

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 8801

Request of Triland Partners LP to amend standard offer)
contract)

Order entered: 8/29/2016

**ORDER RE: TRILAND PARTNERS LP REQUEST FOR
AMENDMENT OF ITS STANDARD-OFFER CONTRACT**

I. INTRODUCTION

On June 28, 2016, Triland Partners LP (“Triland”) filed a request (the “Triland Request”) with the Vermont Public Service Board (“Board”) seeking two amendments to Triland’s standard-offer contract for a 2.1 MW photovoltaic generation facility in Williamstown, Vermont (the “Project”). First, Triland seeks an extension of the deadline for Triland to voluntarily withdraw the Project from the standard-offer program and still receive a full refund of its contract deposit. Second, Triland seeks a reduction in the capacity of the Project from 2.1 MW to 1.5 MW AC. In today’s Order, we grant the Triland Request.

II. PROCEDURAL HISTORY

The Triland Request was filed on June 28, 2016.

On July 8, 2016, the Board issued a Procedural Order establishing a deadline of July 22, 2016, for comments on the Triland Request. The Board also granted a 45-day extension of the deadline for Triland to voluntarily withdraw its Project from the standard-offer program and still receive a full refund of its contract deposit, as described in Paragraph 9 of the standard-offer contract executed on July 13, 2015.

On July 25, 2016, the Vermont Department of Public Service (“Department”) filed comments on the Triland Request. The Department states that it does not object to the amendments requested based on the grounds asserted by Triland.

On July 28, 2016, the Washington Electric Cooperative, Inc. (“WEC”) filed comments on the Triland Request. WEC confirms several of Triland’s statements regarding the cost to interconnect the Project with WEC’s distribution system.

No other comments have been received.

III. DISCUSSION AND CONCLUSION

The Board has previously determined that “[w]hen entering the queue, the plant owner must have a legitimate project to be developed. Accordingly, the location, technology type, and interconnecting utility cannot be changed from the time that the project enters the queue.”¹ While the method employed to allocate capacity within the standard-offer program has changed since 2009 — the standard-offer program no longer has a queue — the principle remains that a project proponent must have a legitimate project to be developed if awarded a standard-offer contract through the annual RFP process.

In order to effectuate this principle, we have included the following language in standard-offer contracts, including the contract with Triland for the Project:

Producer shall construct the Project at the location and in a manner substantially consistent with the description set forth in Attachment A.²

This contract requirement is intended to prevent contracts from being awarded to undefined or nascent projects at the expense of more mature projects.³

Recognizing that certain amendments to standard-offer contracts may be in the public interest, we have reserved the right to make amendments to contracts provided that: (1) such amendment does not result in any reduction in the project’s economic value to producer; (2) such amendment will not adversely affect producer’s ability to meet the project’s financial obligations;

1. *Investigation Re: Establishment of a Standard Offer Program*, Docket 7533, Order of 10/16/09 at 7.

2. Standard-offer contract at 6, ¶11.

3. *Request of Star Wind Turbines, LLC to amend standard-offer contracts*, Docket 8720 at 6.

(3) such amendment will not impose additional operational or other economic costs on producer without full compensation; (4) the amendment results in a benefit to ratepayers; and (5) the parties are given notice and an opportunity to be heard by the Board.⁴

Further, pursuant to Paragraph 31 of the standard-offer contract, when authorized by the Board, the Standard Offer Facilitator may amend Attachment A of the contract.

In this instance, Triland requests that the Board authorize certain amendments to its standard-offer contract that would (1) extend a contract deadline, and (2) approve a reduction in the capacity of the Project. We discuss these requests, in turn, below.

Deadline Extension

Paragraph 9 of Triland's standard-offer contract states: "At the time of initial submission of this Agreement signed by Producer to Facilitator, Producer shall tender to Facilitator a \$200, non-refundable administrative fee and a refundable contract deposit of \$15 per kW of installed capacity." Paragraph 9 further provides that "if Producer voluntarily withdraws from the standard-offer program within the first year, the entire contract deposit is returned." If the Producer voluntarily withdraws from the standard-offer program before the end of the second year, the Producer is entitled to a refund of 50% of the contract deposit.

The effective date of the Triland standard-offer contract is July 13, 2015. Thus, Triland had until July 13, 2016, to voluntarily withdraw its Project from the standard-offer program and be eligible for a 100% refund of its contract deposit.

