

THE STATE OF NEW HAMPSHIRE

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September 1, 2011

Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 South Fruit Street, Suite 10
Concord, New Hampshire 03301

Re: DE 11-183 Joint Request for Waiver of Puc 2507.04(c)

Dear Ms. Howland:

The Commission established a commercial and industrial (C&I) solar rebate program on October 1, 2010, Order 25,151, pursuant to RSA 362-F:10, VIII. In public comment on the program, staff and stakeholders expressed the importance of the third-party ownership model for the development of renewable energy systems. However, pursuant to N.H. Code Administrative Rules Puc 2507.04(c), it is not clear whether third party owners are eligible for a rebate. This rule states that, to be eligible to receive a rebate for a customer-sited source of up to 100 kW, an applicant shall be a New Hampshire entity, an end use customer of a provider of electricity located in New Hampshire, and the owner of the proposed project. Before issuing Order 25,151 the Commission determined that for the C&I rebate program, all three criteria must be met by a single entity that would then be eligible to receive the rebate. This reading of the rules prohibits third-party ownership of solar systems.

On August 15, 2011, Revolution Energy, LLC, together with Sanborn Regional School District (Sanborn) (together, Joint Petitioners), applied for a waiver from Puc 2507.04(c), pursuant to Puc 201.05. These parties requested waiver of the requirement that, to be eligible for a rebate, the customer/applicant must meet all three criteria in the rules. The Joint Petitioners propose to partner in installing four solar space heating systems in the Sanborn school system: Revolution Energy will install, own, and operate the systems and Sanborn will pay Revolution for the energy produced from the systems over the life of a set contract (a power purchase agreement or PPA). Under this paradigm, Revolution Energy requests a waiver to allow it to receive the rebate from the C&I program. The Joint Petitioners assert that the waiver will serve the public interest and that compliance of the rule would be onerous or inapplicable given the circumstances of the affected parties. They state that the waiver will not disrupt the orderly and efficient resolution of matters before the Commission generally.

Pursuant to RSA 362-F:10,VII, “[t]he commission, may, after notice and hearing, by order or rule, establish additional incentive or rebate programs and competitive grant opportunities for renewable thermal and electric energy projects cited in New Hampshire.” In its order creating the C&I rebate program, the Commission did not specifically address comments from the public regarding the merits of third party ownership, although the application for the program states that the C&I rebate program is administered consistent with Puc 2500, which contain the conditions on ownership and end-use customers. However, Staff believes that the rules permit a rebate payment to a third party owner provided that both the system owner and the site owner are New Hampshire entities and end-use customers of a provider of electricity located in New Hampshire. In this instance, while Sanborn is partnering with Revolution and allowing Revolution to locate the system at the Sanborn schools, Revolution meets all the criteria for a rebate—it is a New Hampshire entity, and end use customer of a N.H. distribution utility and the owner of the proposed project. Staff does not believe that just because Revolution does not own the roofs on which the system will be located should bar it from receiving the rebate. Indeed, the application for the C&I rebate contemplates that the installation may be on a location owned by some one other than the system owner. See page 3 of the application, “Applicant Information” which asks for the names of other project owners and for any lease or evidence of permission to install a system on the location’s roof.

Staff recommends that this waiver request be approved. There is no existing statute that prohibits an entity such as Revolution Energy from receiving a rebate in exchange for installing and owning four solar space heating systems in a NH public school system. Both the school system and Revolution Energy are end-users of electricity in NH, the systems will be located in NH, and the recipient of the rebate will own the systems. Importantly, these systems will be likely unable to proceed without the rebate, or without employing the PPA project model. The purpose of the Renewable Portfolio Standard (RPS) is to provide fuel diversity, retain energy monies in the state (rather than sending them out of state or overseas), reduce harmful emissions and help to stabilize and lower future volatile energy costs. The projects herein would meet all of those purposes. The PPA project model has been and continues to be widely used across U.S. markets in which there has been successful development of renewable energy generation systems; creating a regulatory environment in NH allowing the use of the PPA (a third-party ownership model) for rebated systems would therefore better assist our state in meeting the purpose goals of the RPS.

Finally, the purpose of the Renewable Energy Fund (REF) (RSA 362-F:10), the source of the rebate program funding, is to support thermal and electrical renewable energy initiatives. By waiving Puc 2507.04(c) and allowing Revolution Energy to receive the rebate, this purpose would be met. Serving the purposes of the RPS and specifically the REF are in the public interest, as stated in RSA 362-F:1, “It is therefore in the public interest to stimulate investment in

low emission renewable energy generation technologies in New England, and, in particular, New Hampshire, whether at new or existing facilities.” Waiving Puc2507.04(c) would neither disrupt the management of the C&I rebate program nor inhibit the efficient resolution of other matters pertaining to the management of this program.

Sincerely,

A handwritten signature in black ink, appearing to read 'Kate Epsen', with a long horizontal flourish extending to the right.

Kate Epsen
Analyst

CC: Service List
Chairman Getz
Commissioner Below
Commission Ignatius
Anne Ross