STATE OF VERMONT

PUBLIC UTILITY COMMISSION

Case No. 17-5257 INV

In re: Review of the Standard Offer Program

COMMENTS OF ALLEARTH RENEWABLES IN RESPONSE TO THE PUBLIC UTILITY COMMISSION'S MEMORANDUM OF AUGUST 15, 2018

The Vermont Public Utility Commission ("Commission") opened this investigation in December of 2017 with a goal of developing "an improved, transparent and methodologically sound framework for selecting standard-offer projects that will benefit the operation of the distribution system while fulfilling the Commission's statutory goal of the rapid development of standard-offer projects at the lowest feasible cost."[1] Following receipt of comments on six questions posed in its initial Order, the Commission held a workshop on August 2, 2018, sponsoring two presentations from Lawrence Berkeley National Laboratory. The Commission shortly thereafter invited written comments on two issues:

1. Any steps the Commission should take to improve the standard-offer program; and
2. Any commendations the Commission should make to the Vermont General Assembly concerning the standard-offer program, including recommendations related to the exemption set forth at 30 V.S.A. § 8005a(k)(2)(B) and any issues arising from that exemption.[2]

AllEarth Renewables ("AER") files these comments in accordance with the above.

INTRODUCTION

Discussion of the standard-offer program cannot be meaningfully held without an understanding of the basis for the composite utility system approach that has been an underpinning of the Vermont renewable landscape for over three decades, and the reasons for that approach. That approach, beginning with Commission (then Vermont Public Service Board) Rule 4.100 in the middle 1980's, arose in direct response to enactment of the federal PURPA

[1] Order of 12/29.2017 at p.1.

[2] Memorandum of August 15, 2018. The deadline for comments was later extended to September 21, 2018.

statute.[3] Using the broad authority delegated to the states in the implementation of PURPA, the Commission crafted a unique approach that recognized the challenges associated with multiple avoided cost calculations and other aspects of administration in a small state with a high number of electric utilities, many of them very small, falling within Commission jurisdiction under Title 30. While the Rule resulted in some litigation as do many rules, it also resulted in the development of both numerous hydro resources and the Ryegate wood energy facility.

During the next decade, the Commission appointed a non-profit purchasing agent under the Rule, awarding that role to an entity whose structure ever since that time has included a Board of Directors with appointees from the utilities, renewable energy projects and the general public as well.[4] No comments from any party in this proceeding have suggested that VEPP Inc., the Rule 4.100 Purchasing Agent as well as the Standard Offer Facilitator, has not performed its role capably and efficiently. In addition to the transparency associated with the presence of public Directors, the Purchasing Agent/Facilitator has also operated as a public body from the outset, pursuant to an informal opinion rendered by the Vermont Secretary of State in response to a VEPPI inquiry in 1996.

While much has evolved and changed in the industry over the last thirty-plus years, the fundamental factors that favor the standard offer composite approach remain firmly in place and in fact strengthened. The number of electric utilities, especially smaller ones, remains substantially the same, and each utility has a unique portfolio. The standard offer facilitator, VEPP Inc., remains capable, transparent and efficient. The wheeling issues of concern to utilities were resolved in a memorandum of understanding in docket 8693, and the success of projects through the early Rule 4.100, SPEED and standard offer eras underscores that the broader financing community is comfortable with the Vermont approach. While the prior comments of some parties in the matter have noted the level of attrition of standard offer projects awarded contracts, the consultants retained by the Commission indicated during the workshop that this level appeared comparable to that of other states based on the somewhat limited data available.[5] And while the historical timeline offered by the Department in its January 31, 2018 comments appears to be chronologically accurate, it fails to emphasize the fundamental points that the legislature adopted each of Vermont's renewable energy programs with full knowledge of the existing ones, after generally much debate and many amendments,[6] and that the work of the Commission here should be guided by respect and deference to the fundamental presumption that those elected by Vermonters to the House and Senate acted with mindfulness of what they had done previously.

