

STATE OF NEW HAMPSHIRE

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August 24, 2021

Kevin C. Carey
AOBA Alliance Inc.
1025 Connecticut Ave NW, Suite 1005
Washington, DC 20036

Re: NHPUC Docket No. DE 21-021, AOBA Alliance Inc.
Rule Waiver Request and Buyer's Aggregation Notice

Dear Mr. Carey:

By letter dated December 16, 2020, AOBA Alliance, Inc. (AOBA) filed notice of its intent to provide aggregation service in New Hampshire with the New Hampshire Public Utilities Commission (PUC), and requested that the Commission waive the registration and related requirements for aggregators under the rules applicable to competitive electric power suppliers and aggregators, N.H. Code of Administrative Rules Chapter Puc 2000. On March 11, 2021, AOBA filed with the PUC a revised notice of intent clarifying that it was requesting waiver of Puc 2002.06 so it would be considered a "buyer's aggregator" not required to register with the Commission or be subject to other regulatory requirements applicable electric load aggregators. On June 15, 2021, PUC staff filed a memorandum recommending that the requested rule waiver be granted pursuant to Puc 201.05

According to AOBA, it was formed in 2000 to, among other things, negotiate a contract "specifically tailored to meet the electric supply requirements of buildings and properties owned or operated by" its members in the Washington, D.C. metropolitan region. AOBA developed a contract for use by competitive electric power suppliers when providing service to AOBA members. AOBA members now conduct business in several states, and the single contract continues to be used to negotiate for their electric supply requirements. Constellation NewEnergy, the competitive electric power supplier selected by AOBA members, compensates AOBA for the use of the contract form. In its waiver request, AOBA stated that its participation is limited to the use of the contract form, that it is not a party to the contract, and that there is no membership fee to purchase electric supply pursuant to the contracts using that form. AOBA further stated that it will not undertake any marketing, sales, or related activities in New Hampshire.

As defined in Puc 2002.06, a "buyer's aggregator" is "an aggregator that receives no compensation or remuneration from an electricity supplier, such as a municipality that aggregates electric load or energy services for its citizens or an RSA 301-A consumer

cooperative that aggregates electric load or energy for its members.” A buyer’s aggregator is required to provide notice to the Commission of its intent to do business in New Hampshire, but it is not otherwise subject to the provisions of the Puc 2000 rules, as stated in Puc 2003.05(a) and (b).

Although AOBA does receive compensation from Constellation NewEnergy, a competitive electric power supplier, the compensation is for the use of the single contract form AOBA developed to meet the needs of its members. AOBA receives no compensation for the selection of Constellation NewEnergy as the electricity supplier and would likely be similarly compensated by any other electricity supplier for the use of the single contract form AOBA developed to meet the needs of its members.

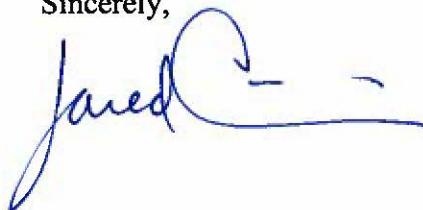
PUC staff indicated its belief that AOBA meets the standards for limited waiver of the compensation restriction under Puc 2002.06, under the rule waiver authority set forth in Puc 201.05. According to PUC staff’s memo, the requested rule waiver is in the public interest because it would not disrupt the orderly and efficient resolution of matters before the Commission and compliance with the rule would be inapplicable given the circumstances of the requester. PUC staff therefore recommended that AOBA’s request for waiver of Puc 2002.06 be granted so that it may be considered a buyer’s aggregator not required to register under Puc 2000 but only to provide notice of intent to conduct business in the state.

On July 1, 2021, the New Hampshire Department of Energy (Department) came into existence and many functions previously performed by the PUC were transferred to the Department. Under RSA 12-P:14, “[e]xisting rules, orders, and approvals of the [PUC] which are associated with any functions, powers, and duties, transferred to the [Department] pursuant to RSA 12-P:11 or any other statutory provision, shall continue in effect and be enforced by the commissioner of the [Department] until they expire or are repealed or amended in accordance with applicable law.” *See* 2021 N.H. Laws Chapter 91 (House Bill 2-FN-A-Local).

Under RSA 374-F:7, as amended effective July 1, 2021, the Department is now responsible for registration and regulation of electric aggregators and for the adoption of related rules. The Department therefore is authorized to enforce the relevant provisions of the Puc 2000 rules, including Puc 2002.06, and to grant waivers of any such rules under Puc 201.05. *See* RSA 12-P:14.

Pursuant to that statutory authority, I have found that the standards for a rule waiver set forth in Puc 201.05 have been satisfied. Accordingly, the Department grants AOBA a waiver of Puc 2002.06 so that it may be considered a buyer’s aggregator not required to register under Puc 2000 but only to provide notice of intent to conduct business in New Hampshire.

Sincerely,

A handwritten signature in blue ink, appearing to read "Jared", with a stylized flourish extending to the right.

Jared S. Chicoine
Interim Commissioner

cc: NHPUC Docket DE 21-021 Service List