

**STATE OF VERMONT  
BEFORE THE  
PUBLIC UTILITY COMMISSION**

<b>Investigation to review the 2021 implementation of the standard-offer program</b>	) ) )	<b>Case No. 20-2935-INV</b>
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**REPLY COMMENTS OF ALLCO RENEWABLE ENERGY LIMITED  
AND ALLCO FINANCE LIMITED**

Allco Renewable Energy Limited and Allco Finance Limited (collectively, “Allco”) respectfully submit the following reply comments and evidence in response to the Order dated December 21, 2020 (the “Order”) of the Public Utility Commission (“Commission”).

**I. The Department’s Supplemental Legal Comments.**

At page 5 of its supplemental comments of January 14, 2021, the Department states:

Much more importantly, as observed within the Department’s December 11, 2019 comments in this proceeding, the Federal Energy Regulatory Commission’s (“FERC”) recent Public Utilities Regulatory Policies Act (“PURPA”) rulemaking orders specifically reference California cases on multi-tiered rates, which FERC has explicitly authorized in its new rule, and the new rule also explicitly authorizes competitive solicitations.

The Department’s observations regarding the new FERC PURPA rule are correct. The conclusion it draws, however, is not. The California cases apply to an administratively set price, not an auction or market-based mechanism. Thus, as Allco observed in its opening comments, the Commission would be within its authority to administratively set avoided cost prices based upon a tiered-mechanism. If, however, an auction is used (as is proposed here) to set avoided costs, then the auction must be open to all sources on a level playing field, including fossil fuels. Order No. 872, 172 FERC ¶ 61,041 (2020) ¶¶411, 413, 433, Order 872-A, 173 FERC ¶ 61,158 (2020), ¶ 226. The FERC’s new rule also makes it clear that if the market-based mechanism is used, then the provider block (and the other technology categories) cannot separately exist and all

projects must compete on a level playing field. The FERC's new rule also does not alter the prohibition of caps on the amount of capacity of contracts, unless the utilities have no more capacity needs in the future, which is not the case in Vermont. The market-based mechanism as proposed for the Standard Offer cycle is not consistent with federal law as Allco stated in its opening comments.

Furthermore, the 15% cap suggested by the Department is just as arbitrary of the incremental caps declared unlawful in *Winding Creek Solar LLC v. Peterman*, 932 F.3d 861 (9th Cir. 2019). The FERC's new rule does not change that result. The 15% cap bears no relation to actual avoided costs.

## **II. The Department's Proposed Administratively Set Price.**

At page 4 of its supplemental comments, the Department proposes at \$2.10/Wac cost for an avoided cost calculation. The Department then states: "Using this installed cost, a 19% capacity factor, and a 0.5% annual degradation factor, the price cap would be \$0.103/kWh."

The Department has not provided a spreadsheet or other document that shows how it got from a \$2.10 per watt ac installed costs to an energy rate of \$0.103/kWh. Allco requests that the Department provide its modeling to all participants so that it can be reviewed, and that all participants be given the opportunity to comment on the Department's assumptions and methodology. That has been the practice in prior years.

We would note that the 19% capacity factor (based upon the NREL 1.15DC/AC ratio assumed by the Department) is closer to 14.5% previously assumed by the Department in prior models. A 16% capacity factor for some parts of the State might be realistic based upon certain

assumptions, but a 19% capacity factor is not justified without a detailed explanation and evidence from the Department.

Also as noted on page 12 of Exhibit E of Allco's opening comments, in 2017 the Department based its avoided cost calculation for solar on an installed cost of \$1.82/watt (presumably DC which matches closely with the \$1.83/watt cited in the NREL report referenced by the Department) ("The calculation of the 2017 RFP bid cap assumed an installation cost of \$ 1.82 per Watt, as previously recommended by PSD. This was modestly lower than the assumption used in the calculation of the 2016 RFP bid cap, which was informed by Vermont-specific market research performed in CY 2015 by CESA.") That 2017 number assumed a 30% ITC whereas now the assumption cannot be more than 26%. The Department calculated a 13 cents/kwh rate based upon those assumptions.

The Department's conclusion that a \$.103/kwh rate is appropriate is (without additional evidence from the Department) simply unjustified and contradicted by the evidence the Department has presented in prior years. We have included with this filing the excel model the Department presented in 2015, which was based upon an installed AC cost of \$1.85 per watt. There again, the resultant rate for solar was 13 cents per kwh.

Respectfully submitted,

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