

STATE OF VERMONT  
PUBLIC UTILITY COMMISSION

Case No. 19-4466-INV

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Investigation to review the avoided costs that serve as prices for the standard-offer program in 2020	
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Order entered: 03/04/2020

**ORDER RE 2020 STANDARD-OFFER PROGRAM**

In today's Order, the Vermont Public Utility Commission ("Commission") adopts the conclusions and recommendations made in the Hearing Officer's proposal for decision.

The proposal for decision was circulated to the participants for review and comment. The participants' comments and our determinations are addressed in the Commission discussion and conclusions section below.

**PROPOSAL FOR DECISION**

**I. INTRODUCTION**

Pursuant to 30 V.S.A. § 8005a(f)(3), the Commission is required on an annual basis to review the avoided costs that serve as prices for the standard-offer program. The standard-offer prices serve as price caps in the request for proposals ("RFP") to fill the available annual capacity under the standard-offer program for the Developer Block and Provider Block.

In this proposal for decision, I recommend that the Commission make no changes to the standard-offer prices established in 2019. I also make recommendations with respect to the schedule for the 2020 RFP.

**II. BACKGROUND**

Established in 2009, pursuant to 30 V.S.A. § 8005a, the standard-offer program promotes the rapid deployment of small renewable generation. The Commission has implemented the program through previous Orders in Dockets 7523, 7533, 7780, 7873, 7874, and 8817, Case No. 17-3935-INV, and Case No. 18-2820-INV.

Under the program, Vermont distribution utilities are required to buy renewable power from an eligible generator at a specified price for a specified period of time. Program costs are distributed among Vermont utilities based on their *pro-rata* share of electric sales. The program

is administered by a statewide purchasing agent (“Standard Offer Facilitator”) appointed by the Commission.<sup>1</sup>

The standard-offer program was created with a 50 MW initial program capacity that was expanded to 127.5 MW in 2012. Eligible projects can be no larger than 2.2 MW in size and include the following technologies: solar; wind with a capacity of 100 kW or smaller (“small wind”); wind with a capacity greater than 100 kW up to 2.2 MW (“large wind”); farm methane; landfill methane; food waste anaerobic digestion; biomass; and hydroelectric. Eligible projects selected through a lottery received a standard-offer contract, and the contract price was based on technology-specific avoided costs.

In 2012, statutory changes were made to the program that included an increase in the available program capacity, distributed annually as follows: 5 MW in 2013-2015; 7.5 MW in 2016-2018; and 10 MW available in 2019-2022. A specific portion of each year’s capacity is reserved for projects proposed by Vermont utilities and is referred to as the Provider Block, with the remainder referred to as the Developer Block. The 2012 changes also: (a) require allocation of available capacity among different technology categories; (b) allow market-based pricing methodology; and (c) require review of avoided-cost prices every year.

Since 2013, the Commission has issued an annual RFP to fill the available annual capacity under the program. Issued by the Standard Offer Facilitator, the annual RFP specifies annual program capacity, technology allocations, and avoided-cost price caps.<sup>2</sup> Under the RFP, lowest-priced bids are awarded annual capacity. Farm methane projects remain outside the program cap (i.e., no restrictions on the number of projects that can participate in the program) and therefore do not have to participate in the annual RFP.

### **III. PROCEDURAL HISTORY**

In 2017, the Commission established a mechanism for the allocation of available standard-offer program capacity pursuant to Section 8005a(c)(2), and determined the technology-specific avoided costs that served as price caps on the standard-offer projects solicited through the 2017 RFP pursuant to Section 8005a(f)(3).<sup>3</sup> In addition, the Commission

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<sup>1</sup> VEPP Inc. (“VEPP”) serves as the Standard Offer Facilitator under contract to the Commission.

<sup>2</sup> The Standard Offer Facilitator maintains a website for the program that includes the annual RFP and other information: <http://www.vermontstandardoffer.com/>.

<sup>3</sup> *Order Re 2017 Technology Allocation and Price Caps for the Standard-Offer Program*, Docket 8817, Order of 3/2/17; *Order Re Motions to Alter or Amend and Motions to Reconsider*, Docket 8817, Order of 3/29/17; *Order Re Second Motions to Alter or Amend*, Docket 8817, Order of 4/2/17.

determined the avoided costs that served as the prices for farm methane projects under the standard-offer program.<sup>4</sup>

On November 7, 2019, as required by Section 8005a(f)(3), the Commission opened this investigation to conduct a review of the avoided costs that serve as price caps on the standard-offer projects solicited in the 2020 RFP and the avoided costs that will serve as the prices for farm methane projects under the standard-offer program.<sup>5</sup>

In the November 7, 2019, Order, based on its review of the results of the 2019 RFP, the Commission retained the technology allocation used in 2018 and 2019 for the 2020 RFP.<sup>6</sup> Accordingly, the investigation for the 2020 program was limited to the review of the standard-offer prices.

