

# **REPORT TO THE VERMONT LEGISLATURE:**

## **Exemptions from the Standard-Offer Program**

### **Pursuant to 30 V.S.A. 8005a(k)(2)(B)**

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**Report submitted to the Senate Committee on Natural Resources and Energy,  
and the House Committee on Energy and Technology as required by Act 53 of  
2017**

**December 15, 2018**

## I. Background

The standard-offer program was established in 2009 to increase the use of renewable energy and to spur the development of small and medium-sized renewable energy projects in Vermont.<sup>1</sup> Participating renewable energy projects enter into long-term contracts with the State through an entity known as the Standard Offer Facilitator. The Facilitator allocates the cost of energy produced by standard-offer projects to the Vermont distribution utilities based on their pro-rata share of total Vermont retail electricity sales. These costs are ultimately passed on to Vermont electricity consumers through rates.

The Commission is required to issue standard-offer contracts to 127.5 MW of participating projects. The first 50 MW of program capacity was awarded by lottery, and the contract prices were set at first by statute and later by the Commission. Since 2013, the Commission has awarded contracts annually through a request for proposals (RFP) process. The number of contracts awarded each year is determined according to a schedule provided in the statute. The price for power in these contracts is determined through the RFP, with the least-cost proposals winning contracts. The Commission must make contracts available to certain technologies, including solar, wind, and methane digesters. The Commission expects to have awarded the total 127.5 MW of capacity by 2021. Most standard-offer contracts have a term of 25 years.

One feature of the standard-offer program is that utilities may be exempted from the obligation to purchase electricity from standard-offer plants. To qualify for this exemption, a utility must obtain energy from renewable energy plants that is equal to the energy sold to its retail customers. However, the utility is not required to obtain a commensurate amount of renewable energy credits to qualify for the exemption. Washington Electric Cooperative, Inc. (“WEC”) was the first utility to qualify for the exemption in 2010.<sup>2</sup> In 2017, Burlington Electric Department (“BED”) and Swanton Electric Department (“Swanton”) also qualified for the exemption.<sup>3</sup> The remaining participating utilities raised issues about the use of the exemption, pointing out that for each utility that becomes exempt, the remaining utilities must purchase more energy through the program and bear a greater portion of the program’s cost.

In Act 53 of 2017, the General Assembly directed the Commission to prepare a report about the exemption and make recommendations about how to address any issues arising from the exemption. In response, the Commission opened a proceeding to investigate issues related to the exemption and to generally review whether any improvements to the standard-offer program could be made.<sup>4</sup> The Commission also obtained a grant from the U.S. Department of Energy to

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<sup>1</sup> Public Act No. 45 (2009 Vt., Bien. Sess.).

<sup>2</sup> *Investigation Re: Establishment of Price for Standard Offer*, Docket No. 7533, Order of 6/30/2010 at 2.

<sup>3</sup> *Petition of the City of Burlington Electric Department*, Docket No. 8863 Order of 1/13/2017 *Petition of the Swanton Village, Inc. Electric Department*, Docket No. 8876, Order of 1/13/2017.

<sup>4</sup> Case No. 17-5257-INV. All of the documents filed in this case may be reviewed using the Commission’s online document management system, ePUC. <https://epuc.vermont.gov/>.

pay for technical assistance from the Lawrence Berkeley National Laboratory to review the standard-offer program. The Commission received several rounds of public comments and conducted a workshop to discuss issues with stakeholders.

## II. Discussion of Issues Arising from the Exemption.

The Commission has identified two significant concerns arising from the exemption. First, Section 8005a allows utilities to be exempt from the standard-offer program “regardless of whether the provider owned the energy’s environmental attributes.” Every unit of electricity produced has certain “attributes” associated with it. The attributes that make electricity renewable can be sold separately from the power itself in the form of a renewable energy certificate (REC). A utility can either retain or “retire” a REC to comply with Vermont’s Renewable Energy Standard, or it can sell the REC for additional revenue. If a utility does not retain enough RECs, then it cannot claim that its power supply is 100% renewable. The Commission recommends that the General Assembly revise the statute so that to qualify for the exemption, a utility must own and retire enough RECs to claim that its power supply is 100% renewable.

