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October 14, 2022

This letter and accompanying documents are being filed in ePUC

Holly R. Anderson, Clerk
Vermont Public Utility Commission
112 State Street
Montpelier, VT 05620-2701

Re: *Tariff filing of City of Burlington Electric Department to revise its net-metering tariff effective October 1, 2022*
Case No. 22-3947-TF

Dear Holly:

This office represents Burlington Electric Department (“BED”) in the above-referenced matter. In response to the Public Utility Commission’s (“Commission’s”) September 30, 2022, *Order Approving Certain Revisions to the City of Burlington Electric Department’s Net-Metering Tariff and Directing Further Process* (the “Order”), BED submits this cover letter including the Order approving BED’s original solar rider (Exhibit A), calculations supporting the proposed refund (Exhibit B), a revised proposed customer notice, and a revised proposed net-metering tariff.

Proposed change to BED’s solar incentive credit disbursement policy

As noted in BED’s pre-filed testimony in this case, BED submitted text changes to its net-metering tariff to address recommendations it received from the Department of Public Service (“Department”). The Department provided BED with a marked-up draft of BED’s then-current net-metering tariff by email on June 6, 2022, noting in comments the text that the Department recommended revising. Among these comments was one that indicated that the Commission prohibits cash payouts of credits. Further, the Department noted that

Commission Rule 5.129(B) requires any accumulated bill credits to be used within 12 months from the month they are earned, after which such credits revert to the electric company without any compensation to the net-metering customer.

BED engaged in further investigation following the Commission's issuance of the Order on September 30, 2022, in which it requested BED to supplement the record in this case, Case No. 22-3947-TF, to explain the change to its procedures on providing cash payouts for solar incentive credits and allowing those credits to accumulate beyond the 12-month limit in Commission Rule 5.129(B). As a result of this research, BED determined that the Commission expressly authorized both provisions in BED's net-metering tariff in the Commission's September 8, 2011, Order in Docket No. 7629.^{1,2} Since the Commission's approval of BED's net-metering tariff in Docket No. 7629, the Commission has approved these provisions in all subsequent reviews of BED's net-metering tariff to date. And while Rule 5.129(B) is as cited above and referred to by the Department, Commission Rule 5.125(C) provides that "customers using pre-existing net-metering systems shall, for a period of 10 years from the date of the net-metering system's commissioning, be credited for generation according to the rates and incentives provided for in 30 V.S.A. § 219a, as the statute existed on December 31, 2016, and the Commission's rules implementing that statute." Since 30 V.S.A. § 219a, as in effect on 12/31/2016, contained the language the Commission relied on in making its order in Docket 7629, BED should be permitted to continue to provide the options for providing cash payment and carry forward of credits beyond 12 months for pre-existing net metering customers for the remainder of the ten years from the date of system commissioning.

Accordingly, at this time, BED withdraws its proposed deletion of the cash-out and beyond 12-month carry-forward provisions from its net-metering tariff as set forth in Section V.F.(5) and (6). BED submits an updated redlined tariff that corrects one remaining

¹ From page 6 of the Commission's September 8, 2011, Order in Docket #7629: "On June 23, 2011, BED filed a response to the memorandum and also filed a request that the Board approve its proposed Renewable Energy Resource Tariff Rider based upon recent statutory changes to 30 V.S.A. § 219a, pursuant to Act No. 47. On August 19, 2011, the Department filed a letter with the Board recommending that the tariff be approved by the Board. We conclude that in light of the statutory change, we should approve BED's proposed tariff. Act No. 47 modified the provisions of 30 V.S.A. § 219a to include § 219a(h)(1)(J) which provides that an electric company: [m]ay in its rate schedules offer credits or other incentives that may include monetary payments to net metering customers. These credits or incentives shall not displace the benefits provided to such customers under subsections (e) and (f) of this section. Act No. 47's statutory revisions to 219a followed the issuance of the Hearing Officer's proposal for decision. The new statutory language clearly authorizes BED's proposed tariff and, therefore, we approve the tariff pursuant to § 219a(h)(1)(J)."

² BED is filing as Exhibit A with this cover letter a copy of the BED net-metering tariff that the Commission approved in Docket #7629. This tariff includes the existing provisions which allow for solar incentive cash outs and credit accumulation beyond a 12-month period. The applicable language is in Appendix A, p. 2 #4.

typographical error but does not remove the provisions noted above. BED would remove these provisions from its tariff after the last customer affected reaches the ten-year commissioning anniversary. As of September 2022, there were 177 BED customers receiving the solar credit. The latest commissioning date for any of these customers appears to be March 9, 2018 (the permit application was filed on December 28, 2016) so the provisions of Section V.F.(5) and (6) will have fully expired for all customers by early 2028.

Revised customer notice

With the restoration of the cash-out and beyond 12 month carry-forward provisions, BED proposes the attached Customer Notice informing customers that BED has withdrawn these proposed changes, that the Commission has approved the change to the solar incentive, and that the Commission's decision on a solar incentive refund to affected customers is pending. BED proposes mailing and emailing this notice to customers with pre-existing net metering systems only, as those are the only customers who would have been affected by the deletion of the cash-out and carry-forward provisions and who will need to know that BED has withdrawn those requested changes. BED can provide a website update to the general public if the Commission believes that doing so has merit, but BED does not believe publication in a newspaper is necessary in this case. BED would propose that there is merit to having this notice be sent only if neither the Commission nor the Department object to the restoration of these provisions to avoid additional confusion in an already complicated communication. In addition, BED is researching if it has the capability to mail merge each customer's letter to include a sentence at the end that references their own 10-year anniversary date from commissioning when their systems will no longer be considered pre-existing and Section V.F.(5) and (6) will no longer apply to their systems (even if the provisions are still in the tariff).

Calculation of proposed refund

BED calculates that the final solar incentive refund amount (covering the period from August 1, 2021 to September 30, 2022) totals \$26,275 and attaches as Exhibit B the spreadsheet calculation supporting this value (location IDs have been genericized). BED would propose to begin refunding this amount to customers that BED is able to contact based on its CIS records (expected to be the vast majority of the affected customers) upon approval by the Commission.

REV Intervention

Finally, the Order set October 14th as the deadline for responding to Renewable Energy of Vermont's ("REV's") Motion to Intervene. BED takes no position on REV's motion

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but notes that BED's withdrawal of the proposed deletion of Section V.F.(5) and (6) should address the concerns raised by REV in its motion.

As always, your assistance is greatly appreciated. Should the Commission have any concerns or questions about this submittal, please do not hesitate to contact us.

Very truly yours,

McNeil, Leddy & Sheahan, P.C.

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