

STATE OF VERMONT
PUBLIC UTILITY COMMISSION

Case No. 20-0789-INV

Vermont Public Utility Commission orders and memoranda issued in response to COVID-19 pandemic	
--	--

Order entered: 07/30/2020

ORDER RE INTERCONNECTION AGREEMENT EXECUTION DEADLINES

I. INTRODUCTION

In this Order, the Vermont Public Utility Commission (“Commission”) directs each Vermont electric distribution utility to choose whether to:

- (1) extend interconnection agreement execution deadlines that fall on or after March 25, 2020, through December 31, 2020, by one year, or
- (2) not extend interconnection agreement execution deadlines that fall on or after March 25, 2020, through December 31, 2020, but extend commissioning deadlines for those projects without loss of queue position if needed solely because of conditions resulting from the pandemic.

However, each utility must apply its chosen option to all projects with an interconnection agreement execution deadline that falls on or after March 25, 2020, through December 31, 2020, unless the utility and a developer agree to a different process.

II. BACKGROUND

On May 12, 2020, Triland Partners LP (“Triland”) requested that the Commission: authorize, enable and direct Vermont’s utilities to similarly extend, for net metering and standard offer projects, the execution deadline of all Standard Generation Interconnection Agreements whose execution deadlines fall on or after March 25, 2020 through December 31, 2020.¹

On May 21, 2020, the Commission issued an order stating that it interpreted Triland’s request as a request for a waiver of one sentence of Commission Rule 5.508(B) for those

¹ Triland 5/12/20 Public Comments at 1.

execution deadlines that fall on or after March 25, 2020, through December 31, 2020.² The Commission asked for public comments on the waiver request, including more information on how the execution of an interconnection agreement may be affected by conditions related to the COVID-19 pandemic.

On June 9, 2020, Triland filed a public comment, which elaborates on the reasons behind its initial request. Triland states that interconnection agreements require that facilities be commissioned within one calendar year from the date the interconnection agreement was executed or the agreement will automatically terminate. Triland also notes that:

While the [interconnection agreement] provides terms and conditions for the remedy of a termination, this remedy provision is not a guarantee of a superseding agreement to [undo] the automatic termination. The automatic termination, presumably caused by issues beyond the Interconnection Requester's control (supply chain and construction disruptions), would jeopardize queue position, and/or increase the real and perceived risk to the project proponent, lender, and investors.³

On June 18, 2020, the Commission issued an order directing the Vermont electric distribution utilities to file public comments responding to the waiver request and welcoming responsive public comments from other persons or entities.

Between July 7 and July 14, 2020, public comments responding to the waiver request were filed by the Vermont Public Power Supply Authority ("VPPSA"), the Village of Hyde Park Electric Department ("Hyde Park"), Washington Electric Cooperative, Inc. ("WEC"), the City of Burlington Electric Department ("BED"), Vermont Electric Cooperative, Inc. ("VEC"), and Green Mountain Power Corporation ("GMP"). These comments are described in the following section.

No other public comments were filed.

III. ELECTRIC UTILITY RESPONSES

VPPSA, Hyde Park, WEC, and BED support granting the requested waiver. VPPSA states that its members believe that confusion with respect to the administration of the interconnection process will be minimized if the Commission extends both the interconnection

² The relevant sentence of Commission Rule 5.508(B) reads: "The Interconnection Requester shall return the executed Interconnection Agreement within one calendar year or the Interconnection Requester's Application shall be deemed withdrawn and the Interconnection Requester shall lose Interconnection Queue position."

³ Triland 6/9/20 Public Comments at 2.

agreement execution deadline and the commissioning deadline in lockstep during the pandemic. VPPSA also recommends that the Commission require that the relative interconnection queue position of affected projects be maintained.

Hyde Park states that if the deadline for commissioning a facility is extended and that facility has an executed interconnection agreement, there could be ramifications for system reliability and added costs borne by ratepayers, depending on the changes to the electric system that occur during the extended time gap between the interconnection agreement deadline and commissioning.

WEC supports granting the extension to avoid a situation where the commissioning deadline and interconnection agreement execution deadline are not aligned.

BED states that it finds the requested waiver to be reasonable, as long as it is considered an extension of the deadline rather than a waiver of the requirement.

