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: 2/20/2014

ORDER RE REQUEST FOR RECONSIDERATION AND IMPLEMENTATION OF THE PROVIDER BLOCK

I. INTRODUCTION

In this Order, we address several outstanding issues regarding the implementation of a feature of the Standard Offer Program known as the "Provider Block."[1] First, we address Green Mountain Power Corporation's ("GMP") request for reconsideration of our decision in the March 1, 2013, Order in these Dockets, which required that utilities participating in the Provider Block book the capital costs and operating expenses associated with standard-offer projects "below the line;" that is, we determined that all capital costs and operating expenses associated with these projects should not be added to rate base or recovered in retail rates as an expense.

For the reasons discussed below, we grant GMP's request for reconsideration. Vermont utilities that elect to participate in the RFP process for selection of the provider block may include the costs associated with projects accepted by the Board in their retail rates. In accordance with 30 V.S.A. § 8005a, these costs are then reimbursed by the SPEED Facilitator and allocated to all Vermont distribution utilities, as is the power generated by the utility-sponsored project. However, utilities must develop methodologies to ensure that they do not receive excess cost recovery.

---

1. Pursuant to 30 V.S.A. 8005a(c)(1)(B), each year, ten percent of the standard-offer program is not available for development of renewable energy projects by merchant generators, but is instead reserved for Vermont's utilities. This portion of the program is known as the "Provider Block."

This Order also addresses the issue of whether the Board should establish a different cap on the price of projects participating in the standard-offer program for utility projects than the present cap that applies to other participants. The existing cap, calculated at the avoided cost for each type of renewable generator, was established based upon the cost structure and financing options of merchant generators; utility cost structures may be different. After considering the comments of the parties, we decline to revisit the avoided cost cap for the Provider Block at this time.

II. BACKGROUND

On March 1, 2013, the Public Service Board ("Board") issued an Order implementing the significant changes to the Sustainably Priced Energy Enterprise Development ("SPEED") standard-offer program required by Public Act 170,[2] as codified in 30 V.S.A. §§ 8005a and 8006a. In the March 1 Order, we stated that for standard-offer projects proposed by Vermont retail electric utilities as part of the Provider Block, "all capital costs and operating expenses associated with a standard-offer project shall be booked 'below the line' and shall not be added to rate base or recovered in retail rates as an expense."[3] The Board incorporated this provision to avoid the possibility that a utility could receive excessive cost recovery, by including the project in its cost structure for ratemaking purposes and then receiving added cost recovery from other utilities through the allocation of costs by the SPEED Facilitator. Additionally, in response to comments from utilities suggesting that the avoided costs we established for each type of renewable generating facility may not reflect the costs if a utility were to develop the project, we stated that the Board would open an investigation to determine whether and how to alter the avoided-cost figures applicable to utilities participating in the Provider Block.

On March 19, 2013, GMP filed a letter requesting that we reconsider our decision to exclude the capital costs and operating expenses for standard-offer projects from rates. GMP

2. Public Act 170 (2012, Vt., Adj. Sess.). The text of Act 170 can be found at http://www.leg.state.vt.us/DOCS/2012/ACTS/ACT170.PDF.

3. Dockets 7873 & 7874, Order of 3/1/13 at 65.

represents that the Vermont Public Power Supply Authority ("VPPSA") and the Town of Stowe Electric Department join in their request.

On March 29, 2013, Allco Renewable Energy Limited ("Allco") filed comments on GMP's request.

On April 5, 2013, the Vermont Department of Public Service ("Department") and the Vermont Electric Cooperative, Inc. ("VEC"), filed comments supporting GMP's request.

On April 22, 2013, GMP filed a letter responding to Allco's comments.

On August 8, 2013, the Board issued a memorandum requesting comments on what procedural steps the Board should take to determine avoided-cost figures for the Provider Block.

On September 27, 2013, GMP, Allco, VPPSA and the Department filed responses to the Board's memorandum.

III. GMP'S REQUEST FOR RECONSIDERATION

Positions of the Parties

GMP raises five arguments in support of its reconsideration request. First, GMP contends that customers will benefit from the long-term value of owning a plant if the costs of such projects are allowed to be included in rate base. GMP argues that under the March 1 Order, customers would "pay for the asset all over again" or at least, lose the value of the project, when the contract expired.[4] Second, GMP states that utilities are not competing against private generators. Therefore, concerns about any competitive advantage enjoyed by utilities are misplaced. Third, GMP contends that the rate-making environment is transparent and that any payments from the SPEED Facilitator would reduce a utility's cost-of-service. Fourth, GMP maintains that generation is a core service that should be accounted for in rates. If the costs of standard-offer projects are not included in rates, GMP contends that accounting for standard-offer projects would be cumbersome and that the Board has provided no guidance as to how to account for the myriad of indirect costs associated with these small projects. Finally, GMP states that the accounting treatment for standard-offer projects should reflect that regulated utilities are

4. Letter of Carolyn Browne Anderson, Esq., on behalf of Green Mountain Power Corporation, to Susan M. Hudson, Clerk of the Board, dated March 15, 2013, at 2.

subject to additional regulation under 30 V.S.A. § 248 to which private generators are not subjected.

