

## STATE CORPORATION COMMISSION

AT RICHMOND, MAY 7, 2020

*Document Control Center 05/07/20@2.06 PM*COMMONWEALTH OF VIRGINIA, *ex rel.*

STATE CORPORATION COMMISSION

Case No. PUR-2020-00081

*Ex Parte: Order Regarding Third Party Power  
Purchase Agreements Pilot Program*ORDER AUTHORIZING PILOT CAPACITY PRE-REGISTRATIONS

This Order of the State Corporation Commission ("Commission") relates to the Virginia General Assembly's recent amendments to a pilot program, previously established in legislation, for third party sales of electricity from certain renewable generation facilities to utility customers via power purchase agreements ("Pilot Program").<sup>1</sup> The Virginia Clean Economy Act ("VCEA") enacted by the Virginia General Assembly in its 2020 Session,<sup>2</sup> *inter alia*, increased the aggregated capacity available for the Pilot Program to the following levels: (i) 500 megawatts ("MW") for Virginia jurisdictional customers, and 500 MW for non-jurisdictional customers in the service territory of the Virginia Electric and Power Company d/b/a/ Dominion Energy Virginia ("Dominion" or "DEV"), and (ii) 40 MW in the service territory of Appalachian Power Company ("APCo"). The initial capacities for the Pilot Program established by the Virginia

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<sup>1</sup> Chapter 385 and 382 of the Acts of Assembly of 2013, as amended by Chapter 803 of the Acts of Assembly of 2017. The Pilot Program enables non-utility third parties to meet the partial requirements of investor owned utilities' electricity customers, through the sale to such customers of electricity generated by certain solar and wind powered generation facilities. The legislation specifies (i) the minimum and maximum size of these generation facilities (ii) customers eligible to participate in the Pilot Program, *i.e.*, "customer-generators" as defined in Virginia statutes governing net metering (§ 56-594 of the Code), (iii) capacity available for the program and corresponding program limits tied to utilities' peak load forecasts, and (iv) other eligibility criteria. The Virginia General Assembly modified several of these key provisions of this Pilot Program during its 2020 Session.

<sup>2</sup> Chapters 1193 and 1194 (HB 1526 and SB 851, respectively) of the Acts of Assembly of 2020.

General Assembly were 50 MW for DEV, and 7 MW for APCo. These amended Pilot Program capacities will become available on July 1, 2020, when the VCEA's provisions become effective.

Since the VCEA's enactment, the Staff of the Commission ("Commission Staff") has received inquiries from individuals and entities seeking to submit to the Commission, in advance of July 1, 2020, notices of intent to enter into third party purchase agreements ("Notice of Intent") that would utilize the newly legislated capacity under the VCEA. While, as we note, the VCEA's provisions will not become effective until July 1, 2020, the Commission, by this Order, will authorize, in DEV's service territory, the pre-registration with the Commission Staff of such Notices of Intent up to a maximum of 125 MW for jurisdictional customers, and 125 MW for non-jurisdictional customers. Within APCo's service territory, up to 10 MW may be pre-registered. However, no more than 3 MW may be pre-registered in either service territory by any individual or entity (which shall include any affiliated entities or subsidiaries thereof). All pre-registered Notices of Intent shall become effective on and after July 1, 2020, for all purposes, concurrent with the effective date of the VCEA.

Accordingly, the Commission takes the following action.

NOW THE COMMISSION, pursuant to Chapter 385 and 382 of the Acts of Assembly of 2013, as amended by Chapter 803 of the Acts of Assembly of 2017, and as further amended by the Virginia Clean Economy Act, Chapters 1193 and 1194 of the Acts of Assembly of 2020, hereby orders as follows:

(1) The Commission Staff shall accept for pre-registration prior to July 1, 2020 (i) in Dominion's service territory, Notices of Intent for up to a cumulative total of 125 MW for jurisdictional customers, and 125 MW for non-jurisdictional customers, with a 3 MW limit per registrant (including any affiliated entities or subsidiaries thereof), and (ii) in APCo's service

territory, Notices of Intent for up to a cumulative total of 10 MW, with a 3 MW limit per registrant (including any affiliated entities or subsidiaries thereof). Pre-registered Notices of Intent received prior to July 1, 2020, shall become effective on and after July 1, 2020, for all purposes, and shall be identified as "Preregistered Notices of Intent" on the Pilot Program page of the Commission's website.

(2) All such Notices of Intent, shall be (i) prepared in compliance with the Commission's Guidelines Regarding Notice Information for a Third Party Renewable Power Purchase Agreement ("Guidelines"),<sup>3</sup> except as otherwise provided herein, and (ii) submitted to the Commission's Division of Public Utility Regulation at [UtilityReg@scc.virginia.gov](mailto:UtilityReg@scc.virginia.gov) and to [david.eichenlaub@scc.virginia.gov](mailto:david.eichenlaub@scc.virginia.gov). The Guidelines and general registration information are available on the Commission's website at <https://scc.virginia.gov/pages/Renewable-Energy-Pilot-Program>.

(3) The cost incurrence reporting milestones within the "Program Cap Management" provisions of the Guidelines shall not be applicable to any Notice of Intent pre-registered pursuant to this Order, until on and after July 1, 2020.

(4) At such time that the total megawatts of capacity submitted for pre-registration pursuant to this Order reach the preregistration capacity limits prescribed for a utility herein, no further Notices of Intent shall be pre-registered for that utility under this Order.

(5) The provisions of this Order shall become effective on May 14, 2020.

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<sup>3</sup> See, *Concerning the establishment of a renewable energy pilot program for third party power purchase agreements*, Case No. PUE-2013-00045, Order Establishing Guidelines (November 14, 2013); Order Updating Guidelines (June 29, 2017). The Guidelines will be updated effective July 1, 2020, to reflect the VCEA's modifications to the Pilot Program.

(6) We will also direct the Commission's Division of Public Utility Regulation to provide copies of this Order by electronic transmission, or when electronic transmission is not possible, by mail, to (i) all current Pilot Program participants, and (ii) individuals, organizations, and companies who (a) previously participated in the Commission's dockets establishing and updating the Pilot Program Guidelines, or (b) have otherwise been identified by the Commission Staff as interested in the development of solar and wind powered generation in the Commonwealth. This Order shall also be posted on the Commission's website.

(7) This matter is continued pending further Orders of the Commission.

IT IS SO ORDERED this 7th day of May 2020.