On November 26, 2019, Green Mountain Power Corporation (“GMP”) filed comments that included recommended price caps.

On December 2, 2019, the Vermont Department of Public Service (“Department”) filed recommended price caps.

On December 2, 2019, Vermonters for a Clean Environment filed comments noting that the Federal Energy Regulatory Commission is proposing changes to the Public Utility Regulatory Policies Act regulations and that the proposed changes may be helpful in the context of this proceeding.

On December 5, 2019, I conducted a workshop to discuss the avoided costs that serve as prices for standard-offer projects.

On December 18, 2019, the Department, GMP, and AllEarth Renewables, Inc. separately filed reply comments.

No other comments have been received.

This proceeding has not used contested-case procedures, and all interested persons have been afforded the opportunity to participate through a workshop and written filings. Because this process was not a formal case, there were no parties and no deadlines for intervention. In

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<sup>4</sup> Pursuant to Section 8005a(g), farm methane projects remain outside the programmatic cap.

<sup>5</sup> *Order Opening Investigation, Establishing Schedule, and Notice of Workshop*, Case 19-4466-INV, Order of 11/7/19.

<sup>6</sup> For the 2019 RFP, the Commission adopted a technology allocation under which the Developer Block included a Price-Competitive Developer Block that was available to projects of any technology category, awarded on bid price. The remainder of the Developer Block capacity was allocated to the Technology Diversity Developer Block, which was allocated on an equal basis to non-solar technology categories (except landfill gas), awarded on bid price within each category.

this proposal for decision, I use the term “participants” to refer to the individuals and entities who participated in some manner in this process.

#### **IV. DISCUSSION**

##### **Standard-Offer Price Caps**

As discussed below, I am recommending that the Commission make no changes to the standard-offer price caps established in 2019.

Both the Department and AllEarth Renewables recommend no changes to the avoided costs that serve as price caps on standard-offer projects established by the Commission in 2019. The Department contends that several of the assumptions used to calculate the existing price caps have changed (i.e., inflation rate, tax rate, depreciation expense, and cost of photovoltaic modules), but in offsetting directions. The Department maintains that the existing price caps continue to represent a reasonable estimate of the cost to build, and enable developers working on technologies other than solar to continue to participate in the standard-offer program.

The Department notes that the 2019 RFP under the Price-Competitive Developer Block yielded nineteen eligible solar bids for a total of 41.8 MW of capacity. The bids ranged between \$0.0838 per kWh and \$0.1199 per kWh. Four projects totaling 8.8 MW were awarded standard-offer contracts, with the highest contract price awarded at \$0.0919 per kWh. The Department contends that the existing solar price cap is at a level that encourages developer participation and results in competitively priced bids.

Under the Technology Diversity Developer Block, the 2019 RFP yielded seventeen bids for a total of 2.974 MW of capacity. Fourteen of the bids were for small wind projects for a total of 1.0 MW of capacity. All bids in this block were awarded standard-offer contracts. The Department notes that the 2019 RFP resulted in bidding activity within 3% of the price caps, suggesting that there is developer interest at the existing price caps. The Department maintains that the existing price caps are achieving the technology diversity goals of the program.

With respect to the Provider Block, the Department maintains that this block elicits less competition and that bids in the past RFPs have been exclusively for solar projects at or near the existing price cap, which are significantly higher than bids for similar solar projects in the Price-Competitive Developer Block. The Department recommends that solar prices awarded in the Provider Block be capped at 110% of the highest awarded standard-offer contract under the Price-Competitive Developer Block, not to exceed \$0.13 per kWh. In 2019, this would have resulted

in an award price of \$0.1011 cents per kWh compared to the actual Provider Block contract prices of \$0.12 and \$0.124 cents per kWh. The Department maintains that this methodology would likely lower the price of the contracts awarded for the Provider Block and ensure that bids are competitively priced.

