

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 22-3944-PET

VEPP Inc. request for approval to continue the purchase power agreement between Ryegate Associates and VEPP Inc.	
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Order entered: 10/26/2022

ORDER AUTHORIZING SIX-MONTH EXTENSION OF PURCHASE POWER AGREEMENT

I. INTRODUCTION

Vermont Public Act No. 155 (“Act 155”) made several changes to the requirements under 30 V.S.A. § 8009 for the purchase of baseload renewable power by Vermont retail electricity providers. VEPP Inc. filed a request that the Commission approve an amendment to the existing purchase power agreement between Ryegate Associates and VEPP Inc. to reflect the changes made to Section 8009 by Act 155.

Ryegate Associates does not agree with portions of VEPP Inc.’s proposed amendment and requests a six-month extension to allow participants to negotiate and identify areas of agreement.

In today’s Order, the Vermont Public Utility Commission (“Commission”) authorizes VEPP Inc. to extend for six months the existing purchase power agreement, reflecting the changes made to Section 8009.

II. BACKGROUND AND PROCEDURAL HISTORY

Pursuant to 30 V.S.A. § 8009, Vermont retail electricity providers are required to purchase the provider’s pro rata share (based on the total Vermont retail kWh sales) of the baseload renewable power generated by the biomass facility located in Ryegate, Vermont. Section 8009 also requires the Commission to determine the price to be paid for the baseload renewable power portfolio requirement.

In an October 29, 2012, Order in Docket 7782, the Commission established a 10-year price schedule for the Ryegate biomass facility that was represented by a levelized price of \$0.100 per kWh and included a fuel pass-through mechanism, by which the price would be

adjusted to reflect changes in Ryegate's fuel costs. The price schedule ranged from \$0.096 per kWh in year one to \$0.106 per kWh in year ten.

In a December 12, 2013, Order, the Commission approved an agreement under which Ryegate Associates and the Vermont distribution utilities would share the expected additional renewable energy credit revenues if selective catalytic reduction ("SCR") (to control NOx emissions) was installed at the Ryegate biomass plant.

On October 24, 2014, at the Commission's direction, VEPP Inc. executed a purchase power agreement with Ryegate Associates that reflected the determinations made in the October 29, 2012, and December 12, 2013, Orders. The term of the purchase power agreement ends on November 1, 2022.

In 2022, Act 155 made several changes to the requirements under 30 V.S.A. § 8009 for baseload renewable power. Act 155 included changes to the purchase term and rate of the baseload renewable power requirement, and under certain conditions, allows the Commission to approve the plant owner retaining renewable energy credits and attributes.

On August 30, 2022, VEPP Inc. filed a request that the Commission approve an amendment to the existing purchase power agreement between Ryegate Associates and VEPP Inc. to reflect the changes made to Section 8009 by Act 155.

On October 14, 2022, Ryegate Associates requested that the Commission authorize a six-month extension of the existing purchase power agreement, on year-ten terms, subject to a "true up" that would reconcile any differences between the price and terms of the existing agreement and those amended to reflect changes made by Act 155. Ryegate Associates stated that it did not agree with portions of VEPP Inc.'s proposed amendment and stated that the six-month extension would provide additional time for the participants to negotiate and identify areas of agreement.

On October 14, 2022, Green Mountain Power Corporation ("GMP") filed comments supporting the six-month extension.

On October 19, 2022, I held a status conference to discuss the proposed six-month extension of the existing purchase power agreement. Participants at the status conference included Ryegate Associates, the Vermont Department of Public Service ("Department"), GMP, Vermont Public Power Supply Authority ("VPPSA"), Vermont Electric Cooperative, Inc. ("VEC"), and VEPP Inc. Ryegate Associates indicated that while it agreed with most of the

terms in the proposed amendment, it did not agree with the rate and the allocation of renewable energy credits in VEPP Inc.'s proposed amendment to the existing purchase power agreement. At the status conference, Ryegate Associates, the Department, GMP, VEC, and VPPSA agreed to the six-month extension of the existing agreement at the year-ten terms.

