

THE STATE OF NEW HAMPSHIRE

CHAIRMAN
Thomas B. Getz

COMMISSIONERS
Graham J. Morrison
Clifton C. Below

EXECUTIVE DIRECTOR
AND SECRETARY
Debra A. Howland



PUBLIC UTILITIES COMMISSION

21 S. Fruit Street, Suite 10
Concord, N.H. 03301-2429

Tel. (603) 271-2431

FAX (603) 271-3878

TDD Access: Relay NH
1-800-735-2964

Website:
www.puc.nh.gov

November 4, 2008

Scott F. Eaton, Director
Administrative Rules Division
Office of Legislative Services
State House Annex, Room 219
25 Capitol Street
Concord, New Hampshire 03301

Re: Puc 2600, Greenhouse Gas Emissions Reduction Fund
Proposed Interim Rule
Commission Docket No. DRM 08-127

Dear Mr. Eaton:

Pursuant to the Rulemaking Manual, enclosed please find two copies of the following:

- 1) Interim Rulemaking Notice Form;
- 2) Proposed Interim Rule;
- 3) Cross Reference Table;
- 4) **Explanation of Interim Status (this letter);**
- 5) Cover Sheet for Proposed Interim Rule; and
- 6) Fiscal Impact Statement prepared by the Legislative Budget Assistant

On August 28, 2008, the Commission filed a letter with the Office of Legislative Services requesting a waiver of RSA 541-A:19, I(a) as it applies to filing deadlines. The Commission requested that the 90 day deadline of September 9, 2008 for the filing of Puc 2600 be extended to October 31, 2008, the deadline for the November 20, 2008 JLCAR meeting. The Commission requested the waiver in order to have the latest information regarding the fund available to us to better establish the Rules. The request was granted by Carol J. Holahan, Director of the Office of Legislative Services on September 5, 2008, and we are submitting the Interim Rule Filing for Puc 2600 - Greenhouse Gas Emissions Reduction Fund to you today.

On October 24, 2008, the Commission filed the documents above with the Administrative Rules Division with the exception of a fiscal impact statement which was not included. The Commission is resubmitting these documents to you today, including FIS 08:241, for your consideration at the December 18, 2008 meeting.

It would be helpful to have the interim rulemaking notice published in the November 14, 2008 Rulemaking Register for review at the regularly scheduled meeting of JLCAR on December 18, 2008.

Please call if you have any questions.

Sincerely,

A handwritten signature in cursive script that reads "Thomas B. Getz".

Thomas B. Getz
Chairman

APPENDIX II-J

INTERIM RULEMAKING NOTICE FORM

Proposed Interim Rule Number _____ Rule Number Puc 2600

| | |
|---|---|
| <p>1. Agency Name & Address:</p> <p style="text-align: center;">New Hampshire Public Utilities Commission 21 South Fruit Street, Suite 10 Concord, NH 03301</p> <p>5. Filing Date: October 24, 2008</p> | <p>2. RSA Authority: RSA 125-O:8, II and RSA 125-O:23</p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p style="padding-left: 20px;">Adoption <u> X </u></p> <p style="padding-left: 20px;">Amendment _____</p> <p style="padding-left: 20px;">Repeal _____</p> <p style="padding-left: 20px;">Readoption _____</p> <p style="padding-left: 20px;">Readoption w/amendment _____</p> |
|---|---|

6. Short Title: **PUC 2600 – GREENHOUSE GAS EMISSIONS REDUCTION FUND**

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

| | |
|---|---------------------------------------|
| Name: F. Anne Ross, Esq | Title: General Counsel |
| Address: New Hampshire Public Utilities Commission 21 South Fruit Street, Suite 10 Concord, NH 03301 | Phone #: 603-271-6005 |
| | Fax#: 603-271-3878 |
| | E-mail: f.anne.ross@puc.nh.gov |

TTY/TDD Access: Relay NH 1-800-735-2964
or dial 711 (in NH)

8. Summary explaining the effect of the rule: **Puc 2600 provides for the administration of the Greenhouse Gas Emissions Reduction Fund as mandated in RSA 125-O:8, II. This law authorizes the department of environmental services to administer a “cap and trade” program which includes an auction of SO₂ allowances. The PUC is required to adopt rules regarding the use of the auction proceeds and the administration of the fund. These funds will be used to support energy efficiency, conservation and demand response programs to reduce greenhouse gas emissions within the State of New Hampshire. Additionally, the funds will assist low income and other residential electric customers in New Hampshire with reduction of energy use, low income assistance programs and rebate programs.**

