

COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION
AT RICHMOND, NOVEMBER 14, 2013

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COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

CASE NO. PUE-2013-00045

Concerning the establishment of a renewable energy
pilot program for third party power purchase agreements

ORDER ESTABLISHING GUIDELINES

On March 14, 2013, the Virginia General Assembly approved Chapter 382 of the Virginia Acts of Assembly ("Chapter 382"), requiring the State Corporation Commission ("Commission") to conduct a renewable energy pilot program for third party power purchase agreements and to establish certain guidelines regarding its implementation. Chapter 382 specifically provides that the Commission must establish guidelines concerning (i) information to be provided in written notices and (ii) procedures for collecting and posting information derived from such notices on the Commission's website. In addition, the Commission may establish general guidelines or rules for its administration of the pilot program.¹

As set forth in Chapter 382, any party who intends to enter into a power purchase agreement under the pilot program must provide written notice to the Commission and to the pilot utility of the party's intent to enter into such agreement not less than thirty days before the effective date of such agreement. Pursuant to Chapter 382, the Commission must establish guidelines concerning the information to be included in the provision of such written notice. In addition, the Commission must establish guidelines concerning the procedures for aggregating and posting the information included in such written notices on the Commission's website. This information must include the total capacity utilized by pilot projects for which notice has been

¹ See third enactment of Chapter 382.

received and the capacity remaining available for future pilot projects. Finally, the Commission may adopt such rules or establish such guidelines as may be necessary for its general administration of the pilot program.

On May 22, 2013, the Commission issued an Order Proposing Guidelines that, among other things, docketed this matter and provided interested persons the opportunity to comment on or propose modifications or supplements to the proposed guidelines.

On June 21, 2013, Secure Futures, LLC; the Southern Environmental Law Center, on behalf of itself and Appalachian Voices, Chesapeake Climate Action Network, Sierra Club, Virginia Conservation Network, and Virginia Interfaith Power and Light; Virginia Electric and Power Company d/b/a Dominion Virginia Power; and Maryland, DC, and Virginia Solar Energy Industry Association filed comments in this proceeding. On June 24, 2013, Virginia Alternative and Renewable Energy Association filed comments in this proceeding. The Commission acknowledges the comments submitted in this proceeding and where appropriate has incorporated the recommendations into the final guidelines.

NOW THE COMMISSION, upon consideration of this matter, is of the opinion and finds that pursuant to Chapter 382, the Commission hereby establishes such guidelines as set forth in Attachment A to this Order.

Accordingly, IT IS ORDERED THAT:

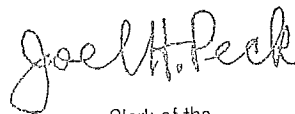
(1) The guidelines set forth in Attachment A to this Order hereby are established pursuant to Chapter 382 of the Virginia Acts of Assembly.

(2) Any renewable third party power purchase agreement established pursuant to this pilot program shall be established in accordance with these guidelines and shall be in compliance with the statutory directives set forth in Chapter 382.

(3) There being nothing further to be done herein, this case shall be dismissed from the Commission's docket of active proceedings, and the papers filed herein shall be placed in the Commission's file for ended causes.

AN ATTESTED COPY hereof shall be sent by the Clerk of the Commission to:
Senator John S. Edwards, P.O. Box 1179, Roanoke, Virginia 24006-1179; Delegate David E. Yancey, P.O. Box 1163, Newport News, Virginia 23601; the Department of Environmental Quality, 629 East Main Street, Richmond, Virginia 23219; Eric W. Hurlocker, Esquire, GreenHurlocker, PLC, 707 East Main Street, Suite 1025, Richmond, Virginia 23219; Caleb A. Jaffe, Esquire, Southern Environmental Law Center, 201 West Main Street, Suite 14, Charlottesville, Virginia 22902-5065; Horace P. Payne, Esquire, Dominion Resources Services, Inc., P.O. Box 26532, Richmond, Virginia 23261; Kenneth G. Hutcheson, Esquire, Virginia Alternative and Renewable Energy Association, P.O. Box 1320, Richmond, Virginia 23218; and C. Meade Browder, Jr., Senior Assistant Attorney General, Division of Consumer Counsel, Office of the Attorney General, 900 East Main Street, Second Floor, Richmond, Virginia 23219. A copy also shall be delivered to the Commission's Office of General Counsel and Division of Energy Regulation.

A True Copy
Teste:



Clerk of the
State Corporation Commission

GUIDELINES REGARDING NOTICE INFORMATION FOR A THIRD PARTY RENEWABLE POWER PURCHASE AGREEMENT

A. Purpose.

The Commission is establishing these guidelines pursuant to Chapter 382 of the 2013 Virginia Acts of Assembly ("Chapter 382") regarding a pilot program for third party power purchase agreements for renewable generation. Chapter 382 specifically provides that the State Corporation Commission ("Commission") must establish guidelines concerning (i) information to be provided in written notices and (ii) procedures for collecting and posting information derived from such notices on the Commission's website. In addition, the Commission may establish general guidelines for its administration of the pilot program.

B. Applicability.

These guidelines are applicable to any owner or operator of a solar-powered or wind-powered electric generation facility (referred to herein as "owner-operator") located on premises owned or leased by an eligible customer-generator, as defined in § 56-594 of the Code of Virginia, within the certificated service territory of an investor-owned electric utility ("Pilot Utility").¹ Such a facility shall have a generation capacity of 50 kW to 1 MW, except that if the eligible customer-generator served by the owner-operator is an entity with tax-exempt status in accordance with § 501(c)3 of the Internal Revenue Code of 1954, as amended, then such facility is not limited by the 50 kW minimum, and can qualify with a generation capacity range of 1 kW to 1 MW. An eligible facility shall provide electricity to only one customer.

