

**BEFORE THE NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 22-060

Electric Distribution Utilities

**Consideration of Changes to the Current Net Metering Tariff Structure, Including
Compensation of Customer-Generators**

**New Hampshire Department of Energy
Objection to Bright Spot Solar, LLC Petition for Rehearing**

Pursuant to New Hampshire Code Admin. Rule Puc 203.07, the New Hampshire Department of Energy (“Department” or “DOE”) hereby files this Objection to Bright Spot Solar, LLC (“Bright Spot”)’s Petition for Rehearing filed December 17, 2024, in this matter.

In support of this Objection, the Department states as follows:

I. Introduction

1. The Commission opened the above-captioned docket on September 20, 2022, to “consider amendments to the net metering tariffs applicable to customer-generators.”¹
2. The Commission required that any entity or individual seeking to intervene in the proceeding file a petition to do so by December 7, 2022.
3. Nine parties petitioned for and were granted intervenor status in the proceeding.
4. Hearings were held on August 20, 2024, and August 22, 2024, (together, the “August 2024 hearings”) to decide the issues noticed by the Commission in this docket.

¹ See Docket No. DE 22-060, Tab 1, Commencement of Adjudicative Proceeding and Notice of Prehearing Conference at p. 1

5. At the August 2024 hearings, the parties to the docket offered evidence in support of their positions and were given the opportunity to cross-examine the other parties' witnesses. The parties' witnesses were also subject to questioning by the Commission.
6. Members of the public were also provided the opportunity to comment at the August 2024 hearings.
7. At the request of the Commission, the parties filed post-hearing briefs reiterating their positions and citing to the evidence in the record supporting their positions. The parties were also given the opportunity to submit reply briefs in response to briefs submitted by the other parties.
8. On November 18, 2024, the Commission issued Order No. 27,074, ruling on the net metering tariff.²
9. On December 17, 2024, Bright Spot filed a petition for rehearing of Order No. 27,074.

II. Legal Standard

10. Pursuant to RSA 541:3 and RSA 541:4, the Commission may grant a motion for rehearing made by, "any party to the action or proceeding before the commission, or any person directly affected thereby" for "good reason" if the moving party shows that an order is unlawful or unreasonable. Good reason may be shown by presenting new evidence that could not have been presented at the original hearing. *Appeal of Gas Serv., Inc.*, 121 N.H. 797, 801 (1981). Good reason may also be shown by identifying specific matters that were, "overlooked or mistakenly conceived" by the Commission. *Dumais v. State*, 118 N.H. 309, 311 (1978). A successful motion for rehearing does not merely reassert prior arguments and request a different outcome. See *Abenaki Water Company, Inc.*, Order No. 26,312 at 8-9 (November 27, 2019).³

² See Docket No. DE 22-060, Tab 124

³ See also Commission Orders No. 26,772 (2023) and No. 27,046 (2024)

III. Analysis

a. Eligibility to file a Motion for Rehearing

11. As a preliminary matter, Bright Spot is not a party to the proceeding, and therefore must qualify as a “person directly affected” by an order or decision made by the Commission in order to be eligible to apply for rehearing.⁴ The Department’s arguments outlined herein should not be considered a waiver of its right to object to such qualification, including in the context of the Petition to Intervene filed by Bright Spot in this docket on December 16, 2024.⁵ Should the Commission decide that Bright Spot is eligible to file a motion for rehearing, the Department lays out the following in support of its Objection.⁶

b. Bright Spot has not provided new evidence that could not have been presented at the original hearing.

12. Bright Spot does not allege that any of its proposed evidence constitutes new evidence that *could not* have been presented at the original hearing. Its request for rehearing contains numerous proposed facts not in evidence, and Bright Spot additionally offers that it could, “introduce compelling evidence at rehearing to show that its utility bills document the significant economic benefits” and “provide direct evidence in support of that fact of the necessity for a legacy period,” and requests, “that the Commission rehear the matter so that such first-hand evidence can be provided in support of maintaining existing legacy periods and providing a lengthy period as recommended by the Settling Parties.”⁷

⁴ RSA 541:3

⁵ The original deadline to file a petition to intervene in this docket was December 7, 2022. See Docket No. DE 22-060, Tab 1 at p. 6. The deadline to file a petition to intervene in the additional phases of the docket noticed in the Supplemental Order of Notice filed on November 18, 2024, is January 2, 2025, with objections to petitions to intervene due by January 9, 2025. See Docket No. DE 22-060, Tab 125 at pp. 8-9

