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STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 17-5257-INV

In re: Review of the Standard-Offer Program)

COMMENTS OF THE DEPARTMENT OF PUBLIC SERVICE IN RESPONSE TO THE PUBLIC UTILITY COMMISSION'S DECEMBER 29, 2017 ORDER RE: NOTICE OF PROCEEDING

The Department of Public Service ("Department" or "PSD") is pleased to provide comments to the Public Utility Commission ("PUC" or "Commission") regarding the scope of this proceeding, and looks forward to working with other stakeholders to fully identify the range of issues that the Commission should consider in this docket. These comments do not provide the Department's position regarding specific substantive issues here, but rather focus on the *scope* or *range* of issues the Commission should consider, as contemplated by the Commission's December 29, 2017 notice.

These comments begin with a brief history of the renewable energy programs in Vermont, exploring the formation and purpose of the Standard Offer Program (the "Program") and the Renewable Energy Standard ("RES"). Then they pose some larger questions regarding the appropriate role of the Standard Offer Program within the context of renewable deployment in Vermont and the future of the Program. Finally, they address the list of issues identified by the Commission and add several issues for consideration. For ease in tracking the proposed additional issues, the Department has attached a "redline" of the Commission's list, as Attachment A, and a clean copy as Attachment B.

I. CONTEXT

Given that the Program has resulted in high administrative burden and uncertainty, it is an opportune time to consider what role the Standard Offer Program should play in Vermont's renewable energy policy landscape. The Commission should consider whether to recommend that the Program be allowed to sunset when the 127.5-MW cumulative plant capacity is reached or sooner. Alternatively, aspects of the Program could be very significantly reformed and incorporated or otherwise harmonized with Tier 2 of RES. The following historical context sheds light on why it is timely to consider this issue at a deeper level than relatively minor programmatic revisions.

Vermont has adopted eight renewable energy goals that provide high level direction for the development and implementation of any renewable program. These can be summarized as: 1) balance costs and benefits; 2) support the development of renewable energy along with its related economic development; 3) provide price stability; 4) develop markets for renewable and energy efficiency projects; 5) promote air and water quality; 6) contribute to reducing climate change and anticipating impacts to the state's economy that might be caused by federal regulation to attain those reductions; 7) support generation which is distributed throughout the grid; and 8) promote diverse technologies.[1]

In 2009, the Legislature passed a law creating the Standard Offer Program, which was designed to provide a financing mechanism for small-scale renewable projects by requiring that the electric utilities – through a centralized procurement process – enter into long-term contracts with new renewable resources. The first iteration of the Program provided an administratively

[1] These eight goals have been codified as 30 V.S.A. § 8001.

determined fixed-price long-term contract to individual projects, with a cumulative capacity cap of 50 MW. This approach resulted in rapid deployment of solar resources but at significant cost. In 2012, the Standard Offer Program was modified to expand the total programmatic cap to 127.5 MW and allow for a market mechanism to set the price paid for resources.

For several years the Standard Offer Program has provided a mechanism for increasing the amount of renewable resources, economic development within the state, and access to the project development process for parties other than utilities. The advent of the Renewable Energy Standard ("RES"), the rapid rise of generation from net-metering, and declining loads are developments that combine to present an opportunity to revisit some basic assumptions underpinning the Standard Offer Program.

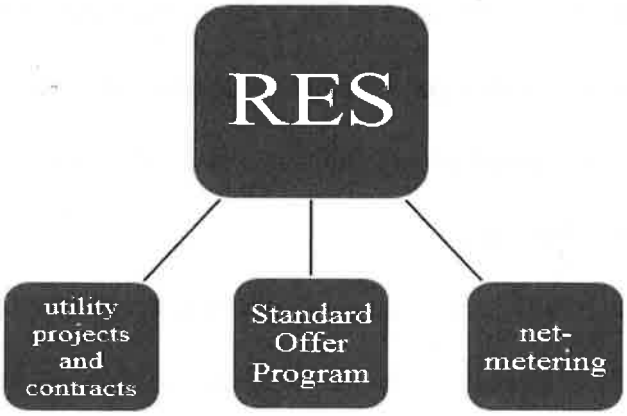
The enactment of the Standard Offer Program in 2009 came at a time when the development of renewable energy within the state was moving relatively slowly, and before the enactment of the Renewable Energy Standard in 2015.[2] Since that time, the environment for renewable energy development has changed enormously. Additionally, some of the grid benefits of distributed generation have declined considerably as constraints are now more likely to result from excess generation rather than load.