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[3] See Commission Rule 4.101, expressly stating that the purpose of the Rule is to implement the PURPA statute and regulations, as well the parallel state statute, 30 V.S.A. § 209(a)(8).

[4] *Appointment of Vermont Electric Power Producers, Inc. [sic] as Purchasing Agent Under PSB Rule 4.00,* docket 5837, Order of March 15, 1996, affirmed 165 Vt. 282, 683 A.2d 716 (1996).

[5] Tr. 08-02-2018 at 25-26.

[6] While AER has not had the opportunity to go back and count specific vote counts, it is AER's institutional recollection that the various measures were adopted by wide margins during both Republican and Democratic gubernatorial administrations.

1. ***Any Steps the Commission should take to improve the function of the standard-offer program.***

While the conclusions reached in the comments filed in this matter are diverse, themes of project attrition, the need for sound utility planning and the advantages of responding to locational issues expeditiously are ones that would all benefit from an updating and streamlining of the permitting process for standard offer projects. The key step that the Commission can take is thus to achieve this updating and streamlining to the fullest extent possible within the Commission's broad rulemaking powers. These changes could include regulatory timelines for action on standard offer projects, assignment of a "pretrial" hearing officer well versed in issues surrounding discovery and other areas likely to lead to prehearing activities surrounding standard offer projects, a more vigorous method and practice for requiring coordination of efforts of parties with common interests, and other steps that would no doubt emerge from a full discussion of how to make improvements that make the process less burdensome for all involved.

2. ***Any recommendations the Commission should make to the Vermont General Assembly concerning the standard-offer program, including recommendations related to the exemption set forth at 30 V.S.A. § 8005a(k)(2)(B) and any issues arising from that exemption.***[7]

Consistent with the above discussion, among the changes that the Commission should consider recommending to the General Assembly are the following:

1. To the extent that the Commission determines that it lacks authority under current law to implement any of the streamlining steps that occur following consideration of how to achieve that objective, all parties and the Commission would benefit from legislative enactments removing those obstacles. For example, the Commission and the Department have long experience with the "seven month rule" that has been applicable to utility rate cases for decades, and there is no reason that a similar provision cannot be put into place with respect to standard offer project proceedings by legislation were the Commission to concur it could not enact such a provision by rule.[8]
2. Elimination of the provider block for standard offer projects. Utilities have full ability and resources to develop projects on their own, and the provider block adds complexity that does not appear to be commensurate with its value to Vermonters. Eliminating the "provider block" would simplify the standard offer statute and its administration.
3. A changing of the maximum capacity for standard offer projects to 1.5 MW for all technologies, to reflect the reality of increasing capacity factors for projects. The resulting larger number of projects, with attendant greater geographic disbursement, will facilitate greater competition and tend mitigate any physical or economic grid impacts.
4. Merging of the small wind technology block with the large wind technology block.

[7] Memorandum of August 15, 2018. The deadline for comments was later extended to September 21, 2018.
[8] AER does not at this time have a conclusion relative to this precise question.

5. Continuation and expansion of the standard offer program. As discussed above, the composite system underlying the standard offer program has been a rational and effective one for over thirty years. Expansion of the program, coupled with the continued and improved use of market mechanisms to ensure cost-competitiveness, is critical toward achieving the transition to renewables required by Vermont law.
6. Requiring utilities and transmission providers to proactively report, within a short time frame, prospective physical or economic grid constraints, the projected costs and other impacts of those constraints, and the activities being taken to address them.
7. Limitation of utility exemptions under 30 V.S.A. § 8005a(k)(2)(B). The GMP January, 2018 comments aptly note the pressures that utility exemptions place on the customers of non-exempt utilities and the inconsistency of such exemptions with the composite system approach. The Commission, consistent with its prior expressions of concern regarding this issue, should look at recommending eliminating these exemptions.

Thank you for this opportunity to comment.

Dated this 21st day of September, 2018.

By: */s/Nick Charyk*

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