

**COMMONWEALTH OF VIRGINIA
STATE CORPORATION COMMISSION**

In the matter of establishing rules)
and regulations pursuant to § 56-585.5 G) CASE NO. PUR-2021-00089
of the Code of Virginia)
related to accelerated renewable energy buyers)
)

REPLY COMMENTS OF THE ADVANCED ENERGY BUYERS GROUP

The Advanced Energy Buyers Group (“AEBG”) appreciates the opportunity to submit reply comments to the State Corporation Commission (“SCC” or “Commission”) in the above-captioned proceeding. After reviewing other filings in the docket, and in particular the joint filing by Virginia Electric and Power Company (“Dominion”) and Appalachian Power Company (“APCo”),¹ AEBG has some additional recommendations to improve the Accelerated Renewable Energy Buyer (“ARB”) certification process. The feedback below seeks to reflect the importance of ensuring that the ARB provision is implemented in a manner consistent with the restrictions and safeguards put in place in statute while reducing the administrative burden for prospective ARB customers and protecting confidential customer information.

I. Recommendations to Improve the Proposed Certification Form and Utility ARB Certification Process

¹ Docket No. PUR-2021-00089, Joint Comments of Virginia Electric and Power Company and Appalachian Power Company (21 June 2021) (hereafter “Dominion and APCo Comments”).

Dominion and APCo propose that prospective ARBs undergoing a utility certification process submit an Accelerated Renewable Energy Buyer Certification Form (“Certification Form”) each year. AEBG supports the concept of a standardized Certification Form, but recommends the following improvements:

- 1. The Certification Form should be used only for the initial certification of an ARB or when an ARB enters into a new contract with an eligible renewable energy project, and subsequent annual filings should utilize a simplified, streamlined form.**

Information needed to verify an ARB’s eligibility and the eligibility of applicable renewable energy projects and contracts is not needed on an annual basis once a customer and a customer’s project(s) are deemed to qualify for ARB treatment. Instead, a separate annual form should be accepted, requiring that customers submit only the information contained in Schedule 3 of the Certification Form; namely, a list of relevant renewable energy certificates (“RECs”) retired (see item no. 4 below for more recommendations on the REC retirement verification process). When an existing ARB customer enters into a new renewable energy contract, that customer would still be required to fill out the full Certification Form.

- 2. Customers should not be required to submit executed contracts, even with confidential information redacted.** The Certification Form would require a prospective ARB customer to provide “a copy of all executed contracts” for eligible resources. This requirement is redundant given the information required and provided by the customer under Schedule 2 of the Certification Form, and customers should not be required to provide the utility with this additional, redundant documentation, which is highly sensitive even with confidential information redacted.

- 3. Required information about a customer’s renewable energy contract should be limited to that which is necessary to verify eligibility.** The proposed Certification Form appropriately allows customers to redact “all market sensitive information” other than that required to verify information required under the second item of the form. That item lists the following as required information: “the name of the RPS eligible resource; the commercial operation date; the MW ac rating of the resource; the actual production in megawatt-hours in the prior calendar year; the contract delivery term start and end date, as defined in the power purchase agreement; and statement of whether the contract is only for renewable energy certificates (“RECs”) or for bundled capacity, energy, and RECs.”² AEBG submits that the “actual production in megawatt-hours in the prior calendar year” is not necessary given that the Certification Form already requires a list of relevant RECs retired through PJM-EIS’s Generation Attribute Tracking System (“GATS”).
- 4. Certification of REC retirement should be based on annual, not monthly, REC information, and customers should have the option to submit this information via an approved third-party verification process.** Under the proposed Schedule 3, an ARB customer would be required to list the month in which a REC was generated; this information is not needed for purposes of the ARB provision and should be eliminated. Furthermore, customers should be allowed to submit REC retirement information through an approved third-party verifier, and should be given until May 1 to provide such information in order to accommodate this option. This will reduce the administrative burden for customers without undermining the reliability of the information provided.

² Dominion and APCo Comments, Attachment 2.

5. Prospective ARB customers should have assurance that confidential information will be accessed only by limited, essential personnel within the relevant utility.

Dominion and APCo propose to protect customer confidentiality by ensuring that the Certification Form “would only be available to those serving in non-marketing roles within the utility, and only to those with a need to know.”³ AEBG appreciates this effort to keep customer information confidential, and asks that Dominion and APCo also commit to provide any customer seeking ARB status with a complete list of people within the utility that will have access to the Certification Form. Knowing how the utility delineates “non-marketing roles” and how it defines who has a “need to know” will allow customers to proceed with confidence.

