

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 10-194

RESIDENTIAL RENEWABLE ENERGY GENERATION INCENTIVE PROGRAM

Order Modifying Incentive Payment

ORDER NO. 25,144

September 15, 2010

I. PROCEDURAL BACKGROUND

On August 13, 2010, the Commission issued an Order of Notice scheduling a hearing to take comment on a proposal to modify incentive levels for the residential renewable generation rebate program established by the Commission in Order No. 24,985 (July 14, 2009)¹, pursuant to RSA 362-F:10,V. The existing rebate program provides a one-time incentive payment to a residential owner of a qualified small renewable photovoltaic (PV) or wind electrical generation facility of \$3.00 per watt of generation capacity, up to a maximum payment of \$6,000 or 50% of the system's cost, whichever is less. The Commission asked for public comment on a proposal to reduce the payment to \$1.50 per watt with payments capped at \$3,000 per system. A public comment hearing was held on September 1, 2010 and written comments were received through September 7, 2010.

During the 2010 legislative session, the New Hampshire General Court approved legislation (HB 1270 or Chapter 254, Laws of 2010) that amended when and how the Commission may modify the small residential renewable energy facility incentive program created by RSA 362-F:10, V. As originally enacted, RSA 362-F:10, IX authorized the

¹ In Order No. 25,020 (October 2, 2009), the Commission approved a modified rebate application form established pursuant to RSA 362-F:10, VII.

Commission to modify, by administrative rule, the small residential renewable facility incentive program after December 31, 2010 for good cause. Chapter 254, Laws of 2010, effective July 6, 2010, repealed RSA 362-F:10, IX and replaced it with the following language: “For good cause, the commission may, after notice and hearing, by order or rule, modify the program, including reducing the incentive level, created under RSA 362-F:10, V.”

The incentive payments are funded through the Renewable Energy Fund (REF), RSA 362-F:10, I, which is supported by alternative compliance payments (ACPs) made by electric service providers who cannot meet their renewable portfolio standard (RPS) obligation through the purchase of renewable energy certificates. RSA 362-F:10, II. In addition to authorizing the Commission to modify the residential renewable facility incentive program, HB 1270 instructed the Commission, beginning July 1, 2010, to reasonably balance overall expenditures from the REF between residential and non-residential sectors based on the proportion of electricity sold at retail to each sector. RSA 362-F:10, X. In addition, the new law limits overall funding for this program to a maximum aggregate payment of 40 percent of the fund over each 2-year period commencing July 1, 2010. RSA 362-F:10, VI.

The Commission’s Order of Notice indicated that, as of July 2010, of the \$5.78 million deposited into the REF from alternative compliance payments for 2008 and 2009, approximately \$2 million had been paid or reserved as incentive payments for qualifying small residential PV and wind facilities. Even considering the REF’s uncommitted balance of funds, the Order of Notice cautioned that unless the Commission reduced the incentive levels or closed the program at some point, the program would likely exceed the portion of funding that should go to residential programs pursuant to RSA 362-F:10, VI and X and that good cause may therefore

exist to modify the incentive payments under this program. At the public comment hearing on September 1, 2010, Staff indicated that 443 rebate applications totaling \$2.54 million had been received as of that date and that, assuming an ongoing application rate of roughly 20 per month, maintaining the rebate program at the current incentive levels was financially unsustainable, and that funds for the program would be depleted well before the end of the current fiscal year, absent a substantial reduction in incentive levels.

Staff further explained that a reduction from \$3 per watt to \$1.50 per watt would be consistent with rebates offered by other states to their residents and that lowering the overall system cap to \$3,000 would help offset the projected shortfall in funds.