In the alternative, GMP requests that the Board allow utilities to propose a "pricing methodology, including cost-of-service," in their bids for projects in the Provider Block.

The Department supports GMP's request. The Department contends that ratepayers will benefit from the long-term ownership of standard-offer projects. The Department also represents that the capital expenditures for Provider Block projects included in the proposed cost-of-service could be reduced by the payments from the SPEED Facilitator, which would protect the ratepayer from paying twice for such projects. The Department states that the ratemaking process is "a transparent public process that requires a utility to present known and measurable costs that are prudently incurred."[5] Furthermore, the Department states that projects in the Provider Block will receive greater scrutiny than merchant generator projects during the Section 248 permitting process because Provider Block projects do not benefit from the conditional waiver of some of the Section 248 criteria. Finally, the Department states that municipal utilities do not have the ability to book items "below the line." Therefore, the Department contends, the March 1 Order cannot apply to municipal utilities.

VEC does not support or oppose GMP's request for reconsideration. VEC represents that it lacks the ability to book project costs "below the line."[6] Accordingly, VEC interprets the March 1 Order to essentially exclude VEC from participating in the Provider Block. VEC further states that even if GMP's request is granted, VEC cannot participate in the Provider Block on equal footing because: (1) VEC will not receive a rate of return for the project investment that is equivalent to what an investor-owned utility would receive; and (2) VEC will pay above-market standard-offer rates to the project's utility-owner "who is already recovering the cost of the project in its rates."[7]

---

5. Letter of Jeanne Elias, Esq., on behalf of the Vermont Department of Public Service, to Susan M. Hudson, Clerk of the Board, dated April 5, 2013.

6. Letter of Randy Pratt, on behalf of Vermont Electric Cooperative, Inc., to Susan M. Hudson, Clerk of the Board, dated April 5, 2013 (received by email).

7. *Id*.

Allco does not articulate a position with respect to GMP's request, but states that utilities "will be unable to pass through . . . [the benefits of a standard-offer project] in rates, as is effectively done with a power purchase agreement ('PPA') rate," and therefore, "the cost to ratepayers of a utility-owned project would be, by definition, much higher."[8]

Discussion

In our March 1 Order, we required that utility owned projects that participate in the standard-offer program be booked below the line. As we explained in that ruling:

> Under the standard-offer contract, the SPEED Facilitator will pay the provider for all kWhs produced at the contract price. The contract price is the price bid by the provider in the RFP, and, at a maximum, the avoided cost developed in this proceeding. This price includes a rate of return that is intended to induce distribution utilities to propose and develop projects at the lowest feasible cost. The avoided cost also includes all expenses associated with the project, including the development costs and on-going operation and maintenance expense. Therefore, allowing a provider to earn an additional rate of return on the capital investment or to recoup operational costs would result in a windfall to the provider and result in ratepayers paying the same costs twice. This is not appropriate. Accordingly, capital investment or operational costs associated with a project may not be included in a utility's rates.[9]

We adopted this provision in part to address a concern that projects in the Provider Block could unfairly compete with other projects by hiding costs in utility rates. Thus, the Board's Order required that all costs for a project's construction and operation should be reflected in the contract price, instead of included in a utility's cost of service, which was not considered in the RFP process.

After considering the comments of the parties, we are persuaded that we should alter our previous ruling and permit utilities to include standard-offer projects in the Provider Block in their rates. We reach this conclusion for several reasons. First, our previous ruling had the

---

8. Letter of Thomas Melone, on behalf of Allco Renewable Energy Limited, to Susan M. Hudson, Clerk of the Board, dated March 29, 2013. Allco's comments concern the relative merits of utility-owned versus merchant-owned renewable generation. We are obligated by statute to implement the Provider Block and, therefore, we are unable to consider the issues raised by Allco. Accordingly, we do not address Allco's comments further.

9. Order of 3/1/13 at 37–38.

unintended consequence of precluding municipal utilities and cooperatives from participating in the standard-offer program. Effectively, this would mean that only GMP could bid each year. This outcome is not consistent with a market-based mechanism designed to produce the lowest cost through competitive bidding.