II. Recommendations to Support ARBs that Wish to Dispute a Utility’s Determination

In their joint comments, Dominion and APCo state that no formal internal dispute process is necessary because ARBs have the option to certify directly with the Commission or to file a formal or informal complaint with the Commission.⁴ AEBG does not take issue with these alternate avenues to dispute a utility determination, but asks that customers undergoing a Commission certification process *after* being denied certification by their utility be given an extended timeframe to submit such a certification.

III. Recommendations Regarding the SCC ARB Certification Process for Non-Utility ARB Certification

³ Dominion and APCo Comments at 7.

⁴ Dominion and APCo Comments at 8.

Dominion and APCo request the opportunity to weigh in on customer ARB certification requests submitted through the Commission, and offer two potential processes to facilitate this request. Under the first approach, SCC staff would administer the certification process and share information with the relevant utility for input prior to certification. Under the second approach, the Commission would open a docket and allow for notice and comment.⁵ AEBG strongly urges the Commission to adopt the first approach. Even if confidential information is redacted and kept confidential in a docketed proceeding, it would likely be possible for informed observers to identify the parties involved. AEBG has no objection to Dominion and APCo having visibility into the SCC ARB certification process, but this should not come at the risk of violating customer confidentiality. Additionally, we reiterate that any information shared about ARB customers and RECs retired under the ARB provision as part of the SCC certification process or otherwise should be both anonymized and aggregated.

IV. The Commission Should Not Require or Permit Public Release of Underlying Contract Terms or Pricing, as Requested by The Office of Attorney General, Division of Consumer Counsel

The Office of Attorney General, Division of Consumer Counsel (“Consumer Counsel”) argues in initial comments that “the Commission should require the public filing of the terms of the underlying contract [supporting an ARB application], especially those terms that relate to pricing.”⁶ As we emphasized in our initial comments and as we have restated here, it is very important to renewable energy buyers that information about private contracts be kept confidential. Failure to respect this requirement for confidentiality would harm existing

⁵ Dominion and APCo Comments at 9-10.

⁶ Docket No. PUR-2021-00089, Comments of the Office of the Attorney General (21 June 2021), at 2 (hereafter “Consumer Counsel Comments”).

contractual relationships, provide sensitive information to an ARB’s competitors, and jeopardize companies’ ability to negotiate and enter into competitive contracts for renewable energy in the future. Publication of contract term and price information would therefore be extremely problematic from a customer confidentiality standpoint—so much so that it would prevent most if not all prospective ARB customers from participating altogether, undermining the intent of the ARB provision.

Furthermore, the justification given by Consumer Counsel for public release of such information is unfounded and inconsistent with the purpose and structure of the ARB provision. The ARB provision simply allows customers who are already procuring renewable energy at a level at or above that required by the RPS to be removed from the RPS requirements altogether. Such customers are not causing utilities to incur RPS costs, and do not create a risk of cost shifting to non-ARB customers. Therefore, an evaluation of potential “inequities” between ARB and non-ARB customers has no relevance.

V. AEBG Reiterates that the counterparty to ARB contracts involving the sale of bundled capacity, energy, and RECs need not be licensed in Virginia as a competitive service provider.

In our initial comments, AEBG explained in response to Question 8 that the counterparty to an ARB contract need not be licensed in Virginia as a competitive supplier; many contracts that prospective and future ARB candidates have entered into or will enter into are with independent developers in the PJM region who are not licensed as competitive suppliers in Virginia. We therefore agree with the comments filed by Dominion and APCo in response to Question 8, and disagree with the comments filed by Consumer Counsel. Consumer Counsel’s comments incorrectly assume that an ARB customer entering into a contract for bundled

capacity, energy, and RECs would no longer be a retail customer of its incumbent electric utility.⁷ In reality, such bundled contracts are generally wholesale transactions that remain separate from the customer's arrangement with its retail electricity supplier.

AEBG appreciates the Commission's consideration of our feedback regarding the ARB certification process proposed by Dominion and APCo and the input of other commenters. Implementation of the ARB provision should be streamlined and respectful of customer confidentiality while providing utilities and the Commission with information necessary to ensure that the provision is implemented consistent with the requirements of Virginia statute.

Respectfully Submitted,

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⁷ Consumer Counsel Comments at 4.