



Virginia State Corporation Commission Adopts Revised Regulations Governing Interconnection of Small Electrical Generators and Storage

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08.19.2020

On July 29, 2020, the Virginia State Corporation Commission (the “**Commission**”) issued an Order^[1] (the “**Order**”) revising the Regulations Governing Interconnection of Small Electrical Generators, 20 VAC 5-314-10 *et seq.* (the “**Interconnection Regulations**”). The Interconnection Regulations apply to utilities providing interconnections to retail electric customers, independently owned generators, and any other parties operating, or intending to operate, a distributed generating facility in parallel with utility systems.^[2]

By its Order, the Commission made numerous revisions to the Interconnection Regulations (the “**Revised Regulations**”). Specifically, the Revised Regulations (among other changes):

- Eliminated the 20 MW output limit of a small generating facility (“**SGF**”);
- Added equipment used for the storage of electricity for later injection to utility systems (and revised the title of the Revised Regulations to include “storage”);
- Added queue number assignment and utility queue reporting to the Commission;
- Clarified the process for interdependent projects;
- Revised the definition of “material modification” and added examples of changes that qualify and do not qualify as material modifications;
- Increased the upfront interconnection request study deposit for Level 3 interconnection requests; and
- Added new forms (such as the Generating Facility Preapplication Report Request Form) and revised other schedules, including the Small Generator Interconnection Agreement (SGIA).

The Revised Regulations are effective October 15, 2020, as further described below.

Background

The Commission adopted the existing Interconnection Regulations on May 8, 2009[3] In September 2018[4], the Commission initiated a rulemaking ?to determine whether, and the extent to which, any of the Interconnection Regulations should be revised.? The Commission decided to consider revisions to the Interconnection Regulations ?[g]iven the passage of time since the Commission established the Interconnection Regulations, recent changes in applicable laws and Federal Energy Regulatory Commission (?FERC?) guidelines, and technological changes in the power industry.? In addition, utilities and developers had expressed concern about certain aspects of the existing Interconnection Regulations.

During the rulemaking process, several parties submitted comments, including Virginia Electric and Power Company (Dominion), the Virginia, Maryland & Delaware Association of Electric Cooperatives and a few solar developers. The Commission?s rulemaking process culminated in the issuance of its Order adopting the Revised Regulations.

Summary of Certain Revisions

While the Commission made several revisions to the Interconnection Regulations, a copy of which is available here, a few notable changes include:

- Applicability to electric generating facilities greater than 20 MWs. The current Interconnection Regulations only applied to electric generating facilities with a rated capacity of 20 MWs or less. That upper limit was removed in the Revised Regulations.
- Applicability to storage projects. The Revised Regulations will apply to equipment used for the storage of electricity for later injection to utility systems.
- Preapplication Report. Interconnection customer (?IC?) can submit a formal request (along with a nonrefundable fee of \$500) for a preapplication report on a proposed project at a specific site. (Attached as new Schedule 4 to the Revised Regulations is a preapplication report request form.)
- Queue Numbers; Queue Reporting Requirements.
 - The utility is to assign queue numbers based on receipt of a completed Interconnection Request Form. The queue number and relative position of each interconnection request is to be used to determine the cost responsibility for the upgrades necessary to accommodate that interconnection.
 - On an annual basis (on or before January 31), each utility is required to submit a report to the Commission that includes the utility?s SGF queue and a listing of those facilities interconnected during the preceding calendar year.
- Material Modifications.
 - The definition of ?material modification? has been revised as ?a modification to machine data or equipment configuration or to the interconnection site of the SGF that has a material

impact on the cost, timing, or design of any customer interconnection facilities or upgrades or that may adversely impact other interdependent interconnection requests with higher queue numbers.?

- The Revised Regulations also describe changes that qualify and do not qualify as a material modification. For example, a change reducing the maximum generating capacity of the SGF by more than (i) 25% *before* execution of the Feasibility Study Agreement or Combined Study Agreement or (ii) 10% *after* either such agreement has been executed, qualifies as a material modification.
- Prior to making any modification, an IC may submit an informal inquiry requesting the utility to evaluate whether the proposed modification is a material modification.

- Fees. The processing fees and deposits are as follows:

<u>Request Level</u>	<u>Capacity Limit</u>	<u>Fee / Deposit</u>
Level 1	500 kW or less	\$100 processing fee
Level 2 (not qualifying for Level 1)	2 MW or less	\$1,000 processing fee
Level 3 (not qualifying for Level 1 or Level 2)	Above 2 MW	\$1,000 processing fee and \$10,000 plus \$1.00 per kW AC interconnection request study deposit

- Assignment; Sale of Existing or Proposed SGF.

- At any time after an interconnection request has been submitted, the IC is obligated to notify the utility of a pending sale of an existing or proposed SGF in writing and indicate whether the sale is a change of ownership of the SGF to a new legal entity or a change of control of the existing legal entity.
- The IC is obligated to promptly notify the utility of the final date of sale and transfer date of ownership, and the purchaser of the SGF is also obligated to confirm such final date of sale and transfer date of ownership.
- The Revised Regulations also address whether an interconnection agreement (**?1A?**) survives such transaction.

Applicability of the Revised Regulations

The Revised Regulations are effective October 15, 2020 and do not apply to SGFs already interconnected as of October 15, 2020, unless (a) an IC proposes a material modification, or (b) the utility and IC agree in writing. The Revised Regulations apply if the IC has not actually interconnected the SGF as of October 15, 2020.

- IA Not Executed prior to October 15, 2020

Any IC that has not executed an IA with the utility prior to October 15, 2020 has 30 days following the later of (i) October 15, 2020, or (ii) the posted date of notice in writing from the utility to (a) demonstrate site control, (b) execute a combined study agreement or individual revised study agreements, and (c) post the deposit specified in the Revised Regulations (minus any study costs previously paid).

- IA Executed prior to October 15, 2020

Any IC that has executed an IA with the utility prior to October 15, 2020, but where the utility has not actually interconnected the SGF or where the IC has not begun making payments, has 60 days following the later of (i) October 15, 2020 or (ii) the posted date of notice in writing from the utility, to submit upgrade and interconnection facility payments (or financial security acceptable to the utility for attachment facilities and distribution upgrades). Any amount previously paid by the IC at the time of deposit or payment is to be credited toward the deposit amount or other payment required.

If an IC fails to comply following written notice (and 10 business day cure period, following notice from the utility), the IC will lose its queue number, and the interconnection request will be deemed withdrawn.

For more information about the Revised Regulations, please contact Brad Nowak, co-Chair of Williams Mullen's Solar and Energy Storage team.

[1] On August 3, 2020, the Commission amended the July 29, 2020 Order to correct an error in 20 VAC 5-314-39 C of the Revised Regulations.

[2] 20 VAC 5-314-10.

[3] The Interconnection Regulations are promulgated in accordance with Virginia Code § 56-578.

[4] *Commonwealth of Virginia, ex rel. State Corporation Commission, Ex Parte: In the matter of revising the Commission's Regulations Governing Interconnection of Small Electrical Generators*, Case No.

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