GMP states that a blanket waiver of the provisions of Commission Rule 5.108(B) does not seem warranted and is not necessary to protect a project that cannot be commissioned due to the COVID-19 pandemic. According to GMP, extending the deadline for commissioning a facility with an already executed interconnection agreement effectively and efficiently addresses the issue raised by Triland. GMP states that it generally grants requests for an extension to the commissioning deadline so long as the project is otherwise moving forward, and that it expects to grant a request for an extension were it shown that a project that otherwise expected to move forward was delayed due to the pandemic. According to GMP, an extension of the commissioning deadline in the interconnection agreement would sufficiently protect an interconnector from losing its queue position due to the COVID-19 pandemic.

VEC does not state whether it supports or opposes the waiver request. However, VEC states that granting the waiver will not have an effect on its interconnection process because it only requires the execution of an interconnection agreement before commissioning.

IV. DISCUSSION AND CONCLUSION

It appears that the underlying issue raised by Triland relates to preserving interconnection queue positions for projects whose construction has been affected by the COVID-19 pandemic. In addition, it appears that there are two distinct deadlines related to interconnection agreements

that have the potential to affect this issue: (1) the deadline for executing an interconnection agreement, and (2) the deadline for commissioning a facility that has an executed interconnection agreement. Triland asked the Commission to address its concerns regarding the preservation of interconnection queue positions by waiving (or extending) the first of those deadlines if the deadline falls on or after March 25, 2020, through December 31, 2020.

Each Vermont electric distribution utility is responsible for managing its own interconnection queue. For this reason, the Commission sought responses from those utilities to the waiver request, including comments on what effect granting the requested waiver would have on their management of their interconnection queues and on whether the issue raised by Triland could also be addressed by extending the deadline for commissioning a facility that has an executed interconnection agreement.

The utilities' differing positions on the waiver request appear to reflect their different circumstances. GMP has a more active interconnection queue than some of the smaller utilities and it states that it views the execution of an interconnection agreement as a demonstration of a developer's intent to proceed with a particular project. In contrast, the smaller utilities are more focused on aligning the two deadlines. In addition, one of the smaller utilities specifically notes its potential exposure to increases in the cost of interconnection projects, which could occur if there is a lengthy period of time between the execution of an interconnection agreement and the commissioning deadline.⁴

The circumstances resulting from the COVID-19 pandemic are unprecedented, and they have created additional risk for both developers and utilities. The Commission does not want developers to lose their places in a utility's interconnection queue solely because of the conditions created by the pandemic. The Commission also does not want to expose utilities and ratepayers to undue risks as a result of a longer time period between the execution of an interconnection agreement and the commissioning deadline.

⁴ Commission Rule 5.508 states: "The Interconnection Requestor bears all risk if, during the period between completion of Studies and the return of the executed Interconnection Agreement, (i) network conditions change such that the Studies' results are no longer valid and the Studies need to be revisited and updated at the Interconnection Requestor's cost and (ii) the cost estimate for System Upgrades and Interconnection Facilities is no longer valid, except to the extent that these changes circumstances are known or could reasonably have been foreseen by the Interconnecting Utility."

Taking all these factors into consideration, and because each Vermont electric distribution utility is responsible for managing its own interconnection queue, the Commission directs each utility to choose whether to:


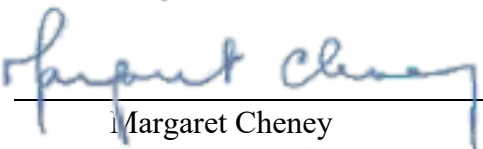

- (1) extend interconnection agreement execution deadlines that fall on or after March 25, 2020, through December 31, 2020, by one year, or
- (2) not extend interconnection agreement execution deadlines that fall on or after March 25, 2020, through December 31, 2020, but extend commissioning deadlines for those projects without loss of queue position if needed solely because of conditions resulting from the pandemic.

However, each utility must apply its chosen option to all projects with an interconnection agreement execution deadline that falls on or after March 25, 2020, through December 31, 2020, unless the utility and a developer agree to a different process. In the event there is a dispute between a developer and a utility that has chosen option two as to whether a particular commissioning deadline should be extended, they may bring the dispute to the Commission.

To the extent that a utility's election requires a waiver of Commission Rule 5.508(B), that waiver is granted.

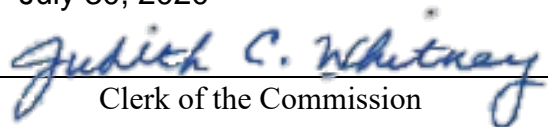
SO ORDERED.

Dated at Montpelier, Vermont this 30th day of July, 2020.

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

OFFICE OF THE CLERK

Filed: July 30, 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)

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.