STATE OF VERMONT

PUBLIC UTILITY COMMISSION

Case No. 17-5257 INV

In re: Review of the Standard Offer Program

SECOND ROUND OF COMMENTS OF ALLEARTH RENEWABLES

IN RESPONSE TO

THE PUBLIC UTILITY COMMISSION'S MEMORANDUM OF AUGUST 15, 2018

AllEarth Renewables ("AER") submits this second round of comments in accordance with the amended schedule established by the Vermont Public Utility Commission ("Commission").

The Department of Public Service and a number of the state's electric utilities have advocated eliminating the legislatively created standard offer program, and with it the composite utility system approach that has been at the heart of Vermont's PURPA approach for over thirty years. This is not a sound recommendation. In fact, the comments of other parties reaffirm the soundness of AER's recommendations as set forth in its September 21, 2018 filing in this matter. Each of AER's recommendations is reiterated below, followed by a discussion of that recommendation in light of the other parties' comments.

Commission question 1: Any steps the Commission should take to improve the function of the standard-offer program.

AER's September 21st recommendation:

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.

Additional discussion:

The Green Mountain Power comments of September 21st noted that many standard offer projects "awarded PPAs have failed to reach commercial operation, primarily due to project abandonment or delay in obtaining permits."[1] It does not follow that the standard offer program is the cause of this delay or abandonment; it is a more sound conclusion that the permitting process itself is the cause of that attrition. When a standard offer contract is awarded, a developer has one of the most critical tools for success in hand: a long term power purchase agreement in a form that has passed regulatory muster, and existing under a composite regulatory system in which projects have been successfully financed since the 1980s[2]. While many issues can subsequently arise in the context of specific projects, it is clear that unpredictability of the timing, scope and outcome of the permitting process is a significant and common one. While all projects must of course meet all required statutory criteria, clear generic procedures coupled with expeditious resolution of prehearing issues will lead to minimizing uncertainty for all as to whether a particular project will go forward.

Commission question 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

Each of AER's September 21st recommendations, followed by additional discussion surrounding that recommendation, is set forth below:

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.*

   Additional discussion:

   As noted above, all stakeholders benefit from a permitting process that is predictable, expeditious, and reasonably minimizes the time and money expended by project developers, citizen and institutional intervenors, the Department of Public Service, and the Commission itself. This investigation by the Commission presents a highly opportune time to look at any and all prospective legislative changes that can help achieve this goal, as it can take place independently of advocacy around the pros and cons of any particular project. The Commission's next Order in this matter can and

[1] Letter from Andrew Quint to Judith Whitney at 1.
[2] Bidders also must demonstrate the critical asset of site control.

should identify areas where the Commission determines that changes to Title 30 or other pertinent statutes can help achieve these objectives that will enhance both process and substance.

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.*

   Additional discussion:

   The September comments of the state's electric utilities reflect no advocacy for continuation of the provider block, and effectively answer the question of whether it makes any sense to continue it in the absence of endorsement or interest. The block should be eliminated.

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.*

   Additional discussion:

   AER's proposal to utilize a smaller MW size for standard offer projects does a great deal to address the concerns advanced by other parties. Smaller project size leads to a greater number of projects within the current standard offer cap, and in any future legislated expansion of the cap, thereby:

   a. Promoting greater locational diversity and thus less concentration of generation in areas that may be of current or future concern;[3]
   b. Lessening the impact of individual project attrition on utility planning;
   c. Facilitating the permitting process and land use impacts in that smaller projects will typically involve less land use and aesthetic impact than larger ones;
   d. Facilitating diverse technologies.

4. *Merging of the small wind technology block with the large wind technology block.*

   Additional discussion:

[3] It is difficult to reconcile the Public Service Department's recommendation that project size be increased to 5 MW (see PSD comments at 2) with its concerns surrounding too much generation ending up in one place. While this is said to align the maximum project size with RES Tier II requirements, the Department does not and cannot point to anything in the RES requirement that precludes those requirements from being satisfied with smaller projects.

No other party has addressed this issue, and here are no advantages to retaining this block, all the more so if project size is reduced in accordance with recommendation 3 above.

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.*

Additional discussion:

On July 20, 2018, the Commission issued a media release relative to its approval of over 10 MW of standard offer contracts. That release noted that those contracts encompassed seven technologies and ranged in size from 90kW to 2.2 MW. With respect to the four solar contracts awarded in the most recent round, the Commission aptly noted that:

The Standard Offer program uses a competitive bidding process, with price caps related to the cost of different technology and with the lowest-priced bids accepted first. All four contracts awarded in this round were for solar projects ranging in price from approximately 8.8 cents to eleven cents per kilowatt-hour, <u>which ranks them among the</u> <u>lowest-priced solar in the state</u>. (Emphasis added.)

