

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 23-009

SQUAM RIVER HYDRO, LLC

**Petition for Reconnection of Qualifying Facility,
Payment of Avoided Costs and Payment of Lost Revenues**

**COMMENCEMENT OF ADJUDICATIVE PROCEEDING
AND NOTICE OF PREHEARING CONFERENCE**

On January 31, 2023, Squam River Hydro, LLC (SRH) filed a petition requesting the Commission to order the Town of Ashland Electric Department and the Town of Ashland (individually and collectively, Ashland) to reconnect its hydropower facilities to the electric grid and to compensate SRH for certain costs and lost revenues. The petition and subsequent docket filings, other than any information for which confidential treatment is requested of or granted by the Commission, are available on the Commission's website at www.puc.nh.gov/Regulatory/Docketbk/2023/23-009.html.

I. BACKGROUND AND PROCEDURAL HISTORY

In its petition, SRH stated that it owns two hydropower facilities located within Ashland's service boundaries, which constitute "qualifying facilities" under the Public Utility Regulatory Policies Act (PURPA), *see* 16 U.S.C. § 824a-3, and "limited electrical energy producers" under RSA chapter 362-A, *see* RSA 362-A:1-a, III (defining "limited producer" or "limited electrical energy producer"). Petition, ¶ 1. It noted that both facilities also were approved as eligible for Class IV Renewable Energy Certificates (RECs). *Id.*, n.1 (referring to Docket Nos. REC 15-293 (Certificate of Authorization issued to Squam River Power, LLC) and REC 15-294 (Certificate of Authorization issued to Squam River Hydro, LLC)).

SRH averred that, on January 1, 2012, Ashland and SRH entered into a power purchase agreement (PPA), in which Ashland agreed to purchase the power generated by these facilities. *Id.*, ¶ 2. According to the petition, Ashland terminated the PPA effective in January 2020 and began to buy power previously produced by SRH's facilities from another source. *Id.* SRH claimed that Ashland illegally disconnected its facilities from the electric grid in 2021 and pulled the town fuses without notice to SRH. *Id.* SRH maintained that Ashland has refused to reconnect its facilities or pay SRH its avoided costs, as required by PURPA. *Id.*

SRH requested the Commission to order Ashland to reconnect its hydropower facilities to the electric grid and replace the town fuses that were pulled. It also requested the Commission to order Ashland to pay the following: (1) avoided costs for the power SRH's facilities produce going forward; (2) reimbursement for revenues lost since termination of the PPA and disconnection of SRH's facilities, which includes avoided costs and REC alternative compliance payments; and (3) reimbursement for SRH's interconnection costs incurred in connection with the PPA. SRH estimated its lost revenues as \$245,523, in addition to lost REC revenues estimated as \$74,153.97 and investment costs of over \$419,000, as of the time it filed its petition. *Id.*, ¶¶ 8-9.

II. ISSUES PRESENTED

The filing presents, *inter alia*, the following issues: whether SRH's hydropower facilities constitute "qualifying facilities" under PURPA and "limited electrical energy producers" under RSA chapter 362-A; whether the Town of Ashland Electric Department is subject to regulation by the Commission under PURPA and state law, including RSA chapter 362; whether Ashland's disconnection of SRH's hydropower facilities was permitted under state and federal law, including RSA chapter 362-A and 18 C.F.R. section 292.303(c); whether, under state and federal law, Ashland is

required to reconnect SRH's hydropower facilities to the electric grid; and whether Ashland is required to compensate SRH for avoided costs, lost revenues, REC alternative compliance payments, and interconnection costs under state and federal law, including RSA chapter 362-A and 18 C.F.R. sections 292.303(a), 292.304(a)(2), and 292.306(b). Accordingly, an adjudicative proceeding will be convened to address these issues.

The Commission will be conducting the prehearing conference and any hearings scheduled in this matter in person. The Commission will consider requests to conduct hearings using a hybrid format to permit remote participation by a specific individual only if the Commission has determined that a sufficient reason has been provided for why that individual would be unable to attend in person. Any party requesting that a specific individual be permitted to participate remotely should file a written request with the Commission's Clerk's Office no later than fifteen (15) days prior to the prehearing conference or hearing date. If the Commission determines that one or more individuals will be permitted to appear remotely, then individuals in the Commission's hearing room, including the Commissioners, will be broadcast on a web-enabled platform.