The second issue is that exemptions shift the cost of the standard-offer program from the customers of the exempt utility to customers of the participating utilities. In Table 1, below, the Commission has compared how one year of power costs from the standard-offer program would be allocated without and with exemptions. The amount each utility must pay is determined by its share of Vermont’s electric retail sales. For example, Green Mountain Power Corporation (“GMP”) has the largest share of Vermont’s retail sales, approximately 76%. However, GMP must pay for more than 83% of program costs because of the exemptions of WEC, BED, and Swanton.

If many utilities became exempt, the remaining utilities might need rate increases to cover the increased costs of the standard-offer program. Requiring all utilities to participate in the standard-offer program would spread the costs of the program out broadly and reduce the effect of the program on customer’s rates. However, WEC, BED, and Swanton decided to buy energy from certain renewable sources based on the availability of the exemption. Thus, these utilities may have incurred more costs that they might not have incurred otherwise.

The General Assembly needs to balance the interests of spreading the cost of the standard-offer program equitably among the utilities and the reliance interests of the utilities that already qualified for the exemption. The Commission recommends that the General Assembly allow WEC, BED, and Swanton to remain exempt from the standard-offer program, if they continue to supply their customers with 100% renewable power and retire enough RECs to meet that definition. The Commission also recommends that no further exemptions from the program be allowed. The Vermont electric distribution utilities have reported to the Commission that they

agree that WEC, BED, and Swanton should be grandfathered and that no more exemptions should be allowed.

The distribution utilities disagreed about whether an exempt utility should be required to meet the Commission's proposed eligibility requirements in each year to remain exempt. GMP asserted that an exempt utility should lose its exemption if that utility failed to meet the eligibility requirements in any year. BED and Swanton responded that a utility might fail to meet the eligibility criteria if a problem arose with that utility's generation plants. BED and Swanton stated that they should be able to regain the exemption in a subsequent year.

The Commission considered these comments and recommends that the Legislature require exempt utilities to meet the Commission's proposed eligibility criteria in all years of the program. The standard-offer program promotes the development of new renewable energy in Vermont by offering renewable energy plants fixed long-term contracts that are backed by Vermont's ratepayers. The Legislature created the standard-offer program to provide all Vermonters with economic and environmental benefits.<sup>5</sup> For this reason, the Commission finds that exempting the ratepayers of select utilities from the costs of the program is inequitable. The Commission recognizes that three utilities have relied on the existence of the exemption and recommends that the Legislature grandfather these utilities, allowing them to keep this valuable privilege as long as they continue to meet important eligibility criteria. The Commission recommends that a utility should not be allowed to regain its exempt status if it has not met the Commission's proposed eligibility criteria in any year. The Commission recommends treating such utilities like any other non-exempt utility by requiring that utility to share in the costs of the program.

Finally, the Legislature directed the Commission to address the "effect of the exemption on the State's achievement of the renewable energy goals set forth in 30 V.S.A. § 8001." The most relevant of Vermont's goals is "[p]roviding support and incentives to locate renewable energy plants of small and moderate size in a manner that is distributed across the State's electric grid, including locating such plants in areas that will provide benefit to the operation and management of that grid through such means as reducing line losses and addressing transmission and distribution constraints." It is also the goal of Vermont to balance the lifetime benefits and costs of renewable energy and to maximize the economic benefits of renewable energy for Vermont and its ratepayers.<sup>6</sup> The standard-offer program is one of the available incentives for developers to build small renewable energy plants in Vermont. The exemption has the potential to undermine the function of the standard-offer program because if too many distribution utilities become exempt, the remaining utilities might not be able to pay for the program without a material effect on their ratepayers. This supports the Commission's recommendation that no additional utilities be allowed to qualify for the exemption.

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<sup>5</sup> 30 V.S.A. § 8001(a)(7).

<sup>6</sup> 30 V.S.A. § 8001(a)(1).