III. DISCUSSION

Section 2 of Act 155 states that for the “years 2023, 2024, and 2025 and the period from January 1, 2026 to October 31, 2026, the purchase price shall be the levelized value determined in Docket No. 7782.” In an October 29, 2012, Order in Docket 7782, the Commission established a standard-offer price schedule over a 10-year period that was “represented by a levelized price of \$0.100 per kWh.”¹ Thus, a plain reading of Section 2 of Act 155 and the October 29 Order indicates that the purchase price for years 2023 through October 31, 2026, should be \$0.100 per kWh.

The participants in this proceeding agree that the Commission should authorize a six-month extension of the existing purchase power agreement at the year-ten terms, including a rate of \$0.106 per kWh. But this recommendation conflicts with the text of Section 2 of Act 155, which states that the purchase price should be at the “levelized price” set by the Commission in Docket 7782. Accordingly, we authorize a six-month extension of the existing purchase power agreement between Ryegate Associates and VEPP Inc. at a rate of \$0.100 per kWh.

At the status conference, Ryegate Associates indicated that it does not agree with this interpretation of Act 155. The six-month extension will give the participants additional time to make a case for different contract terms.² If a proposal to amend the purchase power agreement includes a purchase price different from \$0.100 per kWh, participants should explain how the proposal is consistent with Section 2 of Act 155. The six-month contract extension approved in today's order will be subject to a “true up” in the event that we later determine that a price other than \$0.100 per kWh is permitted under Act 155 and appropriate here. The true-up would reconcile any differences between the price and terms of the six-month extension and our final determinations to reflect changes made by Act 155.

¹ See Docket 7782, Order of 10/29/12 at 33-34.

² Ryegate Associates agreed to file a proposed schedule for the proceeding by October 28, 2022.

Section 8009(f)(2), as amended by Act 155, addresses the ownership of renewable energy credits generated by the Ryegate facility:

Any tradeable renewable energy credits and attributes that are attributable to the electricity purchased shall be transferred to the Vermont retail electricity providers in accordance with their pro rata share of the costs for such electricity as determined under subdivision (1) of this subsection unless the Commission approves the plant owner retaining renewable energy credits and attributes or other ISO New England revenue streams. If the Commission approves the plant owner retaining renewable energy credits and attributes, or other ISO New England revenue streams, the price paid by the Vermont retail electricity providers pursuant to this section may be reduced by the Commission to reflect the value of those credits, attributes, products, or services.

Any renewable energy credits generated under the six-month extension would be minted on April 15, 2023. At the status conference, participants recommended that VEPP Inc. hold and not transfer any renewable energy credits generated during the six-month extension pending a Commission determination on VEPP Inc.'s proposed amendment. The Commission adopts this recommendation. This recommendation gives the Commission more time to determine whether Ryegate Associates is eligible to receive any renewable energy credits based on the changes made to Section 8009 by Act 155. In addition, it avoids the need for any true-up of the renewable energy credits generated during the six-month extension.

Any proposal submitted in this proceeding should address the ownership of renewable energy credits generated by the Ryegate plant. If a proposal allows Ryegate Associates to retain any portion of the plant's renewable energy credits, participants should address how the proposal is consistent with the requirements under Section 8009(f)(2) and whether the price paid by Vermont retail electricity providers should be reduced to reflect the value of those credits.

IV. CONCLUSION

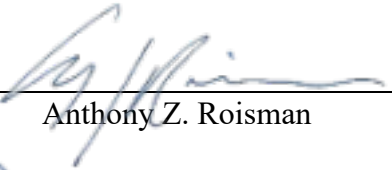
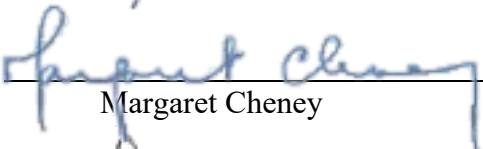
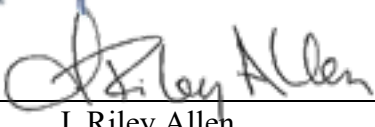
The Commission authorizes VEPPI Inc. to extend for six months the existing purchase power agreement between Ryegate Associates and VEPP Inc. at a price of \$0.100 per kWh. The six-month extension shall be subject to a "true up" to reconcile any differences between the price and terms of the extended agreement and any future amendments to reflect changes made by Act 155.

