

May 28, 2014

UNITED STATES DEPARTMENT OF
VETERAN AFFAIRS
REQUEST FOR APPROVAL OF AN
INTERCONNECTION AGREEMENT
(CHAPTER 324)

ORDER ADOPTING STANDARD
FORM INTERCONNECTION
AGREEMENT

I. SUMMARY

Through this Order, I adopt a Government Standard Form Interconnection Agreement for use by the federal government for small generator interconnection under Section 3 of Chapter 324 of the Commission's Rules.

II. BACKGROUND

On December 30, 2013, the United States Department of Veterans Affairs (USVA) filed a request for the Commission to adopt a stand-alone "Government Standard Form Interconnection Agreement" for use by the federal government. The December 30th request was related to a previous waiver request granted by the Commission to Central Maine Power Company (CMP) related to a USVA project at its Togus Regional Office. The previous request was filed by CMP on September 20, 2013, and sought a waiver of several of the provisions of section 12(I) of Chapter 324 (Small Generator Interconnection Procedures) related to CMP's provision of interconnection service for a 2.4kW wind turbine and 800kW biomass generator at to the USVA's Togus Regional Office (Togus project). *Central Maine Power Company, Request for Waiver of Chapter 324 Section 12(I) (Interconnection Agreements)*, Docket No. 2013-460 (October 16, 2013), Order Granting Waiver. Section 12(I) states that interconnection agreements that fall under the provisions of the rule shall utilize the forms provided and adopted by the Commission. The USVA had requested that CMP make certain revisions to the applicable standard form interconnection agreement due limits in the USVA's contracting authority with respect to several federal statutes. The requested revisions were as follows:

- Modification to §§ 6.2 and 6.3.1-6.3.5 of the Commission's standard form interconnection agreement to eliminate certain language that violated the Antideficiency Act and to add additional language that brought the liability and indemnification requirements of the USVA into compliance with the Federal Tort Claims Act;

- Modification of the insurance provisions in Article 7 of the Standard Form Interconnection Agreement to reflect that the federal government will self-insure and cannot be required to carry insurance under the Federal Tort Claims; Antideficiency, and Automatic Payment of Judgments Act ; and
- Modification of § 9.1 of the Standard Form Interconnection Agreement to amend the language to recognize the priority of federal law over Maine law in regards to governing law and regulatory authority issues.

CMP indicated the revisions to the standard agreement requested by USVA were acceptable and, moreover, that the USVA had submitted that, without the above mentioned modifications, it would be prohibited from executing the agreement. Finding the proposed revisions provided necessary clarifications to the standard form agreement that were not inconsistent with the purposes of the rule or any statutory provision, I found that good cause existed and granted the waiver as requested by CMP.

Following the issuance of the waiver the USVA filed the subsequent request for the Commission to adopt a stand-alone “Government Standard Form Interconnection Agreement” on December 30, 2013. The USVA asked the Commission incorporate specific changes to the Level 2, 3 & 4 standard form interconnection agreement to create a new standard form interconnection agreement for use by exclusively by the federal government. The content of the changes and justification provided by the USVA were identical to that included in CMP’s request related to the Togus project. Specifically, the USVA stated that the existing standard form interconnection agreement, in its current form, contained a provision § 6.2 which violated the Anti-Deficiency Act, that §§ 6.31- 6.3.5 were inconsistent with the government’s self-insured status and that § 9 needed to reflect that the agreement would be governed by the laws of the United State of America.

The request went on to say that this type of specialized interconnection agreement, “is typical of a modern trend nationwide to change or eliminate liability clauses for the Government so as not to violate the Anti-Deficiency Act.” The USVA also submitted an affidavit by Brenda Parks, a contracting officer with the USVA and the Togus agreement previously approved by the Commission.

On February 10, 2014 the Commission issued a request for comments on the USVA’s proposal. Comments were received from Central Maine Power (CMP) and Emera Maine (Emera). CMP’s comments were supportive but Emera had some concerns about language The USVA submitted responsive comments addressing Emera’s concerns and providing more detail on the necessity of proposed changes.

III. DECISION

Pursuant the delegated authority granted under Section 3 of Chapter 324 of the Commission’s Rules, I approve this Government Standard Form Interconnection

Agreement (Federal Government Agreement) for use by all federal entities entering into interconnection agreements for distributed generation resources with Maine T & D Utilities. The Federal Government Agreement is consistent with the format we approved for the Togus project and with the requirements and purpose of Chapter 324. Although the USVA currently has no plans for additional distributed generation facilities in Maine, the revised Federal Government Agreement should facilitate other federal entities in purposing distributed generation solutions in the state.

Dated at Hallowell, Maine, this 28th day of May, 2014.

BY ORDER OF THE DIRECTOR OF ELECTRIC
AND GAS UTILITY INDUSTRIES


Faith Huntington