Ten of the approximately 15 members of the public who attended the public hearing provided oral comments, while another 8 written comments were received. While most of the commenters were installers of PV facilities, at least two town officials and a couple of homeowners and other interested persons also provided comments. A summary of the comments follows:

1. While a couple of parties asserted that the current \$3/watt incentive and \$6,000 per system incentive cap should not be reduced at this time, even if maintaining those levels would require closing the program for a period of time, most commenters acknowledged the need to reduce funding levels in light of funding constraints. A couple of parties suggested that we seek other funding for the program, including considering use of the system benefits charge. At least 5 commenters specifically remarked on the undesirable harm to consumers, installers, or the market in general of starting and stopping the program that may result from running out of funding and that reducing the incentive levels to avoid closing the program would be a better option. At least one installer indicated that the \$3/watt incentive was excessive from a marketing point of view and should be reduced. Generally, those who supported or accepted the need to reduce the \$3/watt incentive level supported \$1.50/watt as a reasonable level, but argued that the proposed 50% reduction in the maximum incentive per system from \$6,000 to \$3,000 was too steep and should be more

gradually phased in. These parties generally suggested that the per system cap not be lowered to less than \$4,500 or \$4,000 at this time.

2. Several parties suggested that the incentive structure should be adjusted to better promote larger systems and thus leverage more private investment and more renewable energy with limited incentive funds. It was noted that both the current rebate of \$3/watt and the proposed rebate of \$1.50/watt are maxed out at a relatively small 2kW system size (less than enough to meet the electric load of most homes) with the \$6,000 current and \$3,000 proposed caps on incentives per system. One commenter suggested that the Commission could construct a tiered rebate that would pay a smaller incentive than \$1.50/watt for the first 2kW of capacity, but pay somewhat more for the next kW or two of system capacity. On the other hand, one commenter argued for keeping the incentive strongest for the smallest system sizes to allow more homeowners the ability to purchase an entry level sized system. In addition, eight commenters expressed support for eliminating the 5 kW cap on system size or raising it to 10 kW, noting, for example, that since it does not affect the overall incentive level (due to the binding cap on the total rebate per system), it is an arbitrary constraint on system design and a limit on the market that works against the notion of improving the leverage and effectiveness of the REF in expanding renewable energy.
3. One commenter suggested that a higher rebate should be available to homeowners who undertake an energy audit.
4. Generally, many commenters were concerned that any reductions in incentive levels not be retroactive and that as much advance notice be given for reduced incentive levels as is possible. .

II. COMMISSION ANALYSIS

To assist us in our deliberations, we reviewed the status of the residential renewable energy incentive applications and the balance in the REF. At the time we issued the Order of Notice, it appeared that the focus of our effort would be on modifying the rebate in a way to best stretch the funds remaining for this fiscal year. Based on developments since the issuance of the Order of Notice, however, it is now clear that the funding available for this rebate program is effectively depleted. This is the result, in large part, of a surge of new rebate applications that have been submitted in recent weeks. On one day alone, the Commission received 29 such

applications requesting an aggregate amount of nearly \$170,000. Additionally, at the time of the hearing on September 1, 2010, there were a substantial number of rebate applications that were being processed by Staff with new applications coming in daily. We will set forth our REF allocation decisions for the balance of this fiscal year and detail the volume and quantity of paid, reserved, and pending residential rebate applications in our order in Docket Number DE 10-212 and the annual report on the REF due by October 1 pursuant to RSA 362-F:10, IV, respectively. As a result of the volume of reserved funds and pending applications, our focus must now shift to determining the appropriate treatment of applications that have been submitted and determining the appropriate incentive levels going forward.

Applications hand-delivered or post marked on or before September 15, 2010, the date of this order, will be eligible for the \$3.00 per watt rebate up to a maximum of \$6,000 or 50% of system costs, whichever is less, subject to available funds. Applications hand-delivered or post marked after September 15, 2010 will be eligible for a rebate of \$1.25 per watt up to a maximum of \$4,500 or 50% of eligible system costs, whichever is less, subject to available funds. Complete applications will continue to be processed in the order in which they are received. (Terms and Conditions # 15.)

