

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	
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Order entered: 12/10/2020

ORDER GRANTING FURTHER EXTENSION OF COMMISSIONING DEADLINES

I. INTRODUCTION

Both the State of Vermont and the federal government have declared a state of emergency due to the outbreak of the new coronavirus known as COVID-19. The Vermont Public Utility Commission (“Commission”) recognizes the importance of helping to slow the spread of COVID-19 in Vermont.

Construction and interconnection of new generation facilities have been affected by measures put in place to slow the spread of the virus on Vermont, including Governor Scott’s Stay Home, Stay Safe Executive Order 01-20 and addenda to that order. In addition, measures put in place to help slow the spread of COVID-19 in Vermont and elsewhere are affecting supply chains.

The Commission recognizes that these disruptions to supply chains and construction activities may affect the ability of new generation facilities to meet their commissioning deadlines, as established in their certificates of public good or in their standard-offer contracts. Therefore, in this order the Commission grants a one-year extension of all commissioning deadlines for net-metering and standard-offer projects whose commissioning deadlines fall on or after January 1, 2021, through March 1, 2021.

II. PROCEDURAL HISTORY

On May 21, 2020, the Commission granted a one-year extension of all commissioning deadlines for net-metering and standard-offer projects whose commissioning deadlines fall on or after March 25, 2020, through December 31, 2020.¹

¹ Order of 5/21/20.

On November 25, 2020, the Commission issued an order seeking public comments on whether further changes to commissioning deadlines would be appropriate. Specifically, the Commission asked for public comments on whether it would be appropriate to grant a one-year extension of all commissioning deadlines for net-metering and standard-offer projects whose commissioning deadlines fall on or after January 1, 2021, through March 1, 2021.

Public comments were filed in response to the Commission's November 25 order by the following entities: AllEarth Renewables, Inc. ("AllEarth"); Green Lantern Development, LLC ("Green Lantern"); Green Mountain Power Corporation ("GMP"); the Vermont Agency of Natural Resources ("ANR"); and the Vermont Department of Public Service ("DPS").

III. DISCUSSION

All public commenters support extending commissioning deadlines. AllEarth, GMP, ANR, and the DPS support the extension proposed by the Commission, although AllEarth states that it supports the proposed extension provided that any such extension is without prejudice to prospective further commissioning date extensions on either a generic or individual basis. Green Lantern recommends a broader extension than that proposed by the Commission. Specifically, Green Lantern recommends that the Commission extend all commissioning deadlines for projects whose most recent commissioning deadline is between December 31, 2020, and June 1, 2021 (rather than only those through March 1, 2021).

Green Lantern describes how the pandemic is currently affecting project construction and development activities. These impacts include:

- unavailability and longer lead times for equipment;
- frequent changes to quarantine requirements, close-contact restrictions, and travel restrictions;
- slower and more complicated project financing processes;
- difficulty conducting land records searches due to town offices and land records offices having limited hours or being by-appointment only and some town land record systems being overwhelmed by the recent volume of transactions; and
- customers delaying decisions about participating in the net-metering program as they deal with the pandemic's impacts on their operations.

The Commission determines that, because of the continued impacts of the COVID-19 pandemic on project construction and development, it is appropriate to grant a one-year extension of all commissioning deadlines for net-metering and standard-offer projects whose commissioning deadlines fall on or after December 31, 2020, through March 1, 2021. The new commissioning deadline is one year from the last commissioning deadline established for a project. In other words, the new commissioning deadline for a project whose commissioning deadline was originally February 1, 2021, is now January 31, 2022.

The extension granted today applies to net-metering projects with a certificate of public good as well as to those for which a certificate of public good was deemed issued. Projects whose commissioning deadlines fall within this time period do not need to file individual requests for extensions.

In addition, the Commission will instruct the standard-offer facilitator to similarly extend any commissioning deadlines for standard-offer projects that fall on or after January 1, 2021, through March 1, 2021.

This order does not limit the ability of any CPG holder to file for an extension of a specific commissioning deadline; the Commission will consider any such requests at the time they are filed. In addition, the Commission will continue to monitor the situation related to the COVID-19 pandemic to determine whether any further generic extensions of commissioning deadlines may be appropriate.

Today's order also does not affect any deadlines, restrictions, or timeframes associated with activities related to natural resources and environmental concerns that are required by individual CPGs, Commission orders, or memoranda of understanding executed with ANR. ANR noted in its public comments that some of these activities may have seasonal restrictions associated with conducting them or specific timeframes for reporting the results. There might also be restrictions on the timing of certain construction activities. All such deadlines, restrictions, and timeframes for these activities will remain in place. The Commission clarifies that we will consider any requests for extensions for these activities on a case-by-case basis at the time they are filed.

Green Lantern's Request for a Broader Extension of Commissioning Deadlines

Green Lantern suggests that the Commission's proposal to extend commissioning deadlines that fall between December 31, 2020, and March 1, 2021, is too narrow. It recommends that the extension apply to commissioning deadlines through June 1, 2021.

This request is broader than the extension granted in today's order, and the Commission declines to grant it at this time. While Green Lantern correctly notes the recent increase in the number of COVID-19 cases and the predicted increase over the winter, there is uncertainty about how soon one or more vaccines will be available in the United States and how quickly they will be able to be distributed in large quantities. As a result, it is presently unknown how long the impacts of the COVID-19 pandemic on project construction and development will last. For this reason, the basis for granting extensions of net-metering commissioning deadlines that fall after March 1, 2021 is currently unclear. However, as stated above, the Commission will continue to monitor the situation related to the COVID-19 pandemic to determine whether any further generic extensions of commissioning deadlines may be appropriate.

IV. CONCLUSION

For the reasons set forth above, the Commission grants a one-year extension of all commissioning deadlines for net-metering and standard-offer projects whose commissioning deadlines fall on or after January 1, 2021, through March 1, 2021. The new commissioning deadline is one year from the last commissioning deadline established for a project. In other words, the new commissioning deadline for a project whose commissioning deadline was originally February 1, 2021, is now January 31, 2022.

V. ORDER

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

1. All commissioning deadlines for net-metering and standard-offer projects whose commissioning deadlines fall on or after January 1, 2021, through March 1, 2021, are extended by one year. The new commissioning deadline shall be calculated as set forth in this order.