Triland recounts the procedural history of the docket regarding its petition for a certificate of public good ("CPG"), and states that on June 1, 2016, the Vermont Agency of Natural Resources ("ANR") requested that the Board investigate alleged violations of the prohibition on site preparation prior to issuance of a CPG found in Section 248 of Title 30. On June 2, 2016, the Board rescheduled the CPG docket's technical hearing from June 12 to June 23, 2016. On June 14, 2016, Triland requested that the Board suspend the docket schedule, including the technical hearing, due to (1) the ANR request to which Triland would need to respond, and (2)

4. Standard-offer contract at 12, ¶30.

issues raised concerning the interconnection of the Project with the WEC distribution system. The Hearing Officer cancelled the technical hearing and suspended the schedule.⁵

Triland argues that it has performed the requisite due diligence and that it has proceeded with the CPG petition in a timely manner, yet the request by ANR for an investigation poses unplanned risk to the Project. In addition, Triland maintains that the subject of the ANR request, upgrades to a town road, was not performed under Triland's direction, and that the road work did not involve the commencement of construction of the Project. Due to the delay that any investigation is likely to cause, and the related additional regulatory burden and uncertainty, Triland requests that the Board amend its standard-offer contract such that the first-year voluntary withdrawal under Paragraph 9 be extended until 60 days after the date of any final finding or order from the Board related to ANR's request for an investigation.

Based on the foregoing, and the lack of objection from the Department, we determine that the ANR request for an investigation is a unique circumstance that may not have been foreseen by Triland in its analysis of the Project. Therefore, we conclude that it is reasonable to grant an extension of the first-year voluntary withdrawal under Paragraph 9 of Triland's standard-offer contract. We hereby direct the Standard Offer Facilitator to extend such deadline until 60 days after the date of any final decision from the Board regarding ANR's request for an investigation.

Capacity Reduction

Under Paragraph 31 of the Triland standard-offer contract, "When authorized by the Public Service Board, the Facilitator may amend Attachment A of this Agreement." Attachment A of the contract states: "The proposed Triland-BlueWave Williamstown Project will be a 2.1 MW AC solar photovoltaic generation facility to be located at George Road in Williamstown, Vermont. The interconnecting utility is Washington Electric Cooperative."

Triland represents that at the time it initially filed its CPG petition, it was working with WEC to examine the incremental Project costs associated with a revised system impact study ("SIS") that detailed a need to reconductor approximately 22,000 feet of WEC's distribution system. On January 29, 2016, Triland acknowledged at the prehearing conference for its CPG petition that the Project's capacity may need to be decreased due to the projected costs of the

5. *Petition of Triland Partners LP*, Docket 8666, Order of 6/17/16.

reconductoring. Triland states that on June 7, 2016, it received a revised SIS, which Triland provided to the Department, and on June 13, 2016, a meeting was held between representatives of the Department and WEC to resolve issues related to the completeness of the SIS. Triland states that the Department requested additional revisions to the SIS, and that on June 23, 2016, Triland provided the Department with a further revised SIS.

Triland contends that the reduction in plant capacity that it seeks due to the SIS will not change the footprint of the Project and will not result in a significant impact under any of the criteria of Section 248. Further, Triland maintains that its bid for a standard-offer contract was for a legitimate Project. Triland states that prior to submitting its bid for the Project, it met with representatives of WEC to discuss the Project, its 2.2 MW capacity, and the existing 3-phase infrastructure to which the Project would interconnect. Triland states that WEC's representatives were "encouraging and supportive" of the Project. After being awarded the standard-offer contract by Order of the Board, Triland again met with WEC, and Triland represents that again WEC expressed no concerns about interconnecting the Project with existing infrastructure, except for the possible need to augment the system with a "protective component." Triland states that WEC advised Triland of the necessity to perform an SIS, and that on August 12, 2015, Triland authorized WEC to conduct the SIS. Triland states that the unanticipated upgrades to WEC's distribution system identified in the SIS, at a cost of more than \$600,000, significantly exceeded the \$220,000 in Triland's original proforma for the standard-offer contract price. Due to these interconnection costs, Triland requested that a second SIS be performed in order to determine what size project could be interconnected with the existing WEC infrastructure. The second SIS indicated that a 1.5 MW AC project could interconnect.

Triland states that it has investigated the financial feasibility of developing the 2.2 MW project, and finds that the financial return on investment would not be high enough to attract investors with the additional expense of the 22,000 feet of new 3-phase infrastructure. Therefore, Triland requests that its standard-offer contract be amended to reflect that the Project will have a capacity of 1.5 MW AC.

Based on the foregoing, and the lack of objection from the Department, we conclude that it is reasonable to grant Triland's request. We hereby authorize the Standard Offer Facilitator to amend Attachment A to reflect the reduction in capacity of Triland's Project to 1.5 MW AC.

SO ORDERED.

Dated at Montpelier, Vermont, this 29th day of August, 2016.

s/James Volz)

) PUBLIC SERVICE

s/Margaret Cheney)

) BOARD

s/Sarah Hofmann)

) OF VERMONT

OFFICE OF THE CLERK

FILED: August 29, 2016

ATTEST: s/Holly R. Anderson
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@vermont.gov)

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.