

STATE OF VERMONT
PUBLIC SERVICE BOARD

Docket No. 7873

Programmatic Changes to the Standard-Offer Program)

and

Docket No. 7874

Investigation into the Establishment of Standard-Offer)

Prices under the Sustainably Priced Energy Enterprise)

Development ("SPEED") Program)

Order entered: 2/4/2015

ORDER RE: OTTER VALLEY SOLAR FARM, LLC, MOTION FOR STANDARD-OFFER CONTRACT

I. INTRODUCTION

On December 19, 2014, Otter Valley Solar Farm, LLC ("Otter Valley") filed a motion with the Public Service Board ("Board") requesting that the Board award Otter Valley a standard-offer contract for its 2.2 MW solar electric generation project that it proposes to develop in Pittsford, Vermont (the "Otter Valley Motion"). In this Order, the Board grants the Otter Valley Motion and authorizes the SPEED Facilitator¹ to enter into a standard-offer contract with Otter Valley for its project.

II. PROCEDURAL HISTORY

The Otter Valley Motion was filed on December 19, 2014.

On December 23, 2014, the Board issued a memorandum seeking comments on the Otter Valley Motion.

1. Under 30 V.S.A. § 8005, the Sustainably Priced Energy Enterprise Development ("SPEED") program was created to achieve the goals of Section 8001 of Title 30. 30 V.S.A. § 8005(b)(1) requires the Board to "name one or more entities" as SPEED Facilitator to become engaged in the purchase and resale of electricity generated within the State by means of SPEED Resources. VEPP Inc. is the designated SPEED Facilitator and operates under a contract with the Board.

On January 9, 2015, the Vermont Department of Public Service ("Department"), Renewable Energy Vermont ("REV"), and Green Mountain Power Corporation ("GMP") each filed comments addressing the Otter Valley Motion.

III. SUMMARY OF OTTER VALLEY MOTION AND COMMENTS RECEIVED

Otter Valley states that unused capacity has recently become available in the original 50 MW allotment of the standard-offer program due to the termination of Bennington Solar Farm's standard-offer contract. Otter Valley represents that it submitted a written proposal under the 2014 standard-offer program request for proposals ("RFP"), that it was included in the standard-offer program reserve, and that it is now at the top of the standard-offer reserve list. Otter Valley argues that awarding it a standard-offer contract is consistent with applicable statute and Board Orders and would facilitate the standard-offer program goal of timely development. In addition, Otter Valley states that it has made financial decisions based upon existing law and Board precedent. Accordingly, Otter Valley requests that the Board award it a standard-offer contract consistent with its bid into the 2014 RFP.

The Department contends that the Otter Valley project meets the eligibility requirements of 30 V.S.A. § 8005a and is the first project in the standard-offer reserve. The Department concurs with Otter Valley that it would be consistent with Vermont law and Board precedent to grant the Otter Valley Motion and thus award Otter Valley a standard-offer contract.

REV states that capacity in the standard-offer program has become available and that the next project in the reserve—Otter Valley—should receive a standard-offer contract. REV contends that businesses need consistency and predictability in understanding how programs, such as the standard-offer program, are implemented. Accordingly, REV urges the Board to follow consistent practices and direct the SPEED Facilitator to make a standard-offer contract available to Otter Valley. REV maintains that such Board action would fulfill the requirements of Section 8005a, would facilitate the goal of timely development, and would be consistent with previous Board Orders.

GMP states that Otter Valley is eligible to receive the previously allocated capacity, agrees with Otter Valley's arguments in support of its Motion, and maintains that it would be

appropriate to award Otter Valley a standard-offer contract. GMP contends that awarding Otter Valley a standard-offer contract would be consistent with Board precedent and is reasonable in the context of the SPEED program.