9. Listing of people, enterprises, and government agencies affected by the rule: **Puc 2600 affects all persons or groups seeking use of the monies from the Greenhouse Gas Emissions Reduction fund. Such persons or groups may include private entities, the department of environmental services, the public utilities commission and other state and local government entities.**

10. Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement. **RSA 125-O:8, II and RSA 125-O:23**

11. Summary of the effect upon the state if the rule were not adopted: **If Puc 2600 was not adopted, the monies received from the SO₂ auctions would continue to accumulate and funds would have no mandated directive for use. Additionally, NH low income and other residential customers would not benefit from the energy efficiency initiatives and rebate programs considered in the rules.**

12. Proposed date of review by the Joint Legislative Committee on Administrative Rules: **November 20, 2008**

13. The fiscal impact statement prepared by the Legislative Budget Assistant: **The Fiscal Impact Statement, FIS 08:241, prepared by the Legislative Budget Assistant follows Appendix II-I.**

APPENDIX II-I

COVER SHEET FOR PROPOSED INTERIM RULE

Proposed Interim Rule Number _____ Rule Number Puc 2600

| | |
|--|---|
| <p>1. Agency Name & Address:</p> <p>New Hampshire Public Utilities Commission 21 South Fruit Street, Suite 10 Concord, NH 03301</p> | <p>2. RSA Authority: RSA 125-O:8, II and RSA 125-O:23</p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption <u> X </u></p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment _____</p> |
|--|---|

5. Short Title: **Puc 800 - UNDERGROUND UTILITY DAMAGE PREVENTION PROGRAM**

6. Contact person for copies and questions:

| | | | |
|----------|--|----------|------------------------|
| Name: | F. Anne Ross | Title: | General Counsel |
| Address: | New Hampshire Public Utilities Commission 21 South Fruit Street, Suite 10 Concord, NH 03301 | Phone #: | 603-271-6005 |
| | | Fax #: | 603-271-3878 |

****PLEASE ATTACH THE FOLLOWING**, numbered to correspond to the numbers on this sheet (a separate sheet is not required for every item):

7. An explanation of why the interim rule is necessary, including documentary evidence to prove that the agency is acting in accordance with RSA 541-A:19, I, and is not adopting an interim rule solely to avoid the time periods imposed in RSA 541-A.

8. A description of the people, enterprises, and government agencies affected by the rule.

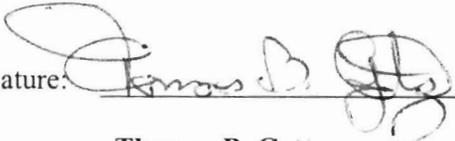
9. The fiscal impact statement prepared by the Legislative Budget Assistant.

****PLEASE SUBMIT 2 COPIES OF THIS COVER SHEET** and all attachments along with 2 copies of the interim rule to the Division of Administrative Rules. The rule must include an appendix containing the same information about statutes or federal regulations as in Item 10 of Appendix II-J

****PLEASE SIGN THE FOLLOWING:**

I, the adopting authority,* hereby certify that the attached is an accurate statement explaining why an interim rule is necessary.

Date: November 4, 2008

Signature: 

Name: Thomas B. Getz

Title: Chairman, New Hampshire Public Utilities Commission

*("Adopting authority" is the official empowered by statute to adopt the rule, or a member of the group of individuals empowered by statute to adopt the rule.)

ATTACHMENT TO APPENDIX II-I

7. Interim rules are necessary for Puc 2600 due to the fact that the department of environmental services intends to conduct the first auction for SO₂ allowances on December 17, 2008 and expects the proceeds from the action to be available within one week from that time. Interim rules will need to be in effect by this time in order for the monies to be correctly appropriated. Additionally, 10 percent of the monies from the fund are to be used to assist low-income residential customers with energy bills which will be important as this winter season approaches. The PUC in no way intends to adopt these interim rules solely to avoid the time periods imposed in RSA 541-A.

8. The parties affected by this rule are: All persons or groups seeking use of the monies from the Greenhouse Gas Emissions Reduction Fund. Such persons or groups may include private entities, the department of environmental services, the PUC and other state and local government entities.