From 2009 until July of 2017, the amount of permitted net-metered generation has grown from roughly 3.9 MW to 171 MW, making the net-metering program the primary mechanism for deployment of distributed generation to date. Although net-metering meets many of the goals laid out in 30 V.S.A. § 8001 (including economic development, and distributed generation), at current rates, it is the most expensive type of renewable energy available to fulfill the RES in

[2] 30 V.S.A. §§ 8004 and 8005.

addition to being highly unpredictable and uncontrollable by utilities, which are the obligated parties to purchase the generated power under the RES.[3]

On January 1, 2017, the RES became the primary mechanism for ensuring that Vermont's utilities provide customers with renewable energy. Tier 1 of RES allows utilities to meet this requirement with renewable resources of any vintage and located anywhere that can deliver into New England. Tier 2 requires that eligible projects be distributed (under 5 MW in size), connected to the Vermont system, and constructed after July 1, 2015; based on forecasts of Vermont load, the Department expects that 25-30 MW of solar would be required each year to meet Tier 2.[4] In many ways, Tier 2 of the RES is duplicative of the goals of the Standard Offer Program. The Department views the RES as the overarching state-level electric renewable policy, with the Standard Offer Program, net-metering, and utility projects and contracts as the mechanisms contributing to the achievement of Tier 2 of the RES.



[3] Some net-metering projects elect to retain their own RECs, which means they do not contribute to utility achievement of the RES; however, those projects are paid a much lower rate and are not as expensive for utilities.

[4] Tier 2 does not require that eligible projects be solar; however, given the apparent cost advantages of distributed solar the Department uses this as the representative technology to estimate what is needed to meet Tier 2 requirements.

One issue that the Department has noted with respect to Tier 2 of the RES is that utilities cannot control the pacing of the Standard Offer Program or net-metering deployment, which makes planning for fulfilling their RES obligations highly uncertain.[5] Without a yearly cap on the net-metering program, and potential changes to the net-metering compensation, the utilities cannot count on a specific amount of new net-metering each year. The timing and development of standard offer projects is also unpredictable. As VEPP Inc. pointed out in its comments in Case No. 17-3935-INV on October 20, 2017 (included here as Attachment C), after 2013, when market-based pricing was implemented, 27 projects have been awarded contracts, but only three were built, and ten have withdrawn entirely. Many of the remaining projects have requested extensions of their commissioning milestones.

This degree of uncertainty in net-metering and the Standard Offer Program has caused several utilities to procure Tier 2 renewable energy credits ("RECs") far in excess of the Tier 2 RES requirements, by either building their own projects or contracting for RECs. For example, GMP's projected Tier 2 REC supply is included as Attachment D.[6] Although these RECs can be banked or sold in the event that Standard Offer Projects *are* built, record low prices for RECs in the region leave utilities, and thus ratepayers, at a financial loss in many cases. The Department places a high priority on ensuring that the state's renewable energy policies continue to deliver low-carbon energy at the most affordable price possible. The high administrative costs and the uncertainty associated with development in the Standard Offer Program (and ensuing over-

[5] The Legislature laid out annual targets for Standard Offer procurement, but since 2013 the actual MW to come online each year has deviated significantly and erratically from the legislatively established targets.

[6] This projection was provided as Exhibit MGM-AQ-4 in Case No. 17-5003-PET.

procurement of RECs by utilities), call into question whether, in its current form, the Program is a low-cost way to obtain renewable energy.