Based upon the foregoing, it is hereby

ORDERED, that an adjudicative proceeding be commenced for the purpose of reviewing and resolving the foregoing issues pursuant to RSA chapter 541-A, RSA chapter 362, RSA chapter 362-A, PURPA, 18 C.F.R. sections 292.303(a) and (c), 292.304(a)(2), and 292.306(b), and the Commission's procedural rules; and it is

FURTHER ORDERED, that the Commission will hold a prehearing conference, pursuant to N.H. Admin. R., Puc 203.15, at its offices located at 21 S. Fruit St., Suite 10, Concord, New Hampshire, on May 18, 2023, at 1:30 p.m., at which each party

should be prepared to address any of the issues set forth in N.H. Admin. R., Puc 203.15; and it is

FURTHER ORDERED, that during the prehearing conference, the Commission will consider the matters listed in Puc 203.15(c) and (d), including the establishment of a procedural schedule governing the remainder of the proceeding. Parties and potential parties are encouraged to facilitate the development of a procedural schedule by conferring prior to the prehearing conference, so that the presiding officer can address any matters on which there is disagreement during the prehearing conference. Any procedural schedule, however, will not be approved until after the prehearing conference and after consulting the Commission's calendar; and it is

FURTHER ORDERED, that, immediately following the prehearing conference, SRH shall make appropriate personnel available for the parties to hold a technical session to review the filing; and it is

FURTHER ORDERED, that any entity or individual may petition to intervene and seek to be admitted as a party in this proceeding. Each party has the right to have an attorney represent the party at the party's own expense; and it is

FURTHER ORDERED, that, consistent with N.H. Admin. R., Puc 203.17 and Puc 203.02, any entity or individual seeking to intervene in the proceeding shall file with the Commission a petition to intervene with copies sent to SRH and any other parties on the service list, on or before April 21, 2023. The petition shall state the facts demonstrating how the petitioner's rights, duties, privileges, immunities, or other substantial interests may be affected by the proceeding, consistent with N.H. Admin. R., Puc 203.17; and it is

FURTHER ORDERED, that any party objecting to a petition to intervene make said objection on or before May 1, 2023; and it is

FURTHER ORDERED, that the parties shall file their responses to SRH's petition on or before May 2, 2023; and it is

FURTHER ORDERED, that the parties may submit a stipulation containing a discovery schedule, statement of any additional issues not identified in this order of notice, and at least three dates on which they would be available for a final hearing in this matter, including how much time will be required, with a request that the prehearing conference and technical session be cancelled, on or before May 9, 2023. The Commission may cancel the prehearing conference and technical session upon approval of such a stipulation; and it is

FURTHER ORDERED, that parties shall file any proposed exhibits, written testimony, motions, or other documents intended to become part of the record in this proceeding with the Commission. Pursuant to the secretarial letter issued on March 17, 2020, which is posted on the Commission's website at <https://www.puc.nh.gov/Regulatory/Secretarial%20Letters/20200317-SecLtr-Temp-Changes-in-Filing-Requirements.pdf>, all Commission rules requiring the filing of paper copies are suspended until further notice. Parties may elect to submit any filing in electronic form unless otherwise ordered by the Commission. Filings will be considered filed as of the time the electronic copy is received by the Commission; and it is

FURTHER ORDERED, that routine procedural inquiries may be made by contacting the Commission's Clerk's Office at (603) 271-2431 or ClerksOffice@puc.nh.gov. All requests to the Commission should be made in a written pleading filed with the Commission. Unless otherwise authorized by law, *ex parte* communications are prohibited; and it is

FURTHER ORDERED, that pursuant to N.H. Admin. R., Puc 203.12, SRH shall notify all entities and individuals desiring to be heard at this hearing by publishing a

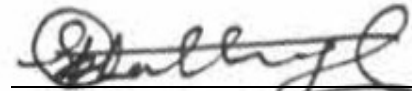
copy of this order of notice no later than April 14, 2023 in a newspaper with general circulation in those portions of the state in which operations are conducted, and shall post a copy of this order of notice at the Ashland Town Hall at 20 Highland Street in Ashland, no later than two business days after the date of issue, such publication to be documented by affidavit filed with the Commission on or before April 21, 2023. In addition, the Clerk shall publish this order of notice on the Commission's website no later than two business days after the date of issue; and it is

FURTHER ORDERED, that any hearings in this matter shall be conducted in accordance with the attached hearing guidelines.

So ordered, this thirty-first day of March, 2023.



Daniel C. Goldner
Chairman



Pradip K. Chattopadhyay
Commissioner

Individuals needing assistance or auxiliary communication aids due to sensory impairment or other disability should contact the NHPUC, 21 S. Fruit St., Suite 10, Concord, New Hampshire 03301-2429; 603-271-2431; TDD Access: Relay N.H. 1-800-735-2964. Notification of the need for assistance should be made one week prior to the scheduled event.

Service List - Docket Related

Docket#: 23-009

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Email Addresses

ClerksOffice@puc.nh.gov
Suzanne.G.Amidon1@energy.nh.gov
Energy-Litigation@energy.nh.gov
thomas.c.frantz@energy.nh.gov
lmacomber@orr-reno.com
elizabeth.r.nixon@energy.nh.gov
amanda.o.noonan@energy.nh.gov
ocalitigation@oca.nh.gov
dpatch@orr-reno.com
mark.p.toscano@energy.nh.gov