

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7873

Programmatic Changes to the Standard-Offer Program)

Docket 7874

Investigation into the Establishment of Standard-Offer)

Prices under the Sustainably Priced Energy Enterprise)

Development ("SPEED") Program)

Order entered: 7/16/2015

ORDER RE 2015 STANDARD-OFFER AWARD GROUP

I. Introduction

In today's Order, we determine that, in place of awarding a standard-offer contract to Brattleboro Organic Energy, LLC ("BOE") for a proposed food waste anaerobic digestion project (the proposed "BOE Project"), the public interest will best be served by amending an existing standard-offer contract that was awarded on January 14, 2010, to the Brattleboro Carbon Harvest Project (the "BCH Project")¹, and was transferred from BCH to BOE on April 29, 2015.

In an Order issued on May 29, 2015, the Vermont Public Service Board ("Board") sought comments regarding whether a standard-offer contract could be awarded for the BOE Project pursuant to Section 8002(14) and Section 3.2.1 of the 2015 RFP. In due course, comments were filed by BOE, the Vermont Department of Public Service ("Department"), Green Mountain Power Corporation ("GMP"), and VEPP Inc. ("VEPPI").²

In addition to seeking comments regarding the eligibility of the BOE Project to participate in the standard-offer program, the Board has reviewed the standard-offer bid submitted by BOE to the Standard Offer Facilitator. In its bid document, BOE proposed to construct "a project that will produce renewable biogas . . . by the anaerobic digestion of food

1. The BCH Project is a 560 kW landfill gas-to-energy standard-offer project located at a closed landfill in Brattleboro.

2. VEPPI serves as the Standard Offer Facilitator under contract with the Board.

waste." BOE explained that the gas would be combusted in an existing 300 kW engine that is currently associated with the BCH Project. BOE represented that "[o]nce the food waste anaerobic digestion project begins operation, the biogas produced will supplement and eventually replace the landfill gas as fuel. Without the addition of anaerobic digestion biogas, the [BCH Project] engine would not be able to operate economically and would ultimately be shut down."

In addition to BOE's completed bid form, BOE submitted a copy of a bankruptcy court order approving the sale to BOE of the BCH Project assets, including a standard-offer contract (the "BCH Contract").

II. Discussion and Conclusion

Based upon our review of the facts contained in BOE's bid, as well as the comments we received from the Department, VEPPI, GMP, and BOE, we have concluded that it would be in the public interest to amend BOE's existing contract for the BCH Project.³ As a result of BCH's recent bankruptcy declaration, BOE has purchased the assets of the BCH Project and has assumed the BCH Contract. In response to the May 29th Order, BOE has represented that the BCH Project will not be able to continue operation for economic reasons without the additional gas produced by the BOE Project. We find that the facts suggest that, in place of issuing a new standard-offer contract for the BOE Project, it makes sense to amend the BCH Contract to permit the purchase of electricity generated by the combustion of biogas produced by the anaerobic digestion of food waste. Such an amendment would facilitate the continued operation of the BCH Project, and thus allow for the public to realize the benefits attendant to our earlier decision to award a standard-offer contract for the BCH Project by effecting a return to operation of the landfill gas plant that is the subject of the BCH Contract.⁴

Additionally, amending the BCH Contract will further the public interest by facilitating a productive use of food waste. Facilitating the BCH Project's use of biogas produced by the anaerobic digestion of food waste will support important state goals related to waste

3. Our conclusion is informed by the fact that the Department, VEPPI, GMP, and BOE all filed comments that supported awarding a standard-offer contract to BOE for the BOE Project.

4. The BCH Project ceased operating in December of 2014.

management, as reflected in the Legislature's enactment of Act 148, the Universal Recycling Law, which bans the disposal of food scraps in landfills starting in July 1, 2020. In addition, amending the BCH Contract to reflect the addition of the BOE Project furthers the state's renewable energy goals by promoting the inclusion of a diversity of renewable energy technologies in Vermont's electric supply portfolio.⁵ Therefore, we determine that under these circumstances, a contract amendment is warranted to promote these state goals.

Accordingly, for these reasons, we will not award a standard-offer contract for the BOE Project. Instead, we will provide direction to the Standard Offer Facilitator to take the steps necessary to effectuate the contract amendment discussed in this Order, upon terms substantially similar to those proposed by BOE in its bid.

SO ORDERED.

5. See 30 V.S.A. § 8001(a)(8).