**Table 1. Illustration of how exemptions affect the allocation of standard-offer program power costs for the period of November 1, 2017 through October 31, 2018.**

	Without Exemptions			With Exemptions		
	kWh Sales	Share	Utility Payment	kWh	Share	Utility Payment
<b>Barton Village Inc.</b>	13,851,539	0.0025	\$52,845	13,851,539	0.0027	\$58,140
<b>Burlington Electric Dept.</b>	340,281,192	0.0613	\$1,298,785			\$0
<b>Enosburg Falls Village</b>	26,804,996	0.0048	\$102,365	26,804,996	0.0053	\$112,532
<b>Green Mountain Power</b>	4,222,833,000	0.7657	\$16,218,061	4,222,833,000	0.8370	\$17,728,651
<b>Hardwick Village</b>	33,035,247	0.0062	\$130,641	33,035,247	0.0065	\$138,690
<b>Hyde Park Village</b>	11,337,855	0.0021	\$44,140	11,337,855	0.0022	\$47,592
<b>Jacksonville Village</b>	4,983,706	0.0009	\$19,380	4,983,706	0.0010	\$20,947
<b>Johnson Village</b>	12,946,230	0.0023	\$47,910	12,946,230	0.0026	\$54,349
<b>Ludlow Village</b>	46,201,302	0.0088	\$185,456	46,201,302	0.0092	\$193,971
<b>Lyndonville Village</b>	60,845,404	0.0112	\$238,238	60,845,404	0.0121	\$255,436
<b>Morrisville Village</b>	44,306,409	0.0081	\$172,261	44,306,409	0.0088	\$186,007
<b>Northfield Electric Dept.</b>	28,365,532	0.0051	\$107,936	28,365,532	0.0056	\$119,076
<b>Orleans Village Inc.</b>	13,061,106	0.0024	\$50,833	13,061,106	0.0026	\$54,836
<b>Stowe Village</b>	80,189,117	0.0141	\$298,051	80,189,117	0.0159	\$336,663
<b>Swanton Village Electric</b>	54,466,879	0.0098	\$207,272			\$0
<b>Vermont Electric Coop.</b>	446,266,517	0.0820	\$1,737,115	446,266,517	0.0885	\$1,873,559
<b>Washington Electric Coop.</b>	69,809,811	0.0127	\$269,161			\$0
<b>Total</b>	<b>5,509,585,842</b>	<b>1.0000</b>	<b>\$21,180,450</b>	<b>5,045,027,960</b>	<b>1.0000</b>	<b>\$21,180,450</b>

### III. Recommended Statutory Changes

Based on the discussion above, the Commission recommends the following changes to the text of 30 V.S.A. § 8005a. These changes are intended to allow the three utilities that have already qualified for exemptions under the current statute to continue to be exempt, provided that the utilities obtain and retire sufficient RECs to claim that their power supply is 100% renewable in

each remaining year of the standard offer program. No other utilities would be able to qualify for an exemption.

**Original language of 30 V.S.A. § 8005a(k)(2)(B)**

(B) A retail electricity provider shall be exempt and wholly relieved from the requirements of this subdivision if, during the immediately preceding 12-month period ending October 31, the amount of renewable energy supplied to the provider by generation owned by or under contract to the provider, regardless of whether the provider owned the energy's environmental attributes, was not less than the amount of energy sold by the provider to its retail customers.

**Proposed revision to 30 V.S.A. § 8005a(k)(2)(B) (annotated)**

(B) A retail electricity provider ~~shall be exempt and wholly~~ that was relieved from the requirements of this subdivision by the Commission on or prior to January 25, 2018, may continue to be exempt from the requirements of this subdivision if the retail electricity provider meets the following criteria in each year that the Standard Offer Facilitator allocates electricity pursuant to this subdivision:

(i) during the immediately preceding 12-month period ending October 31, the amount of renewable energy supplied to the provider by generation owned by or under contract to the provider, regardless of whether the provider owned the energy's environmental attributes, was not less than the amount of energy sold by the provider to its retail customers,- and

(ii) the retail electricity provider owns and retires an amount of 30 V.S.A. § 8005(a)(1) qualified renewable energy attributes that is not less than the provider's retail sales.

**Proposed revision to 30 V.S.A. § 8005a(k)(2)(B) (clean)**

(B) A retail electricity provider that was relieved from the requirements of this subdivision by the Commission on or prior to January 25, 2018, may continue to be exempt from the requirements of this subdivision if the retail electricity provider meets the following criteria in each year that the Standard Offer Facilitator allocates electricity pursuant to this subdivision:

(i) during the immediately preceding 12-month period ending October 31, the amount of renewable energy supplied to the provider by generation owned by or under contract to the provider, regardless of whether the provider owned the energy's environmental attributes, was not less than the amount of energy sold by the provider to its retail customers, and

(ii) the retail electricity provider owns and retires an amount of 30 V.S.A. § 8005(a)(1) qualified renewable energy attributes that is not less than the provider's retail sales.