GMP contends that past RFP results indicate that there has been a competitive market for solar projects and that the existing solar price cap of \$0.13 per kWh significantly exceeds the price that bidders with well-sited projects are presently able to offer. GMP recommends setting the solar price cap for 2020 and subsequent years using the lesser of: (a) the previous year's avoided-cost price cap; or (b) 115% of the weighted average of all bids that were awarded standard-offer contracts or placed in the Reserve Group in the previous year's RFP. This proposal would result in an avoided-cost cap of \$0.1072 per kWh for the 2020 RFP, which GMP recommends apply to both the Price-Competitive Developer Block and Provider Block. GMP argues that this solar price cap is reflective of the current market trends of declining prices over the past five years.

With respect to the price caps for all technologies other than solar, GMP contends that the 2019 RFP results (limited project bids at or near the price caps) suggest that there is limited competition for these technologies, and it is difficult to know whether projects could potentially be developed at prices lower than the current price caps. GMP believes that the avoided-cost caps for these technologies exceed the value of the various products that these projects will provide to Vermont electric customers. However, GMP further states that because these projects have not yet completed permitting and construction, it seems reasonable to maintain the existing price caps for the 2020 RFP.

In past standard-offer proceedings, the Commission established standard-offer prices based on assumptions that balance between the statutory directive to ensure sufficient incentive for rapid deployment and the directive to ensure that the incentive is not excessive and thereby unnecessarily costly for ratepayers. This means that projects are efficiently sited and financed so as to avoid excessive costs to electric ratepayers.<sup>7</sup>

Based on a review of past RFP results and the participants' recommendations, I recommend no changes to the existing standard-offer price caps established in 2019. Most

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<sup>7</sup> See Docket 7533, Order of 1/15/10; Docket 7780, Order of 1/23/12; Docket 7874, Order of 3/7/16; Docket 8817, Order of 3/2/17; Case No. 17-3935-INV, Order of 3/16/18; and Case No. 18-2820-INV.

participants recommend that the Commission make no changes to the standard-offer price caps used for Developer Block projects. The existing price caps should continue to balance the statutory directive to ensure sufficient incentive for rapid deployment against ensuring that the incentive is not excessive and thereby unnecessarily costly for ratepayers. The results of the 2019 RFP under the Price-Competitive Developer Block indicate that the existing solar price cap is at a level that encourages developer participation and results in competitively priced bids. The 2019 results under the Technology Diversity Developer Block indicate that the existing price caps are achieving the technology diversity goals of the program. Using the existing price caps is likely to produce similar results for the 2020 RFP because the existing prices continue to represent a reasonable estimate of the cost to build.

With respect to the Provider Block, I recommend that the Commission not adopt the Department's proposal that an adjustment be made to the prices offered to Provider Block projects based on the results of the RFP. Instead, as in past RFPs, I recommend that the same price caps be used for the Developer Block and Provider Block. The Department raises the concern that the bids in past RFPs for the Provider Block may not have been competitively priced. The Department notes that past bids have been exclusively for solar projects at or near the existing price cap and significantly higher than bids for similar solar projects in the Price-Competitive Developer Block. This concern does not support separate or adjusted price caps for Developer Block projects. Standard-offer prices represent the cost to build an efficiently sited and financed project, and these costs should be the same for Developer and Provider Block projects. Thus, the price caps in both blocks should be the same. The concern with respect to competition and the reasonableness of the bid price is more appropriately addressed in the certificate of public good process, under which the review of Provider Block projects may include economic benefit and least-cost integrated planning.

In summary, I recommend that the Commission establish the following avoided costs to serve as price caps for the 2020 RFP:

- Biomass: \$0.125 per kWh (levelized over 20 years)
- Landfill Gas: \$0.090 per kWh (levelized over 15 years)
- Wind > 100 kW: \$0.116 per kWh (fixed for 20 years)
- Wind ≤ 100 kW: \$0.258 per kWh (fixed for 20 years)
- New Hydroelectric: \$0.130 per kWh (fixed for 20 years)

- Food Waste Anaerobic Digestion: \$0.208 (fixed for 20 years)
- Solar: \$0.130 per kWh (fixed for 25 years)

#### Farm Methane Prices

Farm methane projects remain outside the standard-offer programmatic cap. No party provided comments on the prices for these projects. I recommend that the Commission adopt the 2019 prices for use in 2020. Accordingly, I recommend that the Commission establish an avoided cost of \$0.145 per kWh, fixed over the term of the 20-year contract, for large farm methane projects, and an avoided cost of \$0.199 per kWh, fixed over the term of the 20-year contract, for small farm methane projects.