Although the Department has concerns with the Program, aspects of it offer value for the state and ratepayers and these aspects should be considered and preserved in the renewable regulatory structure. For example, the Standard Offer Program allows developers other than utilities to gain access to a financing mechanism and develop projects. This ensures competition and spreads development dollars more widely through the economy, supporting economic development and employment. It also provides price transparency and a benchmarking mechanism for renewable development in the state through the use of a market mechanism. Finally, for those contracted projects built, bids have been competitive and relatively low-priced in recent years when compared to net-metering.

This case should consider, at a high level, what role the Standard Offer Program plays in Vermont's renewable energy policy landscape and whether to recommend to the Legislature that the program be allowed to sunset when the 127.5-MW cumulative plant capacity is reached or sooner. Alternatively, aspects of the program could be very significantly reformed and incorporated or otherwise harmonized with Tier 2 of RES.[7]

II. COMMISSION ISSUES

In its Notice of Proceeding of December 29, 2017, the Commission listed six issues it plans to address in this proceeding. The Department agrees that the list of issues presented by the Commission should be considered and recommends several refinements.

[7] 30 V.S.A. § 8005a(c).

1. **Should the Commission be selecting projects in the RFP process using additional criteria besides price? For example, should the Commission develop a method for adjusting bid prices to reflect the costs or benefits associated with interconnecting a distributed energy resource at a particular location on the grid?**

With regards to the first issue, the Department agrees that the Commission should consider whether to use additional criteria besides price, with a particular focus on pricing signals that reflect locations and times with the greatest grid and system benefits. The Commission should also consider whether preferred sites pilot program should be made permanent.

2. **What data should the Vermont distribution utilities be making available to ensure that standard-offer projects are proposed in areas that do not result in additional costs to the system or that provide the greatest benefit to the system?**

3. **Should the Commission alter its process for identifying projects that would offer "sufficient benefits" pursuant to Section 8005a(d)(2)? For example, should the Commission develop a method for determining the value of a proposed distributed energy resource and offer contracts where the estimated value of benefits offered by a project exceeds the cost of the project? The Benefit Cost Analysis Framework adopted by the New York Public Service Commission is one example of a method to value the costs and benefits of distributed energy resources.**

The second and third issues are distinct but connected. To these two issues, the Department would add whether other entities, in addition to the utilities, should provide any data regarding the transmission and distribution system, for example Vermont Transco LLC and Vermont Electric Power Company, Inc. ("VELCO"). Additionally, the Commission should consider whether there is an opportunity to conduct more detailed power flow modeling, or distribution grid modeling for the entire state, that might identify areas of particular cost or value for the placement or time-differentiated pricing of standard offer projects. The Department is cognizant that such an exercise could be time consuming and expensive; however, these data would likely

be useful far beyond the Standard Offer Program and could inform the other renewable programs, in addition a larger conversation regarding the ability of the grid to accommodate renewables to meet the RES and other renewable targets.

Specifically addressing the third issue, when the program was first envisioned, it was thought that loads in Vermont would continue to grow, and that siting local generation would alleviate the need to construct or upgrade transmission and distribution infrastructure. Hence the inclusion of 30 V.S.A. § 8005a(d)(2) allowing projects in areas offering "sufficient benefits" to be built outside of the capacity cap of the program. The Vermont Systems Planning Committee has never, in the intervening eight years, identified such a site. Given that loads are declining, there is unlikely to be such an opportunity in the near future. Instead, the load building measures contemplated by Tier 3 of the RES are much more likely to have higher value in some areas, at least in the near term. This "sufficient benefits" provision has resulted in a significant amount of costly and time-consuming litigation with little benefit to customers or the state. The Commission should consider whether to recommend to the Legislature to eliminate this provision from statute.

4. **Should the Commission develop criteria to allow distributed generation projects with storage capacity to participate in the standard-offer program?**

Item four should be made broader. Rather than considering whether a specific technology pairing (renewable energy with storage) should receive unique incentives, the Commission should consider how to use price as an appropriate mechanism to signal when delivery of energy is most useful. The Commission should consider whether Standard Offer contracts should reflect the time-specific value of the energy delivered to the grid. For example, energy delivered during Vermont monthly peaks (now occurring in the evening) should be more highly valued than

energy delivered during the day. Time-of-day pricing may have the *effect* of bringing more projects paired with storage online, but would do so only if those projects are cost-effective relative to the value they provide. Using time-differentiated rates would have the effect of incenting *performance* whereas simply including an adder for storage would not necessarily cause that storage to be used in a way that benefits customers or the grid. Put another way, a storage device does not have any inherent value, the value is determined entirely by how the device is operated. Any exploration of this issue would need to address the question of how time-differentiated rates would impact the financing of projects.

