *rates proposed below retail* when considering REC value going to the utility, a de-facto ban on such systems will be in place, making, in particular, community solar initiatives contained in Category IV not economically viable. In the rule iterations of February and March, the Board proposed a siting adjustor of $0.0/kWh and -$0.02/kWh for Category III and IV systems, respectively. The rule adopted by the June 30th order adds an additional one-cent penalty to those systems through a - $0.01 and -$0.03 per kilowatt hour adjustor. It is not clear from the Board's order how the additional penalty for Category III and IV systems further the legislative policies written into Act 99 that the Board *shall* create "and maintain" a new net-metering program that advances the goals and total renewables targets the legislature established; achieves a level of deployment called for in the state's Electric Energy and Comprehensive Energy Plans; prevents cost shifting between customers; accounts for the costs and benefits of net metering and its potential contribution to

relieve supply and transmission constraints; ensures all customers who want to net meter have the chance to do so; over time, balances the pace of deployment and cost of the program with the program's rate impacts; and accounts for changes in technology costs over time. 2013 No. 99 § 4(c) (Adj. Sess.). REV respectfully requests that the Board modify the June 30 Order by restoring the siting adjusters for Category III and IV systems to those contained in previous iterations of the rule, namely $0.0/kWh and - $0.02/kWh, respectively, while restoring Category V and associated rates as well.

The limited locations available and higher costs of developing renewable energy projects at those locations qualifying for positive siting adjusters will have a particularly burdensome impact on Vermonters who do not have property or roof space suitable for solar and want affordable community solar choices. The current cost of the typical 150 kW solar farm not located on a Category II site is nearly $500,000 or about $2.36/watt all in. This all-in cost includes, engineering, permitting, construction management, land acquisition, site preparation, posts, racks, panels, conduit, wires, meter, panels, breakers, inverters, revenue-grade meter, and utility interconnect. The operating LLC must pay property & liability insurance, lease payments, internet connection, GMP interconnection monthly charges, escrow for scheduled inverter replacement, debt service, management and administrative, REC verification fees, municipal and state taxes, and annual LLC registration fees to the VT Secretary of State. Vermont's current net metering program in effect today provides a functional balance that allows the price charged to the retail panel purchaser to be kept consistent while providing sufficient monthly cash flow for the business to function over the 30-year term of the solar array.

Increasing permitting costs and project complications created under the new proposed rule would require the price of a community solar customer to rise from $4.00 per watt to $5.00 per watt, a 25% increase or financing to enable the project's economics becomes unavailable. The anticipated result of the proposed rule is that due to these economics, very few community solar projects at the 150kW scale will be built under the pricing of the new rules.

REV points out that these rates are not set in stone. With biennium evaluations and petition opportunities already outlined in the rule, the Board will have ample opportunity to regulate rates to protect all electric utility customers. However, under the program adopted on June 30, compensation is so drastically cut that REV believes it will cause significant market distortion and the program will not succeed for community solar and small business projects located in Category III and IV areas.

Other Issues

REV believes that an incorrect cross reference to the statute in the rule would unintentionally affect grandfathered projects. We recommend that Page 37, Rule 5.124(C), 4th line – "….provided for in 30 V.S.A. § 219a(k)" be corrected to read, "… provided for in 30 V.S.A. § 219a(h)(1)(K)…".

REV also look forward to the Board's efforts to "simplify the application and review process to encourage group net metering systems when the system is at least 50 percent owned by the customers who receive the bill credits for the electricity generated by the system" as required by Act 174 of 2016. As written, the proposed rule makes applications of projects from 50kW to 150 kW significantly more complex.

Conclusion

REV commends the Board for its hard work and the public comment opportunities thus far to develop a new net-metering program. However, REV respectfully submits that the June 30 rule and order fails to accomplish Act 99's mandate to "establish and maintain" a new net-metering program effective January 1, 2017. After an over year-long workshop and draft rule-making process, which invited public comment and facilitated widespread public participation eliciting vast support for net metering, the policy choices the Board made in this latest draft will seriously impair the ability of new customers to participate in net metering and harm existing customers by imposing new and unanticipated financial consequences for their capital investments. Reconsideration of the June 30th order is warranted and revisions to the new program are needed. For the reasons set forth above, and to maintain fidelity to the Legislature's clear directive to establish an ongoing net-metering program starting in 2017, REV requests the Board modify its June 30 rule as described herein. REV and our members look forward to continued dialogue with the Board as it proceeds to ensure that local, clean renewable energy is available to all Vermonters.

Respectfully submitted,

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