

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7533

Investigation Re: Establishment of a Standard Offer)
Program for Qualifying Sustainably Priced Energy)
Enterprise Development ("SPEED") Resources)

Order entered: 6/3/2011

ORDER RE REMOVAL OF TECHNOLOGY CAPS

Introduction

On September 30, 2009, the Public Service Board ("Board") issued an Order establishing a standard-offer program for qualifying sustainably priced energy enterprise development ("SPEED") resources pursuant to the Vermont Energy Act of 2009 ("Act 45").¹ The September 30 Order established a division of the standard-offer queue to ensure that a diversity of technologies is commissioned under this program and determined that no one technology shall fill more than 25% of the queue. To balance this restriction with the intent to rapidly deploy generation resources, the technology caps were applicable for an initial six-month trial period.²

In its Fourth Order Re Implementation Issues, dated June 24, 2010, the Board extended the technology caps through October 31, 2010, to balance the dual directives of rapid deployment and diversity of commissioned resources. In its Order Re Technology Caps, dated October 29, 2010, the Board again extended the technology caps through May 31, 2011. In each Order, the Board found the extension of the temporary technology caps appropriate in order to balance the dual directives of achieving a diversity of commissioned resources with rapid deployment.

On April 19, 2011, the Deputy Clerk of the Board issued a memorandum requesting an update on the status of the technology caps from the SPEED Facilitator by May 2, 2011, and any

1. Public Act No. 45 (2009 Vt., Bien. Sess.).

2. *Investigation Re: Establishment of a Standard Offer Program*, Docket 7533, Order of 9/30/09 at 15.

comments regarding the issue of technology caps in the standard-offer program in light of the SPEED Facilitator's May 2 status update by May 9, 2011.

By letter dated April 26, 2011, the SPEED Facilitator provided the Board with an update on the status of the technology caps. The letter included a table indicating the total capacity, by technology, of projects with executed standard-offer contracts.³

Technology	Capacity (kW)	Projects
Solar PV	12,558	11
Biomass	1,200	2
Wind	10,851	7
Farm Methane	4,528	16
Landfill Methane	560	1
Hydroelectric	6,040	7
Total	35,737	44

The SPEED Facilitator stated that there are 174 Solar PV projects representing approximately 155 MW of capacity and three Wind projects representing approximately 6.4 MW of capacity waiting to be processed because the Solar PV and Wind technology caps had been exceeded.

Participants' Comments

Comments were submitted by the SPEED Facilitator on April 26, 2011, Penn Energy Trust ("Penn") on May 9, 2011, and the Springfield Regional Development Corporation ("SRDC") on May 19, 2011.⁴

3. Subsequent to the SPEED Facilitator's April 26 letter, the SPEED Facilitator notified Board staff that three projects, totaling 5.4 MW, had withdrawn from the queue. The table has been revised to reflect this additional information.

4. SRDC's filing was received a full ten days after the comment period had ended, and was a copy of a letter sent to the SPEED Facilitator rather than a filing in direct response to the April 19 memorandum soliciting comments.

The SPEED Facilitator observes that a number of technologies may be "resource constrained," that is, limited availability of the resource, for example landfill methane, hydroelectric, or farm methane, may preclude the development of additional projects. The SPEED Facilitator also suspects that certain projects that currently have standard-offer contracts may not be economically viable. The SPEED Facilitator contends that, because the new, more favorable pricing category for wind projects of 100 kW or less was established in January 2010, and because the wind category has a waiting list of larger wind projects, there has not been incentive for 100 kW or less wind projects to apply for the standard-offer program. Finally, the SPEED Facilitator notes that Public Act No. 47⁵ contains a provision to add existing hydroelectric projects to the SPEED standard-offer program if the projects meet certain criteria and if there is room within the program as of January 1, 2012. The SPEED Facilitator states that a total of 3 MW of existing hydroelectric projects may be eligible under the Act.

Penn supports the removal of the technology caps, or the removal of the photovoltaic cap, or at least an increase in the photovoltaic cap by 10 MW. Penn states that its project is on the near end of the photovoltaic waiting list, has completed the bulk of the interconnection process, and believes that it can build its project quickly if offered a standard-offer contract. Conversely, Penn states that if the temporary technology caps remain in place, photovoltaic developers currently on the waiting list may not be able to take advantage of the expiring federal investment tax credit or an equivalent cash grant and therefore may not pursue their projects.

SRDC requests that the Board leave sufficient room in the biomass category for a specific 2.2 MW project that would be developed by Orbit Energy ("Orbit"). SRDC represents that, because ownership of the site of the proposed project is in the process of being transferred from the State of Vermont Department of Buildings and General Services to the Town of Springfield, Orbit cannot yet show property control as required in the SPEED standard-offer application. SRDC states that, but for the site-ownership situation that is expected to be completed in the near future, Orbit would be able to submit its application.

5. See, Section 8, P.A. 47 (2011 Vt., Bien. Sess.).

Discussion and Conclusion

The Board has kept in place the technology caps in an attempt to balance the competing goals of technological diversity and rapid deployment. Given that the technology caps have been in place since September 30, 2009, and there are projects in each technology category, it appears that the goal of rapid deployment should now take precedence over technological diversity. Further, there are many photovoltaic and wind projects on the waiting list that are not resource constrained and may be able to develop their projects quickly. Based on Penn's comments, Penn appears to be one such example.

SRDC's filing, which was late, requests that the Board preserve the current technology caps, or at least a 2.2 MW space for a specific project. The temporary technology caps have been in place for 20 months, and we see no reason to make an exception for a single project at the expense of projects that have been on a waiting list for more than a year.⁶ Therefore, we deny SRDC's request.

In its October 29 Order, the Board found that different technologies require different project-development times, and that it is not appropriate to wait indefinitely for certain technologies to advance or "emerge as energy options in Vermont."⁷ Consistent with that finding, we conclude today that, after 20 months, all viable technologies have had sufficient opportunity to develop projects for consideration under the standard-offer program. Therefore, in accordance with the directive to achieve rapid deployment of resources, the technology caps will not be extended.

We direct the SPEED Facilitator to accept any projects that are currently on a waiting list into the standard-offer program until the program is fully subscribed. In order to preserve an opportunity for resource diversity, and to recognize that different technologies require different project-development times, we direct the SPEED Facilitator to admit projects on an alternating basis from the photovoltaic and wind waiting lists, beginning with photovoltaic. If, as of January 1, 2012, the standard-offer program is not yet fully subscribed and there are no projects

6. Moreover, SRDC has made no representations that the Orbit Energy project must be located at the site discussed in the SRDC letter, or that without a standard-offer contract the project would not be built.

7. *Investigation Re: Establishment of a Standard Offer Program*, Docket 7533, Order of 10/29/10 at 4.

on waiting lists, we direct the SPEED Facilitator to so inform the Board so that the Board may notify potentially eligible existing hydroelectric plants of the availability of a standard-offer contract, pursuant to Act 47.

So ORDERED.

Dated at Montpelier, Vermont this 3rd day of June, 2011.

<u>s/James Volz</u>)	
)	
)	PUBLIC SERVICE
<u>s/David C. Coen</u>)	
)	BOARD
)	
<u>s/John D. Burke</u>)	OF VERMONT

OFFICE OF THE CLERK

FILED: June 3, 2011

ATTEST: s/Judith C. Whitney
Deputy 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)

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