

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7533

Establishment of Price for Standard Offer under the)
Sustainably Priced Energy Enterprise Development)
("SPEED") program)

Order entered: 6/29/2009

ORDER OPENING INVESTIGATION

I. INTRODUCTION

On June 3, 2009, the Public Service Board ("Board") opened Docket No. 7523 to conduct an investigation into the development of standard offer prices for qualifying renewable generation under the Sustainably Priced Energy Enterprise Development ("SPEED") program. This investigation was initiated to address the requirement in the Vermont Energy Act of 2009 ("Act"),¹ codified in 30 V.S.A. § 8005(b)(2), that the Board open and complete, by September 15, 2009, a "noncontested case docket" to determine whether the prices established by the Act "constitute a reasonable approximation of the price that would be paid applying the criteria" established by the Act. Our Order stated that Docket No. 7523 would address:

the review of the Act's standard offer prices and, if the prices are not a reasonable approximation, set interim prices by September 15, 2009. In addition, the Board will consider non-price terms and conditions for standard offer contracts in this Docket.²

In addition to the mandate cited above, the Act requires that by January 15, 2010, the Board "set the price to be paid to a plant owner under a standard offer" from the SPEED Facilitator, applying the criteria established by the legislation. In the Docket No. 7523 Order, we

1. The Act is also referred to as H. 446. The full text of H. 446, as passed by the House and Senate, can be found at: <http://www.leg.state.vt.us/docs/2010/bills/Passed/H-446.pdf>.

2. Docket 7523, Order of 6/3/09 at 2.

stated that we would open a subsequent docket to more fully address the standard offer prices in accordance with the January 15, 2010, statutory deadline. The Order also indicated that we would incorporate the record from Docket 7523.

At this time, pursuant to 30 V.S.A. §§ 8002 through 8005, the Board opens the second investigation to comply with the January 15, 2010, statutory deadline. The investigation is intended to build upon the record developed in Docket 7523, resolve all necessary implementation issues not addressed in that docket, and reevaluate the prices for SPEED projects set out in the statute. We open this investigation as a distinct proceeding primarily because the Act requires that the Board not only open the non-contested case docket that is Docket No. 7523, but also complete it by September 15, 2009. To meet this mandate, we intend to close that docket following completion of the tasks set out in Section 8005(b)(2)(B)(ii). To ensure that we can deal with any implementation issues that are not fully resolved and to avoid having to duplicate the gathering and evaluation of information that occurs in that docket, we intend to incorporate the record from that docket as it now exists plus any additional material subsequently generated therein.³

It is appropriate to open this docket now, rather than at the conclusion of Docket No. 7523 in September, so that any potential issues that may arise from the existence of two dockets can be addressed early.⁴ It is our intention that, going forward, hearings and workshops will be noticed and conducted in both Docket No. 7523 and this docket. In addition, all filings should be submitted in both dockets. Participants in Docket No. 7523 will be considered participants in this proceeding as well, unless a party affirmatively opts out of the new proceeding; the Board will use the same e-mail distribution list and mailing list in both proceedings. The same Board staff will be responsible for managing both dockets. Finally, since Board staff convened a prehearing conference in Docket No. 7523 only a week ago, and the issues in the two

3. We expect that, due to the shortage of time, Docket No. 7523 will only be able to deal with those issues that must be resolved by September 15, 2009, leaving other issues for this docket.

4. Ideally, this would be a single investigation rather than two dockets. However, the legislative directive to "complete" Docket 7523 by September 15, 2009, has caused us to open the two proceedings. Effectively, we anticipate treating the two proceedings as essentially a single docket, unless subsequent events or information requires us to alter that course of action.

proceedings are expected to have nearly complete overlap, we do not anticipate the need for a prehearing conference in this docket.

The Act does not prescribe the manner in which the Board must proceed to meet the January 15, 2010, deadline, but merely requires the Board to "set" the price. The Act does not require a hearing or an opportunity for hearing. Thus, it is not a contested case as defined by 3 V.S.A. § 801(b)(3). It is our intention that this docket will proceed in the same manner as Docket 7523, without following all normal procedures for a contested case. For the most part, the issues before the Board in these two proceedings are policy issues rather akin to those that would be addressed in rulemaking. If it becomes apparent that evidentiary hearings are necessary or appropriate on particular issues, we will adjust the procedures and impose any necessary limits on ex parte contacts.

Any party that has specific concerns about the process outlined in this Order should identify those concerns and recommend any proposed alteration by July 9, 2009.

II. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that:

1. Pursuant to 30 V.S.A. Sections 8002 through 8005, an investigation is opened to set the price to be paid to a plant owner under a standard offer from the SPEED Facilitator.

Dated at Montpelier, Vermont, this 29th day of June, 2009.

s/ James Volz)

) PUBLIC SERVICE

s/ David C. Coen)

) BOARD

s/ John D. Burke)

) OF VERMONT

OFFICE OF THE CLERK

FILED: June 29, 2009

ATTEST: s/ Susan M. Hudson
Clerk of the Board

NOTICE TO READERS: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Board (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: psb.clerk@state.vt.us)