

STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: October 6, 2020

AT (OFFICE): NHPUC

FROM: Jason Morse, Energy Analyst, Sustainable Energy Division

SUBJECT: REC 20-148 and RREC 17-90015, DG Whitefield, LLC
Request for Waiver of Puc 2505.04(h)(1) Timing of Relative Accuracy
Test Audit and REC Eligibility

TO: Commissioners

Debra A. Howland, Executive Director

CC: Karen P. Cramton, Director, Sustainable Energy Division
Dave K. Wiesner, Director, Legal Division

DG Whitefield, LLC (DG Whitefield) has requested a waiver of N.H. Admin. R., Puc 2505.04(h)(1), which rule requires biomass electric generation facilities to verify compliance with NOx emissions standards through periodic testing of their continuous emission monitors. Staff recommends that the requested waiver be granted.

By way of background, DG Whitefield is an electric generation facility located in Whitefield, New Hampshire. It originally received renewable energy certificate (REC) authorization effective as of March 13, 2017, for its 18.8 MW system capacity. The facility's generation up to and including 100,474.67 MWh is authorized for Class III REC production, while all generation greater than 100,474.67 MWh is authorized for Class I REC production.

As an electric biomass technology, DG Whitefield's eligibility to produce RECs is conditioned upon compliance with rules regarding emissions controls and testing requirements. One of those rules, Puc 2505.04(h)(1), requires DG Whitefield to verify compliance with the applicable NOx emissions standards through continuous emission monitors. In relevant part, the rule provides that:

A biomass facility shall conduct a relative accuracy test audit [RATA] of the continuous emission monitor to certify the accuracy of the NOx emissions data at least once every 4 calendar quarters, and prior to the quarter for which the facility first wishes to produce RECs.

See [Puc 2505.04\(h\)\(1\)](#). A RATA is a test and calibration performed on the facility's continuous NOx emissions monitors to ensure accuracy. The RATA is witnessed by the New Hampshire Department of Environmental Services (NHDES).

DG Whitefield first filed a letter with the Commission on July 17, 2019, in Docket [DE 19-122](#), requesting a waiver of Puc 2505.04(h)(1) so that the facility could remain eligible to produce New Hampshire RECs for all generation during the third calendar quarter (Q3) of 2019. That letter explained that the most recent RATA had been conducted in Q2 2018, and that the facility unexpectedly discontinued operations early in Q2 2019 for financial reasons. Because the facility was not operational during the rest of that quarter, the facility was unable to perform its annual RATA. Staff recommended approving a one-time waiver of Puc 2505.04(h)(1) so that the facility could continue to produce RECs during Q3 2019, with the contingency that DG Whitefield must complete a RATA that is accepted by the NHDES within 60 days following the date the facility resumes operations. The Commission approved the waiver request with the recommended contingency.

DG Whitefield filed a second letter with the Commission on September 17, 2020, requesting a further waiver of Puc 2505.04(h)(1). That letter explained that the facility did not resume operations during Q3 2019 as previously anticipated and has not operated since Q2 2018 due to continued financial constraints. The current owner is exploring a sale of the facility, and explained that such a transaction may occur during Q4 2020. Therefore, the current owner is requesting a waiver of Puc 2505.04(h)(1) so that the facility could remain eligible to produce New Hampshire RECs at the time the facility resumes operations, provided that a RATA is completed within 60 days of resuming operations. DG Whitefield requested that the waiver be granted without reference to a particular date on which operations resume, and in a manner which would be transferrable to a new facility owner.

Staff has reviewed the requested waiver and recommends that, pursuant to Puc 201.05,¹ the Commission grant a one-time waiver of Puc 2505.04(h)(1) for DG Whitefield, or a future facility owner, contingent upon completion of a RATA that is accepted by the NHDES within 60 days following the date that operations resume. Staff further recommends that all production beginning with the date that operations resume be

¹ Under Puc 201.05, the Commission must waive the provisions of any of its rules, except where precluded by statute, upon request by an interested party, or on its own motion, if it finds that (1) the waiver serves the public interest, and (2) the waiver will not disrupt the orderly and efficient resolution of matters before the Commission. In determining the "public interest," the Commission shall waive a rule if either compliance with the rule would be onerous or inapplicable given the circumstances of the affected person, or the purpose of the rule would be satisfied by an alternative method proposed.

considered eligible to produce New Hampshire RECs, so long as the RATA is completed and acceptable and all other REC eligibility criteria are met.

The requested rule waiver would serve the public interest, in that the purpose of Puc 2505.04(h)(1) is to ensure that NO_x emissions monitors are, and remain, accurate. That purpose would be satisfied when the facility performs a RATA promptly after resuming operations. Staff believes that the rule is not intended to require a facility to forego REC eligibility, where the delay in performing the RATA was not due to the facility's neglect but to its operational status, and so long as the RATA is acceptable to the NHDES and the facility meets all other REC eligibility criteria. Waiver would also serve the public interest by increasing the availability of New Hampshire Class I and Class III RECs.

The NHDES agrees that the rule is not intended to make the facility ineligible for REC production under these circumstances and has indicated to Staff that it recommends approving this waiver request. According to the NHDES, 60 days would allow enough time for a RATA to be completed, while simultaneously avoiding potential scheduling issues with the testing contractor and NHDES personnel. Staff believes that the proposed 60-day period is reasonable.

In sum, the intent of the rule would be satisfied if the RATA is acceptable and completed promptly following the facility's return to operation. The proposed waiver would serve the public interest and would not disrupt the orderly and efficient resolution of matters before the Commission. Accordingly, the rule waiver criteria are met and Staff recommends that the Commission grant the requested waiver, subject to the recommended contingency. *See* Puc 201.05.

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