



Virginia State Corporation Commission Concludes Competitive Service Provider (CSP) May Not Provide Partial Service to Retail Customers

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On April 20, 2018, in the *Petition of English Biomass Partners-Ferrum, LLC, For a declaratory judgment*,¹ the Virginia State Corporation Commission (the "Commission") issued its Final Order (the "Order") where it concluded that a licensed competitive service provider ("CSP") may not provide partial electric service to customers choosing retail access under Virginia Code Section 56-577 A 5 ("Section A 5"). Further, in its Order, the Commission found that "requiring a retail choice customer to take its full load requirements from the CSP under Section A 5 is a reasonable and consistent implementation of the retail access provisions of the [Virginia Electric Utility Regulation Act]."

As background, on September 6, 2017, English Biomass Partners-Ferrum, LLC ("English Biomass") filed a petition for declaratory judgment with the Commission seeking, among other things, to affirm the right of English Biomass, pursuant to Virginia Code Section 56-577, to sell electricity from 100% renewable resources to Ferrum College, a customer located in the service territory of Appalachian Power Company ("Appalachian"). In its September 6 Petition, English Biomass states that it is capable of providing approximately 25% of the electric needs of Ferrum College. The remaining electric needs of Ferrum College would be provided by Appalachian. As described in the Order, English Biomass therefore requested the Commission's determination "that a CSP may lawfully provide partial competitive electric service to its customer, with the remainder of the customer's electric service provided by the incumbent electric utility."

Section A 5 permits retail customers "to purchase electric energy provided 100 percent from renewable energy" from any licensed CSP in Virginia "if the incumbent electric utility serving the exclusive service territory does not offer an approved tariff for electric energy provided 100 percent from renewable energy." Since Appalachian currently does not have such an approved tariff, the Commission confirmed that Appalachian's customers are currently permitted "to purchase electric energy provided 100 percent from renewable energy" from a CSP. The issue the Commission was thus asked to

consider involved the ?permissibility of partial competitive electric service.?

In its Order, the Commission determined that ?nothing in the plain language of Section A 5, Code § 56-577, or the [Virginia Electric Utility] Regulation Act as a whole, mandates that CSPs be permitted to provide partial competitive electric service as part of retail access under Section A 5.? Because there is no such mandate, the Commission exercised its discretion in concluding that ?it is reasonable to require a customer to buy from either a CSP, as permitted by Section A 5, or from its incumbent electric service provider, but not both simultaneously.? Accordingly, the Commission found that ?a CSP may not provide partial competitive electric service to customers choosing retail access under Section A 5.?

¹ *Petition of English Biomass Partners-Ferrum, LLC, For a declaratory judgment*, Case No. PUE-2017-0017 (September 6, 2017).

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