5. **In certain circumstances, the program incurs transmission service costs (also referred to as "wheeling") because the output of standard-offer projects must be allocated to several of the Vermont electric distribution utilities. Should the Commission adopt program requirements to reduce the cost of transmission service associated with standard-offer projects?**

Item five should be split into two separate issues. Wheeling pertains to the allocation of costs rather than the fundamental cause of costs, while the second question is whether the Commission should adopt program requirements to *reduce* the cost of transmission service.

6. **Are there any statutory changes that the Commission should recommend to the Legislature to improve the standard-offer program? For example, what recommendations should the Commission make regarding the ability of distribution utilities to seek exemptions from the program pursuant to 30 V.S.A. § 8005a(k)(2)(B)?**

Under item six, the Department agrees that the Commission should consider the exemption mentioned. There are several additional items that the Commission should consider under the heading of recommended statutory changes, some of which were raised earlier in these comments. In particular, the following:

a. Whether to recommend elimination of the 30 V.S.A. § 8005a(d)(2) provision allowing for projects that offer "sufficient benefits" to be constructed above the cap.

b. Whether to recommend raising the individual project size limitation from 2.2 MW to 5 MW, commensurate with the RES Tier 2 size limitation and allowing for economies of scale.

c. Whether to recommend eliminating the technology allocations requirement, 30 V.S.A. § 8005a(c)(2).[8]

d. Whether to recommend modification of 30 V.S.A. § 8005a(f)(3) which requires resetting price caps *annually*. This provision is administratively burdensome and provides little value above resetting the caps every two or even three years with the opportunity for a price review more frequently if warranted.[9]

e. Whether to recommend modification of 30 V.S.A. § 8005a(f)(4), which requires prices to be set for the duration of the contract, to allow contract prices to include variation at some point. For example, for the price to be set for a ten-year period then reset to time-varied pricing after ten years (this is just an illustrative example).

III. ADDITIONAL ISSUES

In addition to the issues raised by the Commission, there are several issues that the Department would like to raise for consideration in this case.

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[8] Note that if this section were eliminated that 30 V.S.A. § 8005a(f) would need to be modified.

[9] Modification of this provision may also require modification 30 V.S.A. § 8005a(p)(4)(A) and (B) which requires the energy and capacity prices in caps to be reset annually, and allow avoided line losses, environmental attributes, and the value of long-term contracts to be reset annually for existing hydro.

The Commission should consider ways to ensure that projects which receive contracts are constructed in a timely fashion as required by 30 V.S.A. § 8005a(f)(1)(B). As expressed earlier in these comments, the uncertainty and timing of Standard Offer projects creates added complexity and expense to renewable development. In particular, the Commission should consider the issues and solutions raised in the comments of VEPP Inc. in Case No. 17-3935-INV on October 20, 2017. Included here as Attachment B.

The Commission should also consider how to use the program to gather data from developers about their costs. These data, if standardized and provided by all bidders, would improve the avoided price cap-setting process as well as Commission and Department review of other renewable energy projects and programs, including net metering adders and utility-developed projects. The Department has several specific items and methods in mind for standardized data collection and will provide them in later substantive comments.

The Department appreciates the opportunity to comment in this docket and looks forward to addressing these important issues with the Commission and other stakeholders.

Dated at Montpelier, Vermont this 31st day of January, 2018

VERMONT DEPARTMENT OF PUBLIC SERVICE

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Attachments list

Attachment A – Redlined issues list
Attachment B – Clean copy issues list
Attachment C – VEPP Inc.'s comments of Oct. 20, 2017 in Case 17-3935-INV
Attachment D – GMP's Tier 2 REC supply projections from Case 17-5003-PET