



## Vermonters <sup>for a</sup> Clean Environment

Case No. 17-5257-INV

In re: review of the standard-offer program

### **VERMONTERS FOR A CLEAN ENVIRONMENT'S COMMENTS IN RESPONSE TO THE PUBLIC UTILITY COMMISSION'S AUGUST 15, 2018 MEMORANDUM**

On August 15, 2018, the Public Utility Commission (PUC) issued a memorandum seeking comments on any steps the Commission should take to improve the function of the standard-offer program, and any recommendations the Commission should make to the Vermont General Assembly concerning the standard-offer program, including recommendations related to the exemption set forth in 30 V.S.A. § 8005a(k)(2)(B) and any issues arising from that exemption.

Vermonters for a Clean Environment (VCE) appreciates the opportunity to provide comments from our unique perspective addressing the impacts of the standard-offer program on Vermont residents and communities. These impacts have historically not been addressed by utilities, regulators, legislators, or developers. It is long past time to incorporate costs and benefits to our communities in this discussion.

#### **A. Background**

Vermonters for a Clean Environment, Inc. is a citizen-based public non-profit organization founded in 1999 that assists Vermonters in having a voice in what goes on in their communities, and holds corporations accountable for their actions. We respond to issues that Vermont citizens bring to us, and have established a framework for deciding what issues and projects to engage in. From an organizational perspective, that means we do not go out soliciting involvement in projects that are not brought to us by Vermont citizens.

Renewable energy development has consumed the majority of our organizational capacity for the last 9 years. During that time, thousands of solar projects have been permitted by the Public Utility Commission, very few of which have resulted in VCE's involvement. However, of those projects for which VCE has been asked for assistance, standard-offer projects

stand out as the largest number, with net-metering projects second. Utility projects have also caused citizens or towns to reach out to VCE, but our experience is that over time, the utilities have become much more sensitive to the needs of communities and are doing a good job locating sites that do not result in community opposition. We cannot say the same for merchant developers and their approach to siting renewable energy projects through the standard-offer or net-metering programs.

## **B. How Standard-Offer Projects Negatively Impact Vermont Communities**

Vermonters overwhelmingly support the development of renewable energy projects, especially solar projects. It is common to hear Vermonters speak of a desire to see more use of in-state hydro, and recently we are hearing more discussion about incorporating battery storage. Wind energy is more problematic due to the failure to acknowledge that there are issues that need to be addressed before proceeding with this technology, especially industrial scale wind.

For years, VCE has been documenting via video the public hearings and community discussions about standard-offer projects on a case by case basis. These discussions occur *after* the standard-offer contract has been awarded. Communities and affected residents are caught off guard when they learn that a specific site has received a contract for development of a large solar array or wind turbine, without any prior notice to towns. The most representative PUC public hearing we have documented occurred in Sudbury in 2014 and can be viewed here <https://youtu.be/nJQx2eHlhos>. Citizens of Sudbury, including the chair of the Planning Commission, chair of the Select Board, and neighbors affected whose properties were situated such that the proposed project could not be screened from view spoke in opposition to the project. The primary message is one that we have documented in many other Vermont communities: “We want solar, and we want to be a part of it, we want some community benefits, but not here, not this site, not this way.” Despite the nearly universal opposition, nobody intervened due to the extraordinary complexity and expense of the PUC process.

VCE supports the PUC’s position regarding changing sites after the contract is awarded, and appreciates the Commission’s position as recently stated in its order in the Brandon “Babcock” Conti Solar development where the community opposed the site and the developer sought alternative sites which were denied by the PUC. In its order denying the change in location, the PUC explained that its intended purpose is to encourage developers to do a better

job up front when choosing sites. The reality is this is not happening in actual practice, regardless of the intention.

The way the process works, as described by one developer, once the RFP is issued, there is a short time frame for finding a site and gaining site control in response to the RFP. Once site control is obtained, the developer responds to the RFP, and if the contract is awarded, a few people know about it via a PUC order or by checking the standard-offer administrator's website, but there is usually no contact with the community or Vermont citizens until the 45-day notice is issued.

Once the contract is issued, some developers have taken a hostile approach to communities and neighbors that creates excessive, unnecessary expensive litigation and stress. Recipients of standard-off contracts have been vindictive towards neighbors who have chosen to participate in the PUC's process, or have sued towns to the point that the town withdraws from PUC proceedings and essentially agrees to sell their town plan requirements for money to make the bleeding stop. Industrial Wind projects create even more expensive challenges for host communities in receipt of standard-offer contracts. This is no way to develop renewable energy in Vermont.