It is difficult to understand the arguments that a program that (1) materially advances compliance with Vermont's renewable energy goals; (2) is run transparently and efficiently[4] by a non-profit, public body entity with board directors from utilities, developers and the public; (3) features and open bidding process; and (4) has yielded among the state's lowest priced solar contracts, should be rolled up and thrown away. The wheeling costs discussed by the Department and others are not static and rising numbers, but relatively modest ones that may well go down based upon the location of future standard offer projects, and which can also be recovered by those utilities above their pro rata standard offer share should they elect to promulgate intrastate wheeling tariffs.

Cogent evaluation of the standard offer program strongly supports the conclusion that the program should in fact be expanded as recommended by AER in its initial comments. Success in meeting the 90% renewable by 2050 goals in the Department's Comprehensive Plan will require increasing electrification, and undermining or

[4] The Department's claim that the standard offer program "is administratively inefficient" (Department comments at 5) is especially curious when evaluated against its recommendations that a replacement process entail "statutory and/or regulatory guidance …at the outset regarding a minimum set of parameters for RFPs and contracts," Commission oversight of the content or RFPs and the selection of winning projects, and a "transparent review process associated with the resource selection process." Comments at 9. This exercise would apparently be performed for each of the state's utilities, and result in PPAs "between individual utilities and projects." (Comments at 8.)

destroying a system that continues to result in the procurement of smaller scale renewable energy facilities will significantly undermine that effort.

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.*

   Additional discussion:

   Legislative implementation of this recommendation, with consequences for failure to comply, harms no one and helps all. It has been over two decades since the establishment of a regional grid operator and market-based system of generation pursuant to federal law. A sharing and publication of that information to the fullest extent allowed by law benefits project planning, cooperation between stakeholders, and effective regulatory oversight.

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.*

   Additional discussion:

   Consideration of this issue cannot be fully and fairly held without consideration of important parts of the history of the Standard Offer Program. When the program was created by the Legislature, less than ten years ago, many renewable energy options were nascent technologies. It was clear that an administratively set pricing mechanism was required to create a viable market for these technologies which would then serve to eventually lower prices. The original Standard Offer Program was in the nature of a "feed-in-tariff" program with above-market pricing set administratively by the Legislature and later by the Commission (then Public Service Board). The first "tranche" of the Standard Offer Program procured by these means was 50 MW. All distribution utilities with the exception of WEC participated in the program.

   In 2012, the Legislature changed the Standard Offer Program legislation and required a "market-based mechanism" to be used for solicitation of projects. Standard Offer projects have come on line under contracts pursuant to that mechanism, and prices have continued to decline to the extent of being among the state's lowest, as noted in the Commission's media release discussed above.[5]

[5] None of the utility filings indicate the prices they have paid for direct renewable energy procurement or for construction of their own renewable facilities.

While it is true that a few of Vermont's utilities can claim that they are 100% renewable as that term is defined by statute, the economic result is that GMP, VEC and most of Vermont's smaller distribution utilities are carrying 100% of the costs of the Standard Offer Program, including the administratively priced component of the first 50MW. While it is aptly noted in the VPPSA/BED comments that "a program structure that potentially allows all participants to opt out is, of course, unsustainable,"[6] this is a reason to end the opt-outs and not to end the program, both to ensure meaningful ongoing project development and to ensure equitable apportionment of the costs and benefits of the initial tranche of standard offer projects among all of the state's ratepayers.

In conclusion, the Standard Offer Program has resulted in, and continues to result in, development of projects that are essential to meeting the growth in electric load that will be required to meet not only the State's statutory requirements but to provide reliable service in a world that will feature and require greater electric use in the energy, thermal and transportation sectors. The considerations that led to the composite system approach many years ago remain present in a state with 17 electric distribution utilities serving fewer than 700,000 people, and the elimination of that system offers no administrative or regulatory efficiencies. The standard offer program should be retained and expanded, and any reforms should be focused on improving the permitting process relative to standard offer projects.

Thank you for this opportunity to comment.

Dated this 5th day of October, 2018.

AllEarth Renewables, Inc.

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[6] VPPSA/BED September 21st comments at 2.