⁶ See Docket No. DE 22-060, Tab 143

⁷ See Docket No. DE 22-060, Tab 146 at pp. 7, 10, and 14

13. Bright Spot has not demonstrated that the evidence it seeks to introduce is new evidence that could not have been presented at the original hearing. The order that Bright Spot seeks rehearing of includes findings based on evidence introduced at the August 2024 hearings. As it was not an intervenor in the proceeding, Bright Spot did not present evidence at the hearings upon which the factual findings in the order were based – however, Bright Spot *could have* presented evidence at the original hearing had it petitioned for and been granted intervenor status in the proceeding in advance of the August 2024 hearings. According to Puc 203.23(a), “[t]he parties entitled to offer evidence at hearing in an adjudicative proceeding shall be the petitioner, the staff of the commission, the office of consumer advocate and any person granted intervenor status.” As Bright Spot has not been granted intervenor status and was not an intervenor at the time of the August 2024 hearings in this matter, Bright Spot should not be allowed to introduce through rehearing evidence it could have introduced had it petitioned for and been granted intervenor status.

14. Bright Spot had an opportunity to petition for intervention in the original proceeding by the December 7, 2022, deadline – however, it does not appear that it did so. Additionally, the Commission denied an individual’s request to intervene made at an April 11, 2024, prehearing conference held in this docket, in part because it had been almost eighteen months since the December 7, 2022, intervention deadline had passed.⁸ The Commission encouraged that individual, however, “to participate in the docket as a member of the public, including at the final hearing.”⁹ Not only did Bright Spot not previously petition to intervene in the matter upon which it seeks rehearing, but it requests the opportunity to be entitled to enter evidence on issues that have already been decided in this proceeding twenty-six months after the December 7, 2022, intervention deadline has passed.

⁸ See Docket No. DE 22-060, Tab 82, Prehearing Order at p. 2

⁹ Id.

15. Although it claims to be, “ ‘a person directly affected by’ the deliberations of this Commission in Docket 22-060,” Bright Spot does not appear to have taken the opportunity to participate at all in this proceeding prior to the Commission’s issuance of Order No. 27,074. Even though Bright Spot did not participate as an intervenor, Bright Spot had the opportunity to participate in the docket as a member of the public and to provide comment regarding its position at the August 20, 2024, hearing; the August 22, 2024, hearing; the prehearing conferences held in this matter; or through the submission of written comments, as members of the public have done throughout the proceeding.¹⁰ However, it does not appear to have done so.

c. Bright Spot has not sufficiently shown that specific matters were “overlooked or mistakenly conceived” by the Commission

16. Bright Spot claims several errors in the Commission’s analysis, such as, “failing to consider the above indirect effects on the costs and benefits of customer-generator facilities,” and that it failed to consider factors beyond the economic benefits of net-metering in its analysis.¹¹ However, Bright Spot’s arguments seem to rely on new evidence and factual assertions laid out in the motion to show that the Commission erred in such matters, rather than relying solely on the Commission’s decision and evidence in the record. For the reasons described above, any new evidence Bright Spot seeks to introduce into the proceeding should be considered inadmissible, and thus any arguments for rehearing that rest on the proposed introduction of new evidence, including new factual assertions presented in the petition for rehearing, should not be grounds for rehearing in this matter.

d. Bright Spot’s motion reasserts prior arguments and requests a different outcome.

17. In its petition for rehearing, Bright Spot appears to reassert prior arguments made by parties to the docket – including those regarding legacy periods and categories of costs and benefits – and

¹⁰ See RSA 541-A:32, Puc 203.17, and Puc 203.18 and Docket No. DE 22-060

¹¹ See Docket No. DE 22-060, Tab 146 at pp. 3 and 10

requests to introduce new evidence into the record to bolster those arguments.¹² Such arguments have already been litigated and decided upon by the Commission on the basis of evidence introduced into the record, and thus do not qualify as a basis for rehearing.

IV. Conclusion

As described herein, the arguments presented in Bright Spot's Petition for Rehearing are not an eligible or sufficient basis upon which to grant rehearing of the Commission's Order No. 27,074. Bright Spot has failed to show that any new evidence it seeks to introduce could not have been introduced at the time of hearing, nor has it otherwise shown that the Commission's order was unjust or unreasonable. Therefore, the Department requests that the Commission deny Bright Spot's petition for rehearing.

WHEREFORE, the Department respectfully requests that the Commission:

1. Deny Bright Spot Solar, LLC's Petition for Rehearing; and
2. Grant such other relief as is just and required.

Date: December 24, 2024

Respectfully submitted,

New Hampshire Department of Energy
By its Attorney,

/s/ Alexandra K. Ladwig
Alexandra K. Ladwig, Esq.
21 South Fruit Street, Suite 10
Concord, NH 03301

¹² See, e.g., Docket No. DE 22-060, Tab 146 at pp. 3 and 10