


# STATE OF NEW HAMPSHIRE

## Inter-Department Communication

**DATE:** March 3, 2021  
**AT (OFFICE):** NHPUC

**FROM:** Stephen R. Eckberg  
Utility Analyst — Electric Division 

**SUBJECT:** DE 20-178, Peabody Home  
Petition to Waive Puc 303.02; Master Metering Rule

**TO:** Commissioners  
Debra Howland, Executive Director

**CC:** Tom Frantz, Director, Electric Division  
Amanda Noonan, Director, Consumer Services and External Affairs  
Rich Chagnon, Assistant Director, Electric Division  
Mary Schwarzer, Staff Attorney

### Summary

On November 6, 2020, Peabody Home d/b/a Franklin Home for the Aged (PH), filed a request for waiver of the New Hampshire Code of Administrative Rules, Puc 303.02 (master metering rule). PH plans to construct a new building in Franklin, New Hampshire, with memory care, assisted living, and independent living apartments. PH needs a waiver in order to use a single master electric meter to serve the independent living apartments with the same master meter that will serve the rest of the facility.

For the reasons explained below, Commission Staff (Staff) recommends that the Commission approve the master metering rule waiver request for PH's planned sixteen (16) independent living apartments. Staff also recommends that the waiver remain in effect for so long as the enumerated energy efficient measures are installed and implemented, and so long as the building is a senior care facility.

### Background

PH currently operates a senior care facility in an existing eighty year-old building on the site of the planned new construction. PH is located at 24 Peabody Place in Franklin. PH is a 501(c)(3) private non-profit organization. PH provides senior care through end-of-life care. The new facility will continue to provide that scope of care.

The new facility will have 74 residential units comprised of 13 memory care, 45 assisted living, and 16 independent living apartments or units (ILUs). PH states that construction is planned in two phases. The first phase will construct a new, larger, building with memory care and assisted living units, as well as a main commercial kitchen and main

dining room where residents will dine. The second phase will build 16 new ILUs, which will be connected to phase 1 construction so that together they comprise a single building. The two-phase process will allow the existing facility to remain functional until phase 1 is complete. Once phase 1 is completed, the PH residents and staff currently living in the existing facility will then be moved to the completed phase 1 structure. Then, the existing facility will be demolished to accommodate the space required for the construction of phase 2.

According to PH, none of the facility residents will review or pay their own utility bills. Electricity, heat, cooling, and hot water costs will be included in each resident's daily residential fees. Daily rates, which are updated annually, differ for each type of living situation (memory, assisted, independent) as the residents receive different services. PH stated that daily rates for the ILUs may differ slightly as some units are larger than others and the number of occupants may vary (single vs. double occupancy).

PH explained that its new facility, including both phases 1 and 2, will include significant energy efficiency improvements. Many of the improvements surpass the requirements of the applicable International Energy Conservation Code (IECC).<sup>1</sup>

Energy efficiency measures being installed in this project, including the ILUs, include:

- Interior lighting consisting of all LED fixtures or fixtures with LED lamping. Analysis indicates interior lighting will be 57% better than 2018 IECC requirement.
- Energy analysis indicates the building envelope thermal requirements will be 14% better than the 2015 IECC. This is being achieved by using high-performance windows, above grade wall insulation that surpasses code requirement, and exterior thermal envelope design elements intended to reduce air infiltration as much as possible.
- Appliances in the ILU kitchens will be EnergyStar qualified.
- Installation of an energy recovery ventilation (ERV) system to transfer latent heat from exhaust air to temper incoming fresh air.
- Boilers for baseboard heat will have AFUE rating of 97% efficiency compared to code requirement of 80%.
- Cooling is provided using variable refrigerant systems which will have a SEER<sup>2</sup> rating of 16.0 compared to the code requirement of 14.0.

Overall, PH will spend approximately \$850,000 of the project budget on energy efficiencies including windows, insulation, boilers, rooftop cooling units, EnergyStar lighting and appliances and items described above. It is estimated that approximately 22% of the \$850,000 (\$187,000) represents the energy efficiency expenditures for the 16 ILUs. This estimate was determined by the number of ILUs compared to the total living units planned in the new facility (i.e.  $16 / 74 = 0.216$  or approximately 22%). PH is working with the energy efficiency programs of both Liberty Utilities (gas) and

<sup>1</sup> Effective Sept. 15, 2019 the 2015 IECC, as modified, is NH's effective Code version. See RSA 155-A:IV.

<sup>2</sup> SEER, the Seasonal Energy Efficiency Ratio, is an efficiency rating metric frequently used to rate efficiency of air conditioning and heat pump systems.

Eversource Energy (electric) to ensure that decisions regarding energy equipment are informed by program requirements to qualify for incentives to the extent possible within the project budget.

PH further estimates that costs associated with the purchase and installation of equipment and wiring in order to separately meter the 16 ILUs will be approximately \$40,000 to \$60,000.

### **Eversource Energy**

Staff has been in contact with Eversource Energy (Eversource or Company). The Company's position is that the 16 ILUs planned for phase 2 of the project require individual meters because, absent a Commission waiver, Company tariff provisions require separate dwelling units to be individually metered.

Eversource stated a waiver is not needed to master meter the 58 memory care and assisted living units, as none of those units have kitchens and thus are not considered "dwelling units." Staff agrees that no waiver is needed for the 58 other units.

Eversource has been notified of the specific proposed meter configuration for the ILUs, and has confirmed to Staff that it does not object to the pending waiver request.

### **Analysis**

The Master Metering Rule, Puc 303.02, provides as follows:

- (a) No utility shall install master metering in a building with multiple dwelling units. The energy in each dwelling unit in such a building shall be separately metered;
- (b) A utility shall only install master metering in commercial buildings and as consistent with the International Energy Conservation Code 2009 (Code) as adopted pursuant to RSA 155-A: 1, IV; and
- (c) Hotels, motels, dormitories, boarding houses and time-sharing interests in condominiums as defined in RSA 356-B: 3 shall not be considered a dwelling unit within the meaning of Puc 303.02(a) above.

The Waiