

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 20-0789-INV

Vermont Public Utility Commission orders and memoranda issued in response to COVID-19 pandemic	
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Order entered: 02/24/2022

ORDER GRANTING EXTENSION OF COMMISSIONING DEADLINES

I. INTRODUCTION

On January 18, 2022, Renewable Energy Vermont (“REV”) filed a request that the Vermont Public Utility Commission (“Commission”) grant a one-year extension of all commissioning deadlines for net-metering and standard-offer projects whose commissioning deadlines fall on or after January 1, 2022, through December 31, 2022. On January 19, 2022, AllEarth Renewables, Inc. (“AllEarth”) filed a similar request. Both requests cited supply-chain disruptions resulting from the COVID-19 pandemic as a primary reason for the requests.

The Commission recognizes that disruptions to supply chains and construction activities may affect the ability of new generation facilities to meet their commissioning deadlines, as established in their certificates of public good or in their standard-offer contracts. Therefore, in this order the Commission grants a one-year extension of all commissioning deadlines for net-metering and standard-offer projects whose commissioning deadlines fall on or after January 1, 2022, through December 31, 2022. The Commission continues to encourage the commissioning of any projects granted this one-year extension as expeditiously as possible.

II. PROCEDURAL HISTORY

On May 21, 2020, the Commission granted a one-year extension of all commissioning deadlines for net-metering and standard-offer projects whose commissioning deadlines fall on or after March 25, 2020, through December 31, 2020.¹

On December 10, 2020, the Commission granted a one-year extension of all commissioning deadlines for net-metering and standard-offer projects whose commissioning deadlines fall on or after January 1, 2021, through March 1, 2021.²

¹ Order of 5/21/20.

On January 18, 2022, REV filed its extension request.

On January 19, 2022, AllEarth filed its extension request.

On February 1, 2022, the Commission issued an order seeking responses to REV's and AllEarth's extension requests. The Commission asked that responses address how the COVID-19 pandemic is affecting construction activities.

Between February 1, 2022, and February 14, 2022, the following entities filed responses to REV's and AllEarth's requests: Aegis Renewable Energy, Inc. ("Aegis"); Encore Renewable Energy ("Encore"); MHG Solar, LLC ("MHG"); iSun Inc., formerly The Peck Company ("iSun"); Green Peak Solar, LLC ("Green Peak"); Green Lantern Development LLC ("Green Lantern"); Triland Partners LP ("Triland"); Norwich Solar ("Norwich"); Green Mountain Power Corporation ("GMP"); Acorn Energy Solar 4 LLC ("Acorn"); the Vermont Agency of Natural Resources ("ANR"); AllEarth; Washington Electric Cooperative, Inc. ("WEC"); the Vermont Department of Public Service ("Department"); and Vermonters for a Clean Environment ("VCE").

III. DESCRIPTION OF SUPPLY-CHAIN DISRUPTIONS

REV's request stated that continued supply-chain disruptions due to the COVID-19 pandemic are particularly severe for the solar industry.³

AllEarth's request stated that it is "experiencing first-hand the supply chain disruptions and other impacts brought about by the cumulative effects of the ongoing pandemic and most recently the Omicron variant."⁴ AllEarth also stated that these factors have affected Vermont's electric utilities such that AllEarth is "observing up to two months of utility delay in interconnecting even small new solar projects to the grid."⁵

Several solar developers provided information about the supply-chain disruptions they are experiencing.⁶ For example:

² Order of 12/10/20.

³ Letter from Jonathan Dowds, REV, to Holly Anderson, Clerk, Commission, filed 1/18/22 at 1.

⁴ Motion for Extension of Commissioning Deadlines filed by David Mullett, AllEarth, on 1/19/22 at 1.

⁵ *Id.*

⁶ In addition, Acorn stated that it was planning to file a request for an extension of its project that received a CPG in Case 21-0250-NMP for reasons unrelated to the pandemic. However, Acorn stated that it expects that in the future it will face all of the supply-chain problems described by other developers. Letter from Benjamin Marks, Esq., to Holly R. Anderson, Clerk, Commission, dated 2/11/22.