9. The Fiscal Impact Statement, FIS 08:241, prepared by the Legislative Budget Assistant for Puc 2600 follows this page.

LBAO
FIS 08:241
11/04/08

Fiscal Impact Statement for Public Utilities Commission interim rules governing Greenhouse Gas Emissions Reduction Fund. [Puc 2600]

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

Not applicable, these are new proposed interim rules.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate; no impact on state funds.

3. Cost and benefits of the proposed rule(s):

There are no costs or benefits attributable to the proposed interim rules. Any costs associated with the proposed rules are attributable to RSA 125-O:23.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

Adopt Puc 2600 to read as follows:

CHAPTER Puc 2600 Greenhouse Gas Emissions Reduction Fund

PART Puc 2601 PURPOSE AND APPLICABILITY

Puc 2601.01 Purpose. The purpose of Puc 2600, pursuant to RSA 125-O:8, II and 125-O:23, is to provide for the administration of the greenhouse gas emissions reduction fund.

Puc 2601.02. Applicability. Puc 2600 shall apply to those persons seeking use of monies from the greenhouse gas emissions reduction fund including:

- (a) Private entities;
- (b) The department;
- (c) The commission; and
- (d) Other state and local governmental agencies and instrumentalities.

PART Puc 2602 DEFINITIONS

Puc 2602.01 “Allowances” means those Regional Greenhouse Gas Initiative (RGGI) allowances comprising the state’s annual budget for CO2 emissions specified in RSA 125-O:21, II.

Puc 2602.02 “Building energy code” means the building code defined in RSA 155-D:2, II.

Puc 2602.03 “Conservation” means a reduction in energy use and greenhouse gas emissions through reduced energy consumption or demand.

Puc 2602.04 “Commission” means the public utilities commission.

Puc 2602.05 “Cost-effective” means that the reasonably expected energy efficiency gains and other benefits of a proposed measure or program exceed the reasonably projected costs of implementing the measure or program measured over its expected life.

Puc 2602.06 “Department” means the department of environmental services.

Puc 2602.07 “Demand response programs” means mechanisms to reduce the demand from electricity customers in response to supply conditions, peak demand, or market prices.

Puc 2602.08 “Energy audit” means the inspection, survey and analysis of energy flows in a building, process or system with the objective of understanding the energy

dynamics of the system under study and assessing the opportunities for energy efficiency and conservation improvements.

Puc 2602.9 “Energy efficiency” means using less energy or energy in a different manner that results in lower net greenhouse gas emissions to provide the same level of energy service or comparable functionality.

Puc 2602.10 “Greenhouse gas emissions reduction fund” means the fund established by RSA 125-O:23 consisting of revenues from the sale of allowances.

Puc 2602.11 “Low-income residential customers” means those residential customers who are eligible for energy assistance through ratepayer-funded low-income programs administered by the commission including the low income electric assistance program and electric and gas utility energy efficiency programs for low-income households.

Puc 2602.12 “New Hampshire’s peak electric load” means the annual hour of maximum electric load measured in megawatts for the New Hampshire electric grid.

Puc 2602.13 “Passive solar heating and ventilation systems” means the technologies that use sunlight for useful energy without the use of active mechanical systems (as contrasted with active solar). Such passive solar technologies convert sunlight into usable heat (i.e. water, air, and thermal mass), cause air-movement for ventilating, or store heat for future use, with little or no use of other energy sources. Passive ventilation systems are building design features that allow or promote air flows for useful natural ventilation and/or cooling with little or no use of other energy sources.

Puc 2602.14 “Private entity” means a for profit or not for profit legal entity that is not a governmental agency, including, but not limited to, corporations, partnerships, individuals and other forms of business and not for profit organizations.

Puc 2602.15 “Regional greenhouse gas initiative” or “RGGI” or “RGGI program” means “regional greenhouse gas initiative” as defined in RSA 125-O:20, XII, namely “the program to implement a memorandum of understanding (MOU) between signatory states, dated December 20 2005 and as amended on August 8, 2006 and April 20, 2007, and the corresponding model rule to establish a regional CO2 emissions budget and allowance trading program for emissions from fossil fuel-fired electricity generating units.”

Puc 2602.16 “Revolving loan fund” means a source of money from which loans are made for energy efficiency, conservation, or demand response purposes where, as borrowers repay loans, funds become available for new loans to other borrowers.