V. ORDER

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

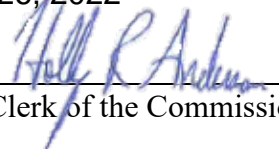
1. VEPP Inc. is authorized to execute a six-month extension to the existing purchase power agreement between VEPP Inc. and Ryegate Associates. The six-month extension shall be at a price of \$0.100 per kWh and shall include the existing fuel pass-through mechanism. The six-month extension shall be subject to a “true up” that shall reconcile any differences between the price and terms of the extended agreement and any future amendments to reflect changes made by Vermont Public Act No. 155.
2. VEPP Inc. shall hold and not transfer any renewable energy credits generated during the six-month extension of the existing purchase power agreement.
3. Within two weeks of the executed agreement, VEPP Inc. shall file in this proceeding a copy of the executed power purchase agreement.

Dated at Montpelier, Vermont, this 26th day of October, 2022.

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Anthony Z. Roisman)	PUBLIC UTILITY
)	
)	
Margaret Cheney)	COMMISSION
)	
)	
J. Riley Allen)	OF VERMONT

OFFICE OF THE CLERK

Filed: October 26, 2022

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)

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. 22-3944-PET - SERVICE LIST

Parties:

Carolyn M.X. Alderman, Esq. (for VEPP Inc.)
VEPP Inc.
P.O. Box 1938
Manchester Center, VT 05255
carolyn@veppi.org

Carolyn Browne Anderson, Esq. (for Green Mountain Power Corporation)
Green Mountain Power Corporation
2152 Post Road
Rutland, VT 05702
carolyn.anderson@greenmountainpower.com

Reginald Beliveau, Jr. (for Swanton Village, Inc. Electric
Swanton Village, Inc. Electric Department Department)
P.O. Box 279
120 First Street
Swanton, VT 05488
rbeliveau@swanton.net

Victoria J. Brown, Esq. (for Vermont Electric Cooperative Inc.)
Vermont Electric Cooperative, Inc.
42 Wescom Road
Johnson, VT 05656
vbrown@vermontelectric.coop

Ellen Burt (for Town of Stowe Electric Department)
Town of Stowe Electric Department
P.O.Box 190
Stowe, VT 05672
eburt@stoweelectric.com

Robertson Carol (for Village of Hyde Park Electric Department)
Village of Hyde Park Electric Department
P.O. Box 400
Hyde Park, VT 05655
carol.robertson@hydeparkvt.com

Benjamin Civiletti (for Vermont Department of Public Service)
Department of Public Service
112 State Street
Montpelier, VT 05620
benjamin.civiletti@vermont.gov

Crystal Currier
Vermont Public Power Supply Authority
PO Box 126
5195 Waterbury-Stowe Rd
Waterbury Center, VT 05677
ccurrier@vppsa.com

(for Barton Village Inc. Electric Department)

William F. Ellis
McNeil, Leddy & Sheahan
271 South Union Street
Burlington, VT 05401
wellis@mcneilvt.com

(for City of Burlington Electric Department)

Jonathan Elwell
Village of Lyndonville Electric Department
PO Box 167
20 Park Avenue
Lyndonville, VT 05851
jelwell@lyndonvilleelectric.com

(for Village of Lyndonville Electric Department)

Elijah D Emerson, Esq.
Primmer Piper Eggleston & Cramer PC
PO Box 1309
Montpelier, VT 05601
eemerson@primmer.com

(for Town of Hardwick Electric Department)

Marla Emery
Village of Johnson Water & Light Department
P.O. Box 603
Johnson, VT 05656
memery@townofjohnson.com

(for Village of Johnson Water & Light Department)

Steven R Farman
Vermont Public Power Supply Authority
5195 Waterbury-Stowe rd
Waterbury Center, VT 05766
sfarman@vppsa.com

(for Vermont Public Power Supply Authority)

Karen Field
Town of Hardwick Electric Department
PO Box 516
Hardwick, VT 05843
kfield@hardwickelectric.com

(for Town of Hardwick Electric Department)

James Gibbons
City of Burlington Electric Department
585 Pine Street
Burlington, VT 05401
jgibbons@burlingtonelectric.com

(for City of Burlington Electric Department)

Grace Grundhauser
Green Mountain Power Corporation
163 Acorn Lane
Colchester, VT 05446
grace.grundhauser@greenmountainpower.com

(for Green Mountain Power Corporation)

Michael J. Hall
Stackpole & French Law Offices
PO Box 819
Stowe, VT 05672
mhall@stackpolefrench.com