The owner-operator shall be permitted to sell the electricity generated from such facility exclusively to such eligible customer-generator under a power purchase agreement to provide such eligible customer-generator third party financing of the costs of such a renewable generation facility. The owner-operator also may be subject to any requirements of its local governing body and the Virginia Department of Environmental Quality.

¹ As described in Chapter 382, the Pilot Utility is an investor-owned electric utility that was bound by a rate case settlement adopted by the Commission that extended in its application beyond January 1, 2002, which utility is known as Dominion Virginia Power.

The pilot program limitation of 50 MW includes participation among jurisdictional and non-jurisdictional customers.

C. Filing of Notice.

Any party who intends to enter into a third party power purchase agreement under the pilot program must provide written notice to the Commission and to the Pilot Utility of the party's intent to enter into such agreement not less than 30 calendar days before the effective date of such agreement.

D. Contents of Filing.

The owner-operator shall provide written notice to the Commission and the Pilot Utility not less than 30 calendar days before the effective date of such agreement and shall include the following information:

- Identity of the owner-operator of the renewable electric generation facility;
- The name, address, and under seal as "confidential" or "extraordinarily sensitive" information, the Pilot Utility electric account number of the eligible customer-generator;
- Location of the premise(s) upon which the renewable electric generation facility will be installed;
- Renewable source of the electric generation facility;
- Generation capacity of the renewable electric generation facility expressed in terms of kW available for delivery to the end-user stated in alternating current (AC);
- Expected date that the electric generation facility will be placed in service. The term "placed in service" shall have the same meaning as used in 26 U.S.C. § 48, of the federal Business Energy Investment Tax Credit for certain renewable energy technologies;
- Duration of the third party purchase agreement;
- Proof of 501(c)3 tax exempt status (when applicable); and
- Under seal as "confidential" or "extraordinarily sensitive" information, the projected installation cost of the renewable electric generation facility, in dollars per Watt (AC). Subsequent to the placed in service date, such projected cost of installation shall be updated for the actual cost of installation.

E. Posting and Tracking.

Within three business days of receiving a written notice of intent, the Commission Staff shall post to its website the cumulative amount of solar-powered generation capacity and, separately, the cumulative amount of wind-powered generation capacity associated with the notice of intent, expressed in kW or MW (AC), and the remaining aggregate capacity available for future pilot projects.

Within three business days of the placed in service date of such facility, the owner-operator shall provide written notification of such placed in service date to the Commission and the Pilot Utility. Within three business days of receiving such written notice of the placed in service date, the Commission Staff shall post to its website the cumulative amount of installed solar-powered generation capacity and, separately, the cumulative amount of wind-powered generation capacity, expressed in kW or MW (AC). Simultaneously, the capacity remaining available for future pilot projects also shall be posted. The owner-operator also shall provide written notice to the Commission and the Pilot Utility of any change to the generating capacity of the facility or of the parties to the third party power purchase agreement within three business days of any such change.

On an annual basis, the Pilot Utility shall submit to the Commission under seal as "confidential" or "extraordinarily sensitive" information, a report of the individual and aggregated amount of energy generated (kWhs) and peak capacity (kW) provided from all pilot renewable generation facilities combined, with separate totals for wind pilot projects and solar pilot projects. The Pilot Utility's report also shall identify and quantify any system benefits, such as but not limited to, transmission and distribution system benefits, line loss savings, generation capacity savings, wholesale energy purchase offsets, fuel cost savings, and any economic development and job creation benefits across the region or the Commonwealth.

Subsequent to the Pilot Utility's report, the Commission Staff shall aggregate and post to its website the following information obtained from such report and any information filed by owner-operators, with separate data for wind-powered and solar-powered projects:

- Average projected installation costs of projects in the pilot program, in dollars per Watt (AC);
- Average duration of the third party purchase agreements;
- Total number of customer-generators participating in the pilot program;
- Total number of owner-operators participating in the pilot program; and
- The city and/or county location of projects in the pilot program that have been placed in service.

F. Program Cap Management.

The owner-operator shall fulfill the following requirements and provide written confirmation to the Commission and the Pilot Utility that it has met each requirement:

- The owner-operator must provide a written notice of intent as described in Section C of these guidelines;
- The owner-operator must (i) confirm that it is a party to a fully executed third party power purchase agreement under the pilot program, and (ii) provide the effective date of such agreement, all within 3 business days of such agreement's execution;
- Within 90 calendar days of filing the written notice of intent, the owner-operator must confirm that more than 5% of projected pilot costs have been incurred under a binding written contract as per the Section 461(h) economic performance definitions of the U.S. Treasury Safe Harbor Rules, or that all local permitting and zoning approvals have been secured;
- Within 180 calendar days of filing the written notice of intent, the owner-operator must confirm that more than 25% of pilot projected pilot costs have been incurred under a binding written contract as per the Section 461(h) economic performance definitions of the U.S. Treasury Safe Harbor Rules; and
- Within 270 calendar days of filing the written notice of intent, the owner-operator must confirm that the project has been "placed in service," as that term is used in 26 U.S.C. § 48.

Upon receipt of the required confirmations, the Commission Staff shall post to its website the following for informational purposes:

- Date of notice of intent;
- Date of fully executed agreement;
- Effective date of agreement;
- Placed in service date of the renewable generation facility;
- Installed capacity of the renewable generation facility, with separate data for wind-powered and solar-powered projects; and
- Available capacity remaining under the 50 MW limit.

The Commission shall review the pilot program in 2015 and every two years thereafter during the existence of the program to determine whether the statutory limitations on the capacity of generation facilities included in the program should be continued, expanded, or reduced. Before recommending any changes to such statutory limitations, the Commission may solicit input from all interested parties.