Puc 2602.17 “Weatherization” means the practice of protecting a building and its interior from cold and hot weather including sunlight, precipitation, and wind, and of modifying a building to reduce energy consumption and optimize energy efficiency.

PART Puc 2603 LOW INCOME RESIDENTIAL CUSTOMERS

Puc 2603.01 Energy Efficiency for Low Income Residential Customers.

(a) Pursuant to RSA 125-O:23, III, the commission shall allocate no less than 10 percent of the greenhouse gas emissions reduction fund, on an annual basis, to assist low income residential customers to reduce total energy use.

(b) The funds available for low income residential customers shall be used for energy audits, weatherization, and installation of other energy efficiency measures, to reduce total energy use, including fuel oils, in low income residential housing.

PART Puc 2604 ENERGY EFFICIENCY INITIATIVES

Puc 2604.01 Use of Greenhouse Gas Emissions Reduction Fund.

(a) Pursuant to RSA 125-O:23, the monies in the greenhouse gas emissions reduction fund shall be used to support energy efficiency, conservation and demand response programs to reduce greenhouse gas emissions generated within New Hampshire.

(b) The commission shall select and fund eligible programs through:

- (1) The solicitation of proposals pursuant to Puc 2604.02;
- (2) An adjudicative proceeding for the system benefits charge core efficiency programs approved pursuant to RSA 374-F; or
- (3) Otherwise through an adjudicative proceeding.

(c) Eligible programs shall include, but not be limited to, the following:

- (1) Energy audits;
- (2) Weatherization of New Hampshire residential housing and commercial building stock;
- (3) Energy efficiency related work force training and development;
- (4) Revolving loan funds for efficiency related investment;
- (5) Energy efficiency related industrial process and control systems;
- (6) Integration of passive solar heating and ventilation;
- (7) Programs to increase compliance with the building energy code;

(8) Programs to improve the electric and thermal energy efficiency of new and existing residences and commercial buildings;

(9) Programs to foster the development and retrofitting of highly efficient and affordable housing;

(10) Education, outreach and information programs that promote energy efficiency, conservation, and demand response; and

(11) Demand response programs to reduce New Hampshire's peak electric load.

(d) Notwithstanding this part, the commission shall have the authority to rebate certain monies in the greenhouse gas emissions reduction fund to ratepayers pursuant to Puc 2605.

Puc 2604.02 Solicitation of Proposals.

(a) The commission shall periodically issue a request for proposals (RFPs) for initiatives to be supported by the greenhouse gas emissions reduction fund.

(b) To be eligible for monies from the greenhouse gas emissions reduction fund, an initiative shall be designed to improve energy efficiency, conservation or demand response in New Hampshire.

(c) Persons eligible to respond to any request for proposals include the following:

(1) Private entities;

(2) The department;

(3) The commission; and

(4) State and local government agencies and instrumentalities.

(d) RFPs shall include:

(1) A description of information to be included in submitted proposals;

(2) Requirements for funding agreements that selected recipients will be required to enter into prior to receiving funding;

(3) Monitoring and reporting requirements; and

(4) Proposal submission requirements.

(e) The commission may request supplemental information from persons submitting proposals to assist in its review and evaluation of proposals.

Puc 2604.03 Selection of Proposals.

(a) In determining whether and to what extent it will dedicate money from the greenhouse gas emissions reduction fund to proposals submitted pursuant to Puc 2604.02 (a) above, the commission shall consider the extent to which each proposed program can be expected to:

- (1) Reduce greenhouse gas emissions from all fuels used to provide electricity, heating and cooling in New Hampshire;
- (2) Be cost-effective;
- (3) Reduce New Hampshire's peak electric load;
- (4) Promote:
 - a. Market transformation for energy efficient technologies, strategies and design;
 - b. Innovative technologies;
 - c. Economic development; and
 - d. Reduced energy costs;
- (5) Leverage funds or resources from other sources to maximize its impact;
- (6) Effectively measure and verify program performance against stated goals;
- (7) Promote collaboration and provide useful information for future program evaluation and improvements; and
- (8) Otherwise be consistent with the public interest and the purposes of RSA 125-O:19.

(b) The commission shall dedicate funds for those proposals that it finds are:

- (1) Supportive of one or more of the ends set forth in (a) above;
- (2) Realistically proposed and achievable by the applicant; and
- (3) Most likely, on balance, to advance the purposes of RSA 125-O, within the constraint of available funds.

