

# STATE OF NEW HAMPSHIRE

## Inter-Department Communication



**DATE:** June 8, 2018  
**AT (OFFICE):** NHPUC

**FROM:** Rich Chagnon  
Utility Analyst – Electric Division



**SUBJECT:** DE 18-059, RiverMead  
Petition to Waive Puc 303.02; Master Metering

**TO:** Commissioners  
Debra Howland, Executive Director

**CC:** Tom Frantz, Director, Electric Division  
Amanda Noonan, Director, Consumer Services and External Affairs  
Les Stachow, Assistant Director, Electric Division  
Lynn Fabrizio, Staff Attorney

### Summary

On April 6, 2018, on behalf of Peterborough Retirement Community at Upland Farm, Inc. (RiverMead), Eventus Strategic Partners filed a request for waiver of N.H. Code Admin. Rules Puc 303.02 Master Metering (master metering rule) with respect to the construction of the Villa's two 12-unit buildings on the RiverMead campus in Peterborough, NH. Staff believes there are particular aspects of the proposed development that justify granting the rule waiver requested. Staff recommends that the master metering rule be waived for RiverMead's request for a waiver of the master metering rule for its proposed two 12-unit buildings on the RiverMead campus for so long as it remains a Continuing Care Retirement Community (CCRC).

### Background

RiverMead, a nonprofit (CCRC) located in Peterborough, is comprised of two campuses: the Mead Campus, which opened in 1995 and consists of 114 independent living units (ILUs), 29 assisted living, 17 assisted living memory care and 33 skilled nursing and an extensive common area with dining, pool, and other community features; and the Village Campus, which opened in 2013 on an adjacent parcel of land and consists of 40 ILU cottages and apartments, 20 assisted living and significant common area which houses dining and meeting rooms. The existing community and planned improvements are

residential in nature and, according to RiverMead, are designed to allow residents to age in a place in a dignified manner.

RiverMead is currently involved in a multiphase renovation and expansion project on both the Village and Mead campuses. This request for a waiver to the master meter rule has to do with phase II of the construction plan. Phase II will involve the construction of two 12-unit Villa buildings for a total of 24 ILUs and the expansion of the Village Commons to accommodate additional dining and common spaces. Phase II started construction in February 2018 and is expected to be completed in May 2019.

RiverMead includes the following as its basis for the rule waiver request:

As a requirement of a 2011 tax exempt bond issue, RiverMead is required to retain its 501(c)(3) status and continue to operate as a LifeCare retirement community throughout the term of the bonds (2041). Furthermore, even after the term of the 2011 bonds, RiverMead is required to continue operating as a 501(c)(3) organization. If it ceases to operate as such the state of New Hampshire would require all the community's assets be transferred to another 501(c)(3) or to the state.

Residents of RiverMead pay a onetime entrance fee and an ongoing monthly fee based on the initial unit they choose. These fees cover all utility costs. Residents do not have a fee-simple ownership in any part of the unit or community rather they have the right to an apartment or a health care accommodation throughout their lifetime.

RiverMead will continue to operate as a LifeCare retirement community in perpetuity.

This basis for this variance is that utility costs are not passed directly to residents, but are paid in total by the community. Thus, electric meters are not needed for each individual residential unit. Furthermore, as RiverMead is required to operate as a LifeCare community for an indefinite period, installing meter sockets to accommodate any future change in use would be counterproductive. RiverMead provides a much needed service to the regions aging population; it is in the public interest to keep construction costs low so that the savings can be passed on to the residents.

RiverMead included the list below of the many energy efficient measures incorporated in the design of the Villas.

- 19 SEER VRF Heat Pump system
- High efficiency gas boilers & combination boiler/ water heaters (95-96% AFUE)
- Interior and Exterior LED lights throughout
- Specified water closets are 1.28 gpf in lieu of the code required 1.6 gpf.
- Design exceeds envelope compliance requirements by 4%

### **Position of the Office of the Consumer Advocate (OCA)**

On May 7, 2018, the OCA filed a position letter opposing the request filed by RiverMead for a waiver of the master metering rule.

The OCA noted that according to RiverMead's website, this CCRC offers residents two auditoriums, two libraries, a movie theater, two fitness centers, an art studio, two billiards/games rooms, a woodworking shop, a greenhouse, an art gallery, an indoor heated pool, the choice of six dining options, two private dining rooms, two hair salons, three conference rooms, a living room, underground parking, covered parking, a croquet court, a river deck, raised garden beds, an outdoor barbeque and picnic area, woodland walking trails, two patios, a business center, a card room, a pub with personal liquor lockers, screened/glassed-in porches, four guest suites and a country store.

The OCA points out that RiverMead's basis for the requested waiver it is in the public interest because RiverMead is a tax-exempt organization under Section 501(c)(3) of the Internal Revenue Code, will retain that status essentially in perpetuity, and includes utilities in the entrance and monthly fees charged to residents. According to RiverMead, allowing it to master-meter certain new units it is constructing will help "keep construction costs low so that the savings can be passed on to the residents." The OCA opines that a CCRC with amenities such as those listed above does not depend on providing low-cost services to achieve its mission.

### **Analysis**

As stated above, RiverMead is comprised of two campuses: the Mead Campus, which opened in 1995, and the Village Campus, which opened in 2013 on an adjacent parcel of land.

#### **The Mead Campus:**

All of the 114 ILUs in this campus are individually metered for each residence. The main facility in this campus contains a combination of multiple assisted living units, assisted living memory care units, skilled nursing units and common areas. At the time when this facility was built, it had been equipped with central heating and air conditioning equipment. None of the individual assisted living units had direct temperature control. This main facility is master metered and billed under the commercial rate GV.