Second, we conclude that our concerns about the potential for double cost recovery can be adequately addressed in other ways. As both GMP and the Department assert, the accounting procedures, including ratemaking, can help prevent undue cost recovery. This will occur primarily by reducing a utility's cost-of-service by the amount of the contract payments that utility receives from the SPEED Facilitator. Nonetheless, the SPEED Facilitator payments will include compensation to the owning utility for a return on equity, which, at least in GMP's case, the Company would already be earning through inclusion of the project in rate base. Accordingly, we require that any utility desiring to develop standard-offer projects file a proposed accounting treatment for Board review and approval that demonstrates that the utility will not realize a double recovery for any portion of the standard-offer project's construction or operation. This accounting proposal should be submitted at such time that the utility proposes a project in response to a SPEED Facilitator RFP. Any interested person would then have the opportunity to submit comments on the proposed accounting methodology not later than ten business days after it is filed.

Our revised approach to the accounting treatment of utility-owned standard-offer projects will also address the concerns raised by GMP and the Department that ratepayers should derive all value associated with a standard-offer project after the contract period. As the project is included in the utility costs, any revenues derived after the end of the standard-offer treatment would also be included in the ratemaking process.

Although we will permit utilities to include the investment and expenses associated with standard-offer projects in regulated rates, two concerns remain. Under the RFP process for selecting projects, the lowest cost project will be awarded the contract (or multiple projects if they are within the Provider Block cap). A utility could submit a bid that is below its costs to develop the project. In this instance, the utility's ratepayers would be subsidizing the project. GMP's filing included a proposal to submit a pricing methodology for Board approval, which

could be used for bids during the RFP process. Such a submission by GMP or any other utility would address the concern that bid prices would be below anticipated cost. Accordingly, we require any utility seeking to develop a standard-offer project that will be bid into the Provider Block to submit a pricing methodology that assures the bid equals or exceeds the anticipated costs of the project. As with the proposed accounting treatment to avoid excessive cost recovery, the pricing methodology must be filed at such time as the utility submits a bid in response to an RFP. Any interested person would then have the opportunity to submit comments on the pricing methodology not later than ten (10) business days after it is filed.

It is also possible that a utility could be the lowest price bidder in the annual RFP with a bid that was materially in excess of its anticipated costs (yet still at or below the avoided cost cap). Vermont ratepayers will pay, through the SPEED Facilitator, whatever price the utility proposing a standard-offer project bids into the RFP. In these cases, ratepayers in all other utilities would end up contributing to the above-cost project. This presents the prospect that these ratepayers may pay higher rates for the Provider Block project than warranted, effectively cross-subsidizing ratepayers in the host utility. Nonetheless, Section 8005a would appear to permit this eventuality. That section makes clear that the costs of a standard-offer contract are paid by the SPEED Facilitator and allocated to all Vermont utilities on a pro-rata basis. The statute makes no provision for altering such allocation if a project is above its costs. Moreover, this structure will also encourage more utilities to develop projects at their costs to avoid the potential for paying for another utility's project. Nonetheless, we will continue to monitor the bids to determine whether the competitive pressures of the RFP process are sufficient to push bid prices close to costs.

IV. Provider Block Avoided Cost Cap

Positions of the Parties

In response to the Board's request for comments on what procedures to follow in setting new avoided-cost caps for the Provider Block, VPPSA, GMP and the Department recommend not setting new avoided-cost caps at this time. Broadly put, the parties think that given the small size of the Provider Block, any effort to set new caps would not create significant value for

ratepayers. Allco recommends that the avoided cost cap should be the same for the Provider Block as the Private Developer Block.

Discussion and Conclusion

In the March 1 Order, we stated that we would revisit the issue of whether the Board should set a utility-specific avoided cost cap for Provider Block projects. In light of the small size of the Provider Block and the absence of any likely value at the present time, we will defer establishing a different cap that reflects differences between utility cost structures and those of other participants in the standard-offer program. However, as we stated above, we will continue to monitor the development of the program and the bids put forth by utilities. If it appears that adjusting the avoided cost cap for new standard-offer projects is necessary to avoid having ratepayers pay excessive costs, we will reevaluate the cap.

V. ORDER

IT IS HEREBY ORDERED, ADJUDGED AND DECREED by the Public Service Board of the State of Vermont that Green Mountain Power Corporation's request for reconsideration is granted. It is further ordered that:

1. Any utility proposing to include the costs of developing a standard-offer project in its rates shall file an accounting treatment for approval by the Public Service Board which demonstrates that utility has not realized a double recovery for any portion of the standard-offer project's construction or operation.

2. Any utility submitting a bid under the Provider Block RFP process shall file a proposal for pricing methodologies that assures the bid equals or exceeds the anticipated costs of the project.

3. The filings required by paragraphs 1 and 2 of this Order shall be submitted at the time the utility submits its bid for a Provider Block project. Interested persons may file comments on such filings within ten (10) business days after the filing.

SO ORDERED.

Dated at Montpelier, Vermont, this 20th day of February 2014.

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

OFFICE OF THE CLERK

FILED: February 20, 2014

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.