

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7873

Programmatic Changes to the)
Standard-Offer Program)

Order entered: 3/27/2013

ORDER RE STATUTORY DEFINITION OF PLANT CAPACITY

On May 11, 2012, Act 125 ("Act") became law.¹ The Act changed the definition of "Plant Capacity" to mean:

the rated electrical nameplate for a plant, except that, in the case of a solar energy plant that executes a standard offer contract under this chapter, the term shall mean the aggregate [Alternating Current] AC nameplate capacity of all inverters used to convert the plant's output to AC power.

Further, Section 9 of the Act retroactively applied the revised definition of plant capacity to solar electric generation facilities that: (1) have executed a standard-offer contract, and (2) have been commissioned on or after January 1, 2012.

As a result of this retroactive change, several solar standard-offer projects hold executed standard-offer contracts that describe their Plant Capacity in Direct Current ("DC") rating, as opposed to the AC rating now that has been inserted into the definition of "Plant Capacity" under the Act. For example, a project with approximately 2.2 MW DC of photovoltaic panels and 2.0 MW AC of inverters is described in its standard-offer contract as a 2.2 MW project, whereas, under the Act's revised definition of plant capacity, the Project would not be counted as a 2.0 MW project for the purposes of the standard-offer program. Significantly, the statutory change did not alter existing contracts, so a developer is still obligated to construct the facility described in its contract.

1. Public Act 125 (2011, Vt., Adj. Sess.).

On February 28, 2013, the SPEED Facilitator, VEPP Inc. ("VEPPI"), filed a letter with the Public Service Board ("Board") requesting authority to apply the revised statutory definition of plant capacity when counting the following three projects towards the cumulative plant capacity for the standard-offer program authorized by 30 V.S.A. § 8005a — Charlotte Solar Farm, Clarendon Solar Project, and Cross Pollination One.

Section 8005a authorizes the Board to issue standard-offer contracts to plants until "a cumulative plant capacity amount of 127.5 MW is reached."² In determining the cumulative plant capacity for the standard-offer program, the Board must aggregate the plant capacity of each project holding a standard-offer contract. Under the Act's revised definition of plant capacity, solar projects commissioned after January 1, 2012, are measured by the aggregate AC nameplate capacity of all inverters used to convert that plant's output to AC power. Since all three projects identified in VEPPI's letter have been, or will be, commissioned after January 1, 2012, the plant capacity for each of these projects should be measured according to the Act's revised definition. Furthermore, as that definition is now controlling as a matter of law, the Board hereby authorizes the SPEED Facilitator to apply the Act's revised definition of plant capacity for any other projects meeting the requirements of Section 9 of the Act when counting such projects towards the cumulative plant capacity for the standard-offer program.

Finally, the Board directs the Speed Facilitator to count the cumulative plant capacity for the standard-offer program prior to issuing the Request for Proposals ("RFP") described in the Order of March 1, 2013, in this Docket. To the extent the application of the Act's revised definition of plant capacity results in capacity from the previously authorized 50-MW program capacity becoming available, the SPEED facilitator should make such previously authorized, unsubscribed capacity available as part of the RFP process, in addition to the annual increase authorized by Act 170. This Order applies only to the manner in which solar projects are counted towards the programmatic cap. This Order does not effect the specific rights or obligations set forth in any standard-offer contracts.

2. 30 V.S.A. § 8005a(c).

SO ORDERED.

Dated at Montpelier, Vermont, this 27th day of March, 2013.

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

OFFICE OF THE CLERK

FILED: March 27, 2013

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)