#### RFP Timeline

To meet the 2020 requirements of Section 8005a(c), as discussed in the November 7, 2019, Order opening this proceeding, the Commission anticipated that it would direct the Standard Offer Facilitator to issue an RFP to solicit standard-offer projects by April 1, 2020.

I recommend that the Commission direct the Standard Offer Facilitator to issue an RFP shortly after the Commission's determination in this proceeding and that bid proposals be due on May 1, 2020, consistent with past RFP schedules.

#### V. CONCLUSION

In this proposal for decision, pursuant to Section 8005a(f)(3), I recommend that the Commission make no changes to the avoided-cost prices established in 2019. In addition, I recommend that the Commission adopt an RFP schedule that requires submittals by May 1, 2020.

I have circulated this proposal for decision to the participants for their review and comment.

Dated at Montpelier, Vermont, this

February 10, 2020

Mary Jo Krolewski

Mary Jo Krolewski  
Hearing Officer

## **VI. COMMISSION DISCUSSION AND CONCLUSIONS**

Allco Renewable Energy Limited and PLH LLC (collectively, “Allco”) and the Department separately filed comments on the proposal for decision.

Based on our review of the proposal for decision and the participants’ comments, we adopt the conclusions and recommendations of the Hearing Officer. The participants’ comments and our determinations are addressed below.

### **Price Caps for the Provider Block**

The Department proposes that the Commission adopt its recommendation that the standard-offer price caps for the Provider Block be limited to 110% of the highest awarded project in the Price-Competitive Developer Block. The Department argues that capping the prices of the Provider Block is a more efficient and less expensive method to ensure lower standard-offer costs during the RFP and contract award process, and to ensure that the program is consistent with the statutory “goal of ensuring timely development at the lowest feasible cost.”<sup>8</sup> The Department further maintains that 30 V.S.A. § 248 siting cases are a less efficient means to resolve Provider Block price concerns because they may result in extensive litigation. In support of its argument, the Department notes the difficulties of determining whether a project is consistent with a utility’s least-cost integrated plan and that the review of a standard-offer project’s economic benefit to the state and its residents is conditionally waived for standard-offer cases.<sup>9</sup>

We accept the Hearing Officer’s recommendation and do not adopt the Department’s proposal that an adjustment be made to the prices offered to Provider Block projects based on the results of the RFP. The concern with respect to competition and the reasonableness of the bid price does not support separate or adjusted price caps for Provider Block projects. Standard-offer prices represent the cost to build an efficiently sited and financed project, and these costs should be the same for Developer and Provider Block projects. Thus, the price caps in both blocks should be the same. While higher-priced Provider Block bids may raise concerns about the reasonableness and competitiveness of a bid, there may be reasonable explanations for the difference in price given that a bid price is comprised of several factors (e.g., installation costs,

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<sup>8</sup> 30 V.S.A. § 8005a(f).

<sup>9</sup> *In Re: Simplified Procedures for Renewable Energy Plants with a Capacity Between 150 kW and 2.2 MW, Section 8007(b)*, Order of 08/31/2010 at 8.



operating costs, replacement costs, decommissioning costs, and revenue streams). The review of the reasonableness of a bid is difficult in an RFP process without adding significant complexity to the process. In light of this, we decline to alter the bid price as the Department requests. We conclude that the reasonableness of the bid price is more appropriately addressed in the certificate of public good process.

Review Under 30 V.S.A. § 8005a(f)(3)

Allco argues that the Commission is required, pursuant to 30 V.S.A. § 8005a(f)(3), to annually review the pricing mechanism and standard-offer prices. Allco argues that the RFP mechanism violates federal law and the statutory goal of timely development at the lowest feasible cost.<sup>10</sup> Allco also raises concerns about the appropriateness of the technology allocation in the 2020 RFP.

We conclude that the arguments and concerns raised by Allco with respect to the market-based mechanism and technology allocation remain outside the scope of this proceeding. As stated in the November 7, 2019, Order, pursuant to Section 8005a(f)(3), the scope of this proceeding was limited to the review of possible adjustments to the avoided costs established for standard-offer projects. As an initial matter, Allco has waived this argument because it did not challenge the scope of this proceeding at the time we issued the November 7, 2019, Order, even though that Order sought comments and even though other participants filed comments on that Order. Further, in previous Orders and other proceedings, the Commission has addressed the standard-offer program's consistency with federal law and the appropriateness of the market-based mechanism and technology allocation, and none of the arguments presented by Allco warrant revisiting these issues.<sup>11</sup>

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<sup>10</sup> Allco cites to several decisions in support of its claim: *Winding Creek Solar LLC v. Peterman*, 932 F.3d 861 (9th Cir. 2019); *Crosby v. Nat'l Foreign Trade Council*, 530 U.S. 363, 373 (2000); *Pac. Gas & Elec. Co. v. State Energy Res. Conserv. & Dev. Comm'n*, 461 U.S. 190, 204 (1983); *Reid v. Johnson & Johnson*, 780 F.3d 952, 964 (9th Cir. 2015); *City of N.Y. v. FCC*, 486 U.S. 57, 63-64 (1988); and *Allco Finance Ltd. v. Klee*, 805 F.3d 89, 91 (2d Cir. 2015).