IV. DISCUSSION AND CONCLUSION

Public Act 45, enacted in May of 2009, created the SPEED standard-offer program, which required that the Board issue standard offers to qualifying SPEED resources with a plant capacity of 2.2 MW or less until the cumulative plant capacity of all such resources equaled or exceeded 50 MW.² On May 18, 2012, Public Act 170 became law. Public Act 170 mandated significant changes to the standard-offer program, including annually increasing the cumulative plant capacity of the standard-offer program until the 127.5 MW capacity of the program is reached, pursuant to a predetermined schedule.³

Section 5(a) of Public Act 170 states:

Prior capacity included. In Sec. 4 (SPEED; standard offer program) of this act, the cumulative capacity amount of 127.5 MW contained in 30 V.S.A. § 8005a(c) includes the 50 MW of capacity previously authorized for the standard offer program under 30 V.S.A. § 8005(b)(2) as it existed immediately prior to the effective date of Sec. 4. Portions of this previously authorized 50-MW capacity that become available after that effective date shall be made immediately available to other eligible new standard offer projects, as defined in Sec. 4 of this act, in addition to the annual increase under 30 V.S.A. § 8005a(c)(1) (standard offer; pace).

Section 8005a(j) of Title 30 states:

In the event a proposed plant accepting a standard offer fails to meet the requirements of the program in a timely manner, the plant's standard offer contract shall terminate, and any capacity reserved for the plant within the program shall be reallocated to one or more eligible plants.

Accordingly, when the standard-offer contract with Bennington Solar Farm was terminated, capacity within the original 50 MW of the standard-offer program became available. Further, pursuant to Section 5a of Act 170, this newly available capacity must be made immediately available to other eligible new standard-offer projects.

2. Public Act No. 45, § 4 (2009 Vt., Bien. Sess.).

3. Public Act No. 170 (2012, Vt., Adj. Sess.).

In an Order dated March 1, 2013, in this proceeding, the Board determined that creating a reserve of capacity from projects that bid into an annual standard-offer RFP as part of the annual allocation, yet are not selected as part of the award group, would facilitate the goal of timely development of standard-offer projects by ensuring that if a project is withdrawn following its selection, another project may be contracted immediately. In its Order of July 18, 2013, in this proceeding, the Board directed the SPEED Facilitator to make any unused previously authorized capacity available to the reserve, including capacity from the original 50 MW and any capacity previously authorized in an annual RFP. Given the applicable language of Section 8005a(j), Section 5(a) of Act 170, and the Board's previous Orders in this proceeding, we have previously concluded that it is appropriate to authorize the SPEED Facilitator to award standard-offer contracts to eligible projects on the reserve list when capacity becomes available in the original 50 MW.

The Department and GMP each represent that upon the termination of the Bennington Solar Farm standard-offer contract, the allocated capacity within the original 50 MW was reduced to 49.78 MW, leaving 220 kW unallocated. The Department observes that prior to the termination of the Bennington Solar Farm standard-offer contract the allocated capacity within the original 50 MW was 50.775 MW. In addition, the Department states that relative to the annual RFP process, the Board has authorized the SPEED Facilitator, as the cap is approached yet not exceeded, to accept an additional standard-offer project even though that last project may exceed the annual capacity allocation. Accordingly, the Department and GMP contend that awarding a standard-offer contract to Otter Valley, even though it would exceed the capacity within the original 50 MW, would be consistent with Board precedent.

Given that capacity has become available in the original 50 MW, and that Otter Valley is the first eligible project on the standard-offer reserve list, we conclude that it is appropriate to grant the Otter Valley Motion. Accordingly, we hereby authorize the SPEED Facilitator to award a standard-offer contract to Otter Valley for its project under the terms that Otter Valley bid into the 2014 RFP.

SO ORDERED.

Dated at Montpelier, Vermont, this 4th day of February, 2015.

<u>s/James Volz</u>)	
)	
)	PUBLIC SERVICE
<u>s/John D. Burke</u>)	
)	BOARD
)	
)	OF VERMONT
<u>s/Margaret Cheney</u>)	

OFFICE OF THE CLERK

FILED: February 4, 2015

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.