#### **The Village Campus:**

There are 10 individually metered ILU residence cottages. The main facility in this campus contains a combination of 30 ILU residence apartments, multiple assisted living units and significant common areas. This main facility is master metered and billed under the commercial rate GV. There is no record to determine the reasoning of

including the 30 ILUs in this master meter for the main building, nor is there a record of a docket being filed for a master meter rule waiver request. Eversource reported that this may have been considered a mixed use commercial building at the time it was being constructed; however, the individual at the utility who authorized s master meter no longer works there.

The two 12-unit buildings being constructed on this campus will all be ILUs.

The Master Metering rule, Puc 303.02, provides as follows:

- (a) No utility shall install master metering in a building with multiple dwelling units. The energy in each dwelling unit in such a building shall be separately metered;
- (b) A utility shall only install master metering in commercial buildings and as consistent with the International Energy Conservation Code 2009 (Code) as adopted pursuant to RSA 155-A:1,IV; and
- (c) Hotels, motels, dormitories, boarding houses and time-sharing interests in condominiums as defined in RSA 356-B:3 shall not be considered a dwelling unit within the meaning of Puc 303.02(a) above.

The Waiver of Rules, Puc 201.05, provides as follows:

- (a) The commission shall waive the provisions of any of its rules, except where precluded by statute, upon request by an interested party, or on its own motion, if the commission finds that: (1) The waiver serves the public interest; and (2) The waiver will not disrupt the orderly and efficient resolution of matters before the commission.
- (b) In determining the public interest, the commission shall waive a rule if: (1) Compliance with the rule would be onerous or inapplicable given the circumstances of the affected person; or (2) The purpose of the rule would be satisfied by an alternative method proposed.
- (c) Any interested party seeking a waiver shall make a request in writing, except as provided in (d) below.
- (d) The commission shall accept for consideration any waiver request made orally during a hearing or pre-hearing conference.
- (e) A request for a waiver shall specify the basis for the waiver and proposed alternative, if any.

It is clear to Staff that the two 12-unit buildings being constructed on this campus, and which are the subject of RiverMead's master metering waiver request, will all be ILUs. These are residential individual living units which have individual temperature controls for heat and air conditioning. Puc 303.02(a) clearly states that; No utility shall install master metering in a building with multiple dwelling units. The energy in each dwelling unit in such a building shall be separately metered. This rule does not allow the utility to install a master meter at these two facilities without a waiver being approved by the Commission.

Staff's analysis of prior waiver requests includes an approved waiver for The Prospect Woodard Home with respect to Hillside Village in Keene in Docket No. 17-009, which appears to be compatible with RiverMead. Similar to Hillside Village, RiverMead's residents also secure more than just a living space through their enrollment. Residents in both CCRCs participate in an active community of people with similar interests and circumstances, and they have access to a range of health care services and supports if needed, without additional charges beyond their original entrance fees and on-going monthly fees, which fees are actuarially-determined. Electric service and other utility charges are included in those fees and are not individually assessed to residents.

Staff believes as a CCRC, RiverMead is similar to Hillside Village, which includes community living and cost sharing aspects as well as a "health insurance" feature, all of which are not present in typical apartment complex projects. Staff confirmed with RiverMead that it has the same requirement as Hillside Village to maintain a Certificate of Authority by the New Hampshire Department of Insurance and a Certificate of Need by the New Hampshire Department of Health and Human Resources. These certificates require specific design criteria outlined below:

- The New Hampshire State building Code which consists of:
  - International Building Code, (2009 edition as modified by NH)
  - Accessibility Requirements IBC Chapter 11, ICC/ANSI A117.1-2003
  - International Mechanical Code , 2009 edition
  - International Plumbing Code, 2009 (edition as modified by NH)
  - International Energy Conservation Code, 2009 edition (as modified by NH)
  - National Electric Code 2015 edition
- NFPA 101 2015 edition

In Docket No. 17-009, Hillside Village stated that these codes require that electricity service be provided to the residents.

Due to an increase in master meter waiver rule requests, Staff's recent historical review of the purpose of the Master Metering rule identified the intent to address the design of energy-efficient building's envelopes and promote the installation of energy efficient mechanical, lighting, and power systems in new construction. RiverMead reported in its waiver request included a list of many energy efficient measures incorporated into the design of the Villas.

Consistent with Puc 201.05, Staff concludes that the waiver would serve the public interest by avoiding onerous costs for the additional wiring of separate meters for each unit; the waiver would not disrupt the orderly and efficient resolution of matters before the commission; and the purpose of the rule (to address and promote the design of

energy-efficient buildings) is satisfied by energy efficient measures incorporated into the design of the Villas.

**Recommendation**

Based on this analysis, Staff recommends that the Commission grant the request for a waiver of the Master Metering rule in Puc 303.02(a) for RiverMead's proposed two 12-unit buildings being constructed, and such waiver to be in effect for so long as the facilities are operated as a CCRC as described in RiverMead's filings. If RiverMead's facilities are no longer operated as a CCRC at some future time, then the waiver should no longer be effective and the project owner should be required to install individual electric meters for each separate dwelling in the development. RiverMead should be directed to notify the Commission and Eversource if Hillside Village is no longer operating as a CCRC.

**SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED**

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**Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.**

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**FILING INSTRUCTIONS:**

**a) Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:**

DEBRA A HOWLAND  
EXECUTIVE DIRECTOR  
NHPUC  
21 S. FRUIT ST, SUITE 10  
CONCORD NH 03301-2429

**b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.**

**c) Serve a written copy on each person on the service list not able to receive electronic mail.**