To the extent funds are currently available, which appears to be the case for all applications approved to date and most, if not all, of the currently pending applications, rebates will continue to be reserved and paid based on the position of approved applications in the funding queue, which in turn is based on the date a complete application is approved, up to one year after that date, consistent with existing terms and conditions for the program. The final incentive request form (Step 2) must be submitted after the installation is complete and within 12

months of the date that the incentive pre-approval form (Step 1) is approved. (Terms and Conditions # 14.) If this step is not taken within the 12-month deadline, the approval of the application and position in the funding queue will expire and a new application will have to be submitted subject to the then current incentive levels and funding availability. For applications that are approved after the current year allocation of funds for this program are fully committed, any disbursement of incentives will have to await an additional receipt and allocation of funds for the program, which is anticipated to occur in July 2011, but is not assured. If sufficient funds are not received in July 2011 to fund all approved applications through that date, we will revisit the 12 month deadline for completing installation of systems and submission of the Step 2 final incentive request form.

We also note one other program parameter that was addressed by commenters, which concerns raising the size limitation of eligible facilities above 5 kilowatts. The remarks of a number of commenters suggest that there may be good cause for such an action but the issue was not one that was mentioned in the Order of Notice. Inasmuch as current funds are effectively depleted there is less urgency to act on this concern and we will consider addressing this issue after it has been properly noticed as a potential program modification pursuant to RSA 363-F:10, IX.

In our view, the residential rebate program created by the Legislature through RSA 362-F:10, V has been successful and we are pleased to have had a role in assisting nearly 500 homeowners in their efforts to install small renewable photovoltaic and wind generation facilities. It is also our view, supported by the comments of experienced business people in the field, that there is good cause to modify the program. Based on the comments received during

this proceeding and the research conducted by Staff, it is fair to conclude that a rebate lower than \$3.00 per watt up to a maximum of \$6,000 will still provide an incentive for homeowners to install solar photovoltaic and wind generation systems. Equally important, our expectation based on the past two years is that funding will continue to be limited and modifying the program by reducing the rebate is the best way to allocate limited funds. As for the rebate levels that we have selected, the \$1.25 per watt level comports with research Staff conducted on the programs in other jurisdictions and we were persuaded by the comments provided at hearing and in writing that a graduated reduction in the maximum level, to \$4,500 rather than \$3,000, is a sensible approach.

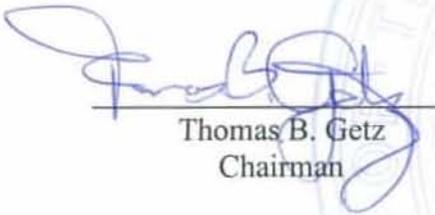
This program has provided a boost to the PV installers in the state and has provided jobs in an uncertain economy. While we would prefer to keep issuing rebates under the program for all approved applications, there simply is not enough money. Presently, the only source of funds available for the rebate program is the REF. Electric suppliers make their annual RPS compliance filing on July 1, and, until July 2011, we will not have any certainty regarding future deposits to the REF. Nonetheless, we will continue accepting applications for the small residential renewable facilities incentive payment. As stated previously applications will continue to be processed on a first-come first-served basis based on the date and time of receipt of complete applications and a funding queue will be maintained, based on date of approval of complete applications, in anticipation that additional funds will be deposited in the REF. Applicants will have to qualify their facilities pursuant to the terms and conditions of the program to reserve an incentive payment.

Based upon the foregoing, it is hereby

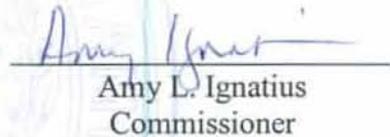
ORDERED, that for applications hand-delivered or post-marked on or before September 15, 2010, the incentive payment for the small residential renewable facilities shall be \$3.00 per watt up to \$6,000 or 50% of the system cost, whichever is less; and it is

FURTHER ORDERED, that for applications hand-delivered or post-marked after September 15, 2010, the incentive payment shall be \$1.25 per watt up to \$4,500 or 50% of the system cost, whichever is less.

By order of the Public Utilities Commission of New Hampshire this fifteenth day of September, 2010.


Thomas B. Getz
Chairman


Clifton C. Below
Commissioner


Amy L. Ignatius
Commissioner

Attested by:


Debra A. Howland
Executive Director