### **C. Suggestions for Changes to the Current Standard-Offer Process**

Immediate improvements can be made to the standard-offer process by the PUC. One easy requirement to add to the developer who bids into the standard-offer program is notification to the host community that a bid has been submitted. Such notification should include the specific location of the property, and the notification should go to the same parties that would receive a 45-day notice. The process could be amended to include the opportunity for recipients of the notice to send comments to the standard-offer administrator so that site considerations could be incorporated into the decision.

It would even better if the standard-offer RFP process is amended to include a requirement to approach the host community prior to submitting the bid, with the minutes of the discussion included in the bid so that any issues that have been identified would be known up front. Those discussions might result in the developer's realization that they have chosen a poor site, such that the bid would not be offered at all. Holding that advance conversation would achieve the PUC's goal of encouraging the choice of better sites.

Regional Planning Commissions throughout Vermont have committees that review 45-day notices and petitions to the PUC. Those committees are learning about the issues, and that knowledge is growing. Initially, those discussions were primarily about the site. However, planners are recognizing that there are other issues that need to be considered such as net-metering's cost to rate-payers, and grid impacts. Without full knowledge of the environmental, neighbor, and grid capacity issues, planners are disadvantaged when they attempt to carry out their duties.

Act 174 energy planning (and net-metering, both of which include a preferred-site component) is in its early stages of implementation and the PUC has a separate investigation into the preferred-site definitions for net-metering. Towns that identify preferred-sites are doing so without adequate knowledge of the grid capacity issues at the locations that might be preferable due to site considerations, but may not be optimal for renewable energy additions to the grid in those locations.

The standard-offer program would benefit in the short term by making changes to the program that incorporates a more holistic approach to locating renewable energy on sites that benefit the grid rather than create negative impacts, are welcomed by the community, and will not create expensive, extensive litigation that interferes with the completion of the project during its time frame. When projects receive multiple contract extensions, that is evidence of failure on the part of the developer in its community engagement and choice of sites.

#### **D. Long Term Recommendations Regarding the Standard-Offer Program**

Given the poor record of the standard-offer program's implementation, VCE recommends that this program has run its course and should end as soon as possible. The General Assembly should be advised by the PUC to replace the standard-offer program with a new process that will result in renewable energy built in the right locations, supported by communities with tangible community benefits and minimal environmental impacts, where the energy is needed as identified by the utilities serving the area.

VCE wishes to emphasize that Vermont community interests must be incorporated into renewable energy siting discussions going forward. It will be telling to note whether any other submission of comments in this investigation mention the interests of the people who live here and are affected by the development of renewable energy. We cannot afford to continue on the

path that has been taken for the last decade, where Vermonters feel left out of the process, or when they do choose to participate, find that it is a “pay to play” arena that is extraordinarily expensive, time-consuming and may involve bullying and threats of litigation that hurt, rather than advance, the development of renewable energy.

Overall, greater transparency would build support for renewable energy development among Vermonters. While developers do take financial risks, the profits being made by those who can afford to make the investments are apparently very large in comparison to the benefits to host communities. This formula that benefits the rich at the expense of the less well off is a dynamic that many Vermonters are conscious of and find offensive.


#### **E. Ethical Standards for Merchant Developers**

The standard-offer program is one of the few mechanisms by which merchant developers can participate in renewable energy development. The key to success is the contract which, once obtained, locks in the site and forces the utilities to purchase the energy generated. While utilities are regulated by the PUC, merchant developers have no similar checks on how they choose to operate. It is possible that shifting the process to require merchant developers to engage directly with the utilities rather than through the standard-offer administrator would insert some societal benefits and eliminate the developers who prefer to fight rather than collaborate.

#### **F. Conclusion**

VCE supports the continued development of renewable energy resources in Vermont in a manner that incorporates community and neighbor interests, requires more openness and sharing regarding financial benefits, at the lowest cost to ratepayers, assures that new development occurs in areas where it is needed and discourages development in areas where it is not needed, and creates a distributed renewable energy grid that reduces transmission costs.

Dated at Danby, Vermont on this 21<sup>st</sup> day of September, 2018

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