- Aegis stated that in several instances it saw delivery delays of critical electrical distribution equipment in excess of three months beyond the date promised.⁷
- Encore stated that while it has noted some improvements since the start of the pandemic, projects continue to be hampered by significant supply-chain delays.⁸
- MHG stated that estimated racking deliveries now exceed 20-22 weeks, and that it was recently informed by GMP that transformers for 500 kW projects have a 60-week lead time. MHG also noted that delivery times are constantly shifting because suppliers cannot accurately predict when materials are available. MHG recently saw a nearly two-month delay in originally predicted shipments of racking when materials waited in an outbound port for weeks and then again at an inbound port, waiting for limited port capacity to open up.⁹
- iSun stated that it is seeing significant supply-chain disruptions, with some suppliers not even able to provide delivery dates now.¹⁰
- Green Peak provided the current lead times for various types of equipment, including: racking, 22-23 weeks (up from 10-12 weeks before the pandemic); reclosers, 26 weeks (up from 16 weeks); pad-mount transformers, 40 weeks; and substation voltage regulators, 56 weeks.¹¹
- Green Lantern stated that during its development and construction of 100 Vermont projects over 10 years, it has never experienced the procurement and construction delays that are happening now.¹²
- Triland stated that the uncertainty in project timelines has also created concern with investors and lenders.¹³
- Norwich stated that it was told by one of its suppliers that production factories are regularly shut down due to COVID-19 cases and that these shutdowns significantly

⁷ Public comment from Nils Behn, Aegis, filed 2/1/22.

⁸ Public comment from Phillip Foy, Encore, filed 2/2/22.

⁹ Letter from Pete Giese, Owner, MHG, to Judith C. Whitney, Clerk, Commission, dated 2/3/22 at 1-2.

¹⁰ Public comment from Steven Yates, iSun, filed 2/3/22.

¹¹ Letter from Nathaniel Vandal, Principal, Green Peak, to Holly Anderson, Clerk, Commission, dated 2/7/22 at

1.

¹² Letter from David G. Carpenter, Esq., General Counsel, Green Lantern, to Commission, dated 2/8/22 at 1.

¹³ Public comment from Thomas T. Garden, Triland, filed 2/8/22.

change the lead time and available modules. Norwich added that uncertainty of module availability can have a cascading effect on other key solar components such as racking because the type and design of modules dictate the type of racking needed. Norwich stated that its subcontractors have experienced a doubling in lead times for certain equipment, with some items not available at all and others not available for 18-20 weeks instead of the usual 4-6 weeks.¹⁴

- AllEarth stated that it has also experienced significant delays in obtaining components manufactured by its in-state suppliers.¹⁵

Two electric distribution utilities also addressed supply-chain issues:

- WEC stated that it is facing supply-chain delays for distribution equipment, including meters and transformers. According to WEC, the lead time for transformers is currently being quoted as 40 weeks, but it is uncertain whether delivery will actually occur then. This issue with transformer deliveries is unprecedented for WEC.¹⁶
- GMP stated that while it has not experienced delays like those described in REV's and AllEarth's requests, it has no objection to extending all commissioning deadlines as requested.¹⁷

IV. DISCUSSION

Solar developers have provided considerable information about supply-chain difficulties they are currently facing. In addition, one electric distribution utility provided information about the supply-chain problems it is facing. The Department supports the requested extension, and no commenter opposed extending commissioning deadlines for solar projects.¹⁸

The Commission determines that, because of the continued impacts of the COVID-19 pandemic on project construction, it is appropriate to grant a one-year extension of all

¹⁴ Letter from Norwich to Commission, dated 2/10/22.

¹⁵ AllEarth comments filed 2/11/22.

¹⁶ Letter from William Powell, Director, Products and Services, WEC to Holly Anderson, Clerk, Commission, dated 2/11/22.

¹⁷ Letter from Carolyn Browne Anderson, GMP, to Holly Anderson, Clerk, Commission, dated 2/11/22.

¹⁸ VCE opposed granting a one-year extension to the standard-offer "large wind" category because of a concern regarding a particular large wind project that has received a standard-offer contract.

This project's standard-offer contract was executed on December 9, 2021. Pursuant to 30 V.S.A. 8005a(j)(1)(B), large wind standard-offer projects are required to be commissioned within 36 months after execution of the project's standard-offer contract. Therefore, this project's commissioning deadline is after the time period included in REV's and AllEarth's requests and is not affected by this order.

commissioning deadlines for net-metering and standard-offer projects whose commissioning deadlines fall on or after January 1, 2022, through December 31, 2022. The new commissioning deadline is one year from the last commissioning deadline established for a project. For example, the new commissioning deadline for a project whose commissioning deadline was originally February 1, 2022, is now January 31, 2023.