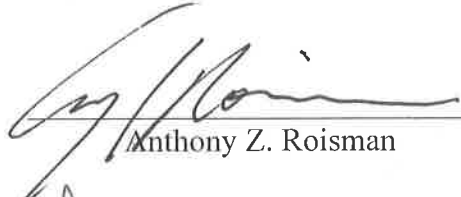
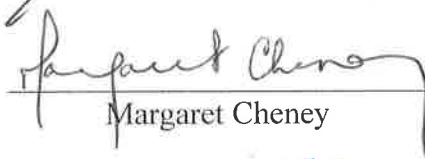

<sup>11</sup> See *Order Re Establishment of Standard-Offer Prices and Programmatic Changes to the Standard-Offer Program*, Dockets 7873 and 7874, Order of 3/1/13; *Order Re Technology Allocation Issues*, Dockets 7873 & 7874, Order of 2/7/14; *Order Re 2015 Technology Allocation*, Dockets 7873 & 7874, Order of 2/17/15; *Order Re Standard Offer Program Technology Allocation*, Dockets 7873 & 7874, Order of 2/12/16; *Order Re 2017 Technology Allocation and Price Caps for the Standard-Offer Program*, Docket 8817, Order of 3/2/17; *Order Re Motions to Alter or Amend and Motions to Reconsider*, Docket 8817, Order of 3/29/17; *Order Re Second Motions to Alter or Amend*, Docket 8817; Order of 4/2/17; *2018 Programmatic Adjustments to the Standard-Offer Program*, Case No. 17-3935-INV, Order of 3/16/18; and *Order Re 2019 Standard-Offer Program*, Case No. 18-2820-INV, Order of 1/16/19.

## **VII. ORDER**

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED by the Public Utility Commission (“Commission”) of the State of Vermont that:

1. The conclusions and recommendations of the Hearing Officer are adopted.
2. Effective for any standard-offer contract executed after March 1, 2020, the standard-offer prices for renewable power under 30 V.S.A. § 8005a(b)(2) shall be determined through a request for proposals issued by the Standard Offer Facilitator and shall be no higher than the avoided costs as specified in this Order.
3. Effective for any standard-offer contract executed after March 1, 2020, pursuant to 30 V.S.A. § 8005a(f)(2), the following avoided costs will serve as the prices for farm methane projects under the standard-offer program: (1) \$0.145 per kWh fixed over the 20-year contract for projects with a nameplate capacity greater than 150 kW; and (2) \$0.199 per kWh fixed over the 20-year contract for projects with a nameplate capacity less than or equal to 150 kW.
4. The Commission will direct the Standard Offer Facilitator to issue a request for proposals to solicit standard-offer projects within 14 days of this Order. Bid proposals will be due on May 1, 2020.

Dated at Montpelier, Vermont, this 4th day of March, 2020.

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Anthony Z. Roisman	)	PUBLIC UTILITY
	)	
	)	
Margaret Cheney	)	COMMISSION
	)	
	)	
Sarah Hofmann	)	OF VERMONT

OFFICE OF THE CLERK

Filed: March 4, 2020

Attest:   
Clerk of the Commission

*Notice to Readers: This decision is subject to revision of technical errors. Readers are requested to notify the Clerk of the Commission (by e-mail, telephone, or in writing) of any apparent errors, in order that any necessary corrections may be made. (E-mail address: [puc.clerk@vermont.gov](mailto:puc.clerk@vermont.gov))*

*Appeal of this decision to the Supreme Court of Vermont must be filed with the Clerk of the Commission within 30 days. Appeal will not stay the effect of this Order, absent further order by this Commission or appropriate action by the Supreme Court of Vermont. Motions for reconsideration or stay, if any, must be filed with the Clerk of the Commission within 28 days of the date of this decision and Order.*

PUC Case No. 19-4466-INV - SERVICE LIST

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