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October 21, 2019

Sarah B. Tracy
Mark E. Beliveau
Pierce Atwood LLP
Merrill's Wharf
254 Commercial Street
Portland, ME 04101

Re: DE 19-151, Antrim Wind Energy LLC, Request for Waiver of Puc 301.02 Pursuant to Puc 201.05(a) and 202.01(d) and Request for Expedited Review of Waiver Request

Dear Ms. Tracy and Mr. Beliveau:

On September 13, 2019, you filed on behalf of Antrim Wind Energy LLC (Antrim Wind) a request for waiver of N.H. Code Admin. Rules Puc 301.02, pursuant to Puc 201.05(a) and 202.01(d), and requested expedited review of that waiver request. Antrim Wind is the owner of a 28.8 megawatt wind energy facility located in Antrim, New Hampshire, that was issued a Certificate of Site and Facility by the New Hampshire Site Evaluation Committee (NHSEC) on March 17, 2017. The waiver request letter notified the Commission that Antrim Wind "intends to produce electricity at [its] generation facility on approximately November 15, 2019."

Under Puc 301.02, "[a]ny facility located within New Hampshire proposing to generate electricity over one megawatt ultimately sold to the public shall notify the commission in writing of its intent to produce electrical energy at least 6 months prior to the date energy is first proposed to be produced." Antrim Wind asserts that it is not required to comply with that rule because the Puc 300 rules apply only to a "utility," a term which is defined specifically to exclude entities exempted from the definition of "public utility" pursuant to RSA 362:4-c. See Puc 301.01; Puc 302.23. Under RSA 362:4-c, an entity that owns, operates, or manages "any plant or equipment or any part of the same which has received a certificate of site and facility as an energy facility" from the NHSEC is deemed not to be a "public utility." According to Antrim Wind, as the owner of a generation facility that has received such a certificate from the NHSEC, it is not a "utility" and therefore is not subject to the prior notice requirement set forth in Puc 301.02.

Without conceding that the rule does not apply to it and "without waiving the right to challenge the applicability of the rule," Antrim Wind requests that the Commission waive the six-month advance notification requirement "in favor of a shorter notification period that will allow its notification letter to comply with the rule." According to Antrim Wind, that rule waiver would meet

the public interest standard specified in Puc 201.05, as compliance with the rule would be “extremely onerous,” resulting in significant delay in commencing generation operations and “substantial financial hardship to Antrim Wind.” Antrim Wind asserts that its notice provided more than two months prior to the commencement of facility operation satisfies the purpose of the rule, while avoiding undue delay in its operation and “facilitate[ing] the earlier delivery of the renewable energy benefits and the greenhouse reduction benefits to the New England region from Antrim Wind.”

The Commission has reviewed Antrim Wind’s waiver request and the applicable rules and statute, and has determined that the prior notice requirement of Puc 301.02 does not apply to Antrim Wind because it is not a utility by virtue of its receipt of a Certificate of Site and Facility issued by the NHSEC. *See* Puc 301.01; Puc 302.23; RSA 362:4-c.

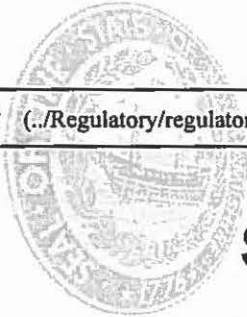
Accordingly, Antrim Wind is not subject to the requirements of Puc 301.02 and no waiver of that rule is necessary.

Sincerely,



Debra A. Howland
Executive Director

cc: Service List



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Service List - Docket Related

Docket# : 19-151

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