The extension granted today applies to net-metering projects with a certificate of public good as well as to those for which a certificate of public good was deemed issued. Projects whose commissioning deadlines fall within this time period do not need to file individual requests for extensions.

In addition, the Commission will instruct the standard-offer facilitator to similarly extend any commissioning deadlines for standard-offer projects that fall on or after January 1, 2022, through December 31, 2022. The extension of commissioning milestones does not affect the milestones for standard-offer projects to file a complete CPG application. Requests to extend those milestones will be reviewed on a case-by-case basis.

This order does not limit the ability of any CPG holder to file for an extension of a specific commissioning deadline; the Commission will consider any such requests at the time they are filed.

Today's order also does not affect any deadlines, restrictions, or timeframes associated with activities related to natural resources and environmental concerns that are required by individual CPGs, Commission orders, or memoranda of understanding executed with ANR. ANR noted in its comments that some of these activities may have seasonal restrictions associated with conducting them or specific timeframes for reporting the results. There might also be restrictions on the timing of certain construction activities. All such deadlines, restrictions, and timeframes for these activities will remain in place. The Commission clarifies that we will consider any requests for extensions for these activities on a case-by-case basis at the time they are filed.

Similarly, today's order does not affect any permits issued by ANR. ANR notes in its comments that any ANR permits received in connection with a specific project that are due for renewal or will expire must be renewed in accordance with applicable permitting requirements or

processes before beginning site preparation, construction, operation, or maintenance of the applicable portions of the project.¹⁹

Finally, the Department recommended that individual review of extension requests for COVID-19-related delays be resumed as soon as appropriate because that process elicits additional information. Until then, the Department recommends that consideration of any future general extension requests use a process that is as close as possible to individual review in terms of obtaining a detailed level of information regarding the nature and extent of project delays. According to the Department, further documentation of how COVID-19 is affecting the renewable energy development industry would not only provide greater context, but would also create a public record and provide useful information to regulators that can be used to balance various policy goals.²⁰

We agree with the Department that it is helpful for regulators to have more detailed information regarding how the pandemic is affecting the renewable energy development industry in Vermont. It is unknown at this time whether any further general extensions of commissioning deadlines as a result of the pandemic might be appropriate. However, if any such requests are filed in the future, the Commission will ask for project-specific information to support them (that is, descriptions of the nature and extent of delays affecting specific projects as examples of any broader supply-chain disruptions, etc.).

V. CONCLUSION

For the reasons set forth above, the Commission grants a one-year extension of all commissioning deadlines for net-metering and standard-offer projects whose commissioning deadlines fall on or after January 1, 2022, through December 31, 2022. The new commissioning deadline is one year from the last commissioning deadline established for a project. For example, the new commissioning deadline for a project whose commissioning deadline was originally February 1, 2022, is now January 31, 2023.

¹⁹ ANR comments filed 2/11/22 at 2.

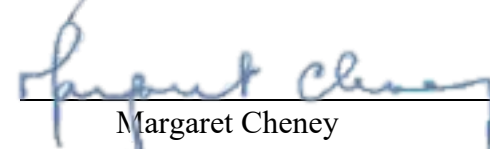
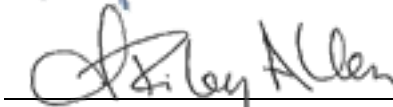
²⁰ Department comments filed 2/11/22 at 3-4.

VI. ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Vermont Public Utility Commission (“Commission”) that:

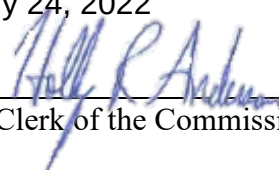
1. All commissioning deadlines for net-metering and standard-offer projects whose commissioning deadlines fall on or after January 1, 2022, through December 31, 2022, are extended by one year. The new commissioning deadline shall be calculated as set forth in this order.

Dated at Montpelier, Vermont, this 24th day of February, 2022.

	)	
Anthony Z. Roisman	)	PUBLIC UTILITY
	)	
	)	
Margaret Cheney	)	COMMISSION
	)	
	)	
J. Riley Allen	)	OF VERMONT

OFFICE OF THE CLERK

Filed: February 24, 2022

Attest: 
Clerk of the Commission

Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: puc.clerk@vermont.gov)

Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Commission within 30 days. Appeal will not stay the effect of this Order, absent further order by this Commission or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Commission within 28 days of the date of this decision and Order.