

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: 7/30/2010

ORDER RE MILESTONE REQUIREMENTS FOR PLANTS WITH A CAPACITY OF 150 kW OR LESS

I. INTRODUCTION

On September 30, 2009, the Public Service Board ("Board") issued an Order establishing the standard-offer program for qualifying sustainably priced energy enterprise development ("SPEED") resources pursuant to the Vermont Energy Act of 2009 ("Act 45").¹ Since that time, the legislature has authorized renewable plants of 150 kW or less to use the same simplified application process as net-metered facilities. Use of the simplified process may not, however, be fully consistent with the SPEED Standard Offer Program Power Purchase Agreement ("standard-offer contract"). In this Order we establish a procedure for renewable energy plant owners, who have plants with capacities of 150 kW or less, to satisfy the six-month milestone contained in the standard-offer contract.

II. BACKGROUND

On June 4, 2010, Public Act 159 (2010 VT., Adj. Sess.) was enacted, which provided simplified permitting procedures for small renewable energy plants. Act 159 added 30 V.S.A. § 8007(a):

The same application form, rules, and procedures that the board applies to net metering systems of 150 kilowatts (kW) or less under sections 219a and 248 of this

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

title shall apply to the review under section 248 of this title of any renewable energy plant with a plant capacity of 150 kW or less and to the interconnection of such a plant with the system of a Vermont retail electricity provider. This requirement includes any waivers of criteria under section 248 of this title made pursuant to section 219a of this title.

On June 7, 2010, the SPEED Facilitator filed a letter with the Board requesting clarification on how the statute impacts the six-month milestone of the SPEED Standard Offer Program Power Purchase Agreement ("standard-offer contract"). Paragraph 5 of the standard-offer contract requires a producer to file a completed application for interconnection under Board Rule 5.500 within six months of the date the contract was signed. This milestone was included in the contract to prevent projects from holding a space in the queue indefinitely, and to meet the statutory directive to encourage rapid deployment of qualifying SPEED resources.

Board Rule 5.100 regulates the construction and operation of net metering systems and establishes the standards and procedures for application for, and issuance or revocation of certificates of public good for such projects. This Rule does not require applicants to enter into an interconnection agreement, as does the standard-offer contract, although the Rule does establish certain interconnection requirements. While Act 159 introduced new application requirements for small renewable energy plants that do not call for an interconnection agreement, it did not supplant the six-month milestone in the standard-offer contract or the rationale for the milestone.

On June 25, 2010, the Clerk of the Board issued a memorandum outlining a proposal by Board staff to address this issue. Board staff proposed a mechanism for small producers to demonstrate compliance with the obligation to rapidly move toward commissioning of projects in the standard-offer queue while also being consistent with the spirit of Section 8007(a): to reduce the administrative burden on applicants for small projects. The June 25 memorandum requested comments on the proposed mechanism. Comments were also sought on whether it would be appropriate to grant brief extensions of the milestone dates to the affected projects because many projects had milestone dates in June and July, Act 159 was not enacted until June 4, and the Board's mechanism had not yet been determined.

Green Mountain Power Corporation ("GMP") filed comments on the proposed mechanism on June 30, 2010. No other comments were filed.

III. THE MECHANISM

The proposed mechanism would allow producers to choose to fulfill the milestone requirement in one of two ways:

1. Prior to applying for a CPG, the applicant could submit to the interconnecting utility and the SPEED Facilitator a copy of Appendix A (technical specifications) of the Application for a Certificate of Public Good ("CPG") for SPEED Standard-Offer Projects with a Plant Capacity of 150 kW or less ("Application"), signed by both the applicant and the installer (if different), and the completed section of the Application relevant to their project (Section 4 for photovoltaic systems, Section 5 for Wind systems, or Section 6 for Other). The interconnecting utility would then have 15 days to comment on the Application. If the interconnecting utility has no comment on the project, the applicant would notify the SPEED Facilitator upon expiration of the comment period. This would be deemed sufficient to meet the six-month milestone.
2. Applicant could submit a completed Application to the Board and the parties identified in the application. If a CPG is issued, the applicant would notify the SPEED Facilitator upon receipt of the CPG. This would be deemed sufficient to meet the six-month milestone.

GMP's Comments

GMP agreed with the second option, that of a completed Application, and did not comment on the first option. GMP recommended that applicants be required to submit an Application within six months of signing a standard-offer contract. GMP believes this is consistent with the statutory directive to encourage rapid deployment of SPEED resources. GMP also recommended that the current comment timelines² for net metering applications remain intact in order to avoid confusion with the existing requirements of Board Rule 5.100, to avoid the potential need for a rule-change proceeding, and to avoid violation of Act 159.

2. The Application for a Certificate of Public Good for Interconnected Net Metered Power Systems provides for a ten-working-day comment period for photovoltaic systems erected on existing structures, and a 30-day comment period for all other systems.

Discussion and Conclusion

The complete Application under Board Rule 5.100 requires a producer to have completed an engineering review to ensure that the project can be safely interconnected, completed the necessary environmental and aesthetic review, to have notified all parties and interested persons as indicated on the Application, and to have met the necessary insurance requirements for the project. This is more comprehensive than the standard-offer program which, under the Board's September 30, 2009, Order, specifically allows a project to be developed in stages. A developer need only to have completed the engineering phase of a project to maintain its position in the standard-offer queue; all environmental and other necessary review and planning may come later. We find that requiring a complete Application to meet the six-month milestone would be inequitable and inconsistent with Act 159's intent to reduce the administrative burden on applicants for small projects. We therefore conclude that small renewable energy plant owners may meet the six-month milestone of the standard-offer contract by either of the two mechanisms described above.

The intent of providing a 15-day comment period for the interconnecting utility in the first option was to be consistent with the amount of time that an interconnecting utility would have to perform a review of an application for interconnection under the fast-track screening process of Board Rule 5.500. As GMP noted, this change from the current net metering application could be confusing, could require a rule-change proceeding, and could be perceived as violating Act 159. We therefore adopt GMP's comment-period proposal: option one is modified so that a ten-working-day comment period applies to photovoltaic systems erected on existing structures, and a 30-day comment period applies to all other systems.

Because Act 159 was enacted on June 4, 2010, only a few days or weeks prior to many of the affected projects' milestone dates, we conclude that it is appropriate to grant brief extensions of the milestone dates to the affected projects. The affected projects shall have until August 31, 2010, or six months from the date of their standard-offer contract, whichever is greater, to fulfill the six-month milestone of their standard-offer contract, if they choose to avail themselves of the simplified procedures enacted by Act 159.

SO ORDERED

Dated at Montpelier, Vermont, this 30th day of July, 2010.

s/ James Volz)

) PUBLIC SERVICE

s/ David C. Coen)

) BOARD

) OF VERMONT

s/ John D. Burke)

OFFICE OF THE CLERK

FILED: July 30, 2010

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)

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.