(for Town of Stowe Electric Department)

Michael Hall
Vermont TransCo LLC
366 Pinnacle Ridge Road
Rutland, VT 05701
mhall@velco.com

(for Vermont Transco LLC)

Penny Jones
Village of Morrisville Water & Light
Department
857 Elmore Street
Morrisville, VT 05661
pjones@mwlv.com

(for Village of Morrisville Water & Light
Department)

Michael Lazorchak
Town of Stowe Electric Department
PO Box 190
Stowe, VT 05672
mlazorchak@stoweelectric.com

(for Town of Stowe Electric Department)

Joshua Leckey
Downs Rachlin Martin PLLC
PO Box 190
Burlington, VT 05402-0190
jleckey@drm.com

(for Ryegate Associates)

Owen McClain, Esq.
Sheehey Furlong & Behm P.C.
30 Main Street
P.O. Box 66
Burlington, VT 05402
omcclain@sheeheyvt.com

(for Green Mountain Power Corporation)

Mari McClure
Green Mountain Power Corporation
163 Acorn Lane
Colchester, VT 05446
ceo@greenmountainpower.com

(for Green Mountain Power Corporation)

Abbey Miller
Village of Enosburg Falls Water & Light
Department
42 Village Drive
Enosburg Falls, VT 05450
amiller@enosburg.net

(for Village of Enosburg Falls Water & Light
Department Inc.)

Pamela Moore
Village of Jacksonville Electric Company
P.O. Box 169
Jacksonville, VT 05342
sfarman@live.com

(for Village of Jacksonville Electric Company)

John Morley
Village of Orleans Electric Department
Municipal Building
One Memorial Square
Orleans, VT 05860
jmorley@villageoforleansvt.org

(for Village of Orleans Electric Department)

Ken Nolan
Vermont Public Power Supply Authority
P.O. Box 126
Waterbury Center, VT 05677
knolan@vppsa.com

(for Vermont Public Power Supply Authority)

Colin Owyang, Esq.
Vermont Electric Power Company, Inc.
366 Pinnacle Ridge Road
Rutland, VT 05701
cowyang@velco.com

(for Vermont Electric Power Co., Inc.)

Colin Owyang, Esq.
Vermont TransCo LLC
366 Pinnacle Ridge Road
Rutland, VT 05701
cowyang@velco.com

(for Vermont Transco LLC)

Thomas Petraska
Village of Ludlow Electric Light Department
9 Pond Street
Ludlow, VT 05149
tpetraska@ludlowelectric.com

(for Village of Ludlow Electric Light
Department)

James Porter, Esq.
Vermont Department of Public Service
112 State Street
Montpelier, VT 05620
james.porter@vermont.gov

(for Vermont Department of Public Service)

Louis Porter
Washington Electric Cooperative
PO Box 8
East Montpelier, VT 05651
louis.porter@wec.coop

(for Washington Electric Cooperative Inc.)

Jeffrey Schulz
Town of Northfield Electric Department
51 South Main Street
Northfield, VT 05663
jschulz@northfield.vt.us

(for Town of Northfield Electric Department)

Ronald A. Shems, Esq.
Tarrant, Gillies & Shems, LLP
P.O. Box 1440
Montpelier, VT 05601-1440
ron@tarrantgillies.com

(for Washington Electric Cooperative Inc.)

Darren Springer
City of Burlington Electric Department
585 Pine Street
Burlington, VT 05401
dspringer@burlingtonelectric.com

(for City of Burlington Electric Department)

Emily Stebbins-Wheelock
City of Burlington Electric Department
585 Pine Street
Burlington, VT 05401
estebbins-wheelock@burlingtonelectric.com

(for City of Burlington Electric Department)

Michael Sullivan
Town of Hardwick Electric Department
P.O. Box 516
Hardwick, VT 05843
msullivan@hardwickelectric.com

(for Town of Hardwick Electric Department)

Rebecca Towne
Vermont Electric Cooperative, Inc.
42 Wescom Road
Johnson, VT 05656
rtowne@vermontelectric.coop

(for Vermont Electric Cooperative Inc.)

Meghan von Ballmoos
VEPP, Inc.
PO Box 1938
Manchester Center, VT 05255
meghan@veppi.org

(for VEPP Inc.)