(c) In selecting proposals the commission shall set forth the schedule of disbursement of funding for the proposal which shall include one or more of the following:

- (1) Upfront funding of the proposal;
- (2) Increments of funding based on the passage of time or specified milestones;

(3) Reimbursement of actual expended costs; or

(4) A loan of funds for a period of time.

(d) Upon selection of a proposal, and after execution of a funding agreement with the recipient, the commission shall provide the state treasurer with the name and address of the recipient and the amount and schedule of disbursements to be paid to the recipient.

PART Puc 2605 RATEPAYER REBATES

Puc 2605.01 Allowance Sales in Excess of Threshold Prices

(a) Notwithstanding Puc 2604 above, pursuant to RSA 125-O:23, IV the commission shall order and provide for the rebate to all electric ratepayers on a uniform per kilowatt hour basis all auction proceeds that exceed threshold prices for any allowance sale made prior to January 1, 2016.

(b) For purposes of this section, “threshold prices” means the prices listed below for any allowance sale made prior to January 1, 2016 that are deposited in the fund:

(1) 2009, \$6 per ton;

(2) 2010, \$8 per ton;

(3) 2011 and 2012, \$9 per ton;

(4) 2013 and 2014, \$12 per ton; and

(5) 2015, \$15 per ton.

Puc 2605.02. Unencumbered Funds. If the commission finds that there is a significant amount of unencumbered dollars in the greenhouse gas emissions reduction fund that are not needed for program purposes, the commission shall order and provide for the rebate of such unencumbered dollars on a uniform per kWh basis to electric ratepayers.

Puc 2605.03 Rebate to Electric Ratepayers. The commission shall order and provide for the rebate of any monies eligible for rebate under this part in a timely manner to be set forth by commission order.

Appendix

(a) A cross reference of the specific sections of state and federal statutes which Puc 2600 is intended to implement is set forth as follows:

| | |
|-------------|---|
| PUC 2601.01 | RSA 125-O:8, II; RSA 125-O:23 |
| PUC 2601.02 | RSA 125-O:8, II; RSA 125-O:23, II |
| PUC 2602.01 | RSA 125-O:8, II; RSA 125-O:23; RSA 125-O:21, II |
| PUC 2602.02 | RSA 125-O:8, II; RSA 125-O:23; RSA 155-D:2, II |
| PUC 2602.03 | RSA 125-O:8, II; RSA 125-O:23 |
| PUC 2602.04 | RSA 125-O:8, II; RSA 125-O:23 |
| PUC 2602.05 | RSA 125-O:8, II; RSA 125-O:23 |
| PUC 2602.06 | RSA 125-O:8, II; RSA 125-O:23; RSA 125-O:2, IV |
| PUC 2602.07 | RSA 125-O:8, II; RSA 125-O:23 |
| PUC 2602.08 | RSA 125-O:8, II; RSA 125-O:23 |
| PUC 2602.09 | RSA 125-O:8, II; RSA 125-O:23 |
| PUC 2602.10 | RSA 125-O:8, II; RSA 125-O:23 |
| PUC 2602.11 | RSA 125-O:8, II; RSA 125-O:23 |
| PUC 2602.12 | RSA 125-O:8, II; RSA 125-O:23 |
| PUC 2602.13 | RSA 125-O:8, II; RSA 125-O:23 |
| PUC 2602.14 | RSA 125-O:8, II; RSA 125-O:23 |
| PUC 2602.15 | RSA 125-O:8, II; RSA 125-O:23; RSA 125-O:20, XII |
| PUC 2602.16 | RSA 125-O:8, II; RSA 125-O:23 |
| PUC 2602.17 | RSA 125-O:8, II; RSA 125-O:23 |
| PUC 2603.01 | RSA 125-O:8, II; RSA 125-O:23; RSA 125-O:23, III |
| PUC 2604.01 | RSA 125-O:8, II; RSA 125-O:23 |
| PUC 2604.02 | RSA 125-O:8, II; RSA 125-O:23 |
| PUC 2604.03 | RSA 125-O:8, II; RSA 125-O:23; RSA 125- O:23,VII |
| PUC 2605.01 | RSA 125-O:8, II; RSA 125-O:23; RSA 125-O:23, IV |
| PUC 2605.02 | RSA 125-O:8, II; RSA 125-O:23, V |
| PUC 2605.03 | RSA 125-O:8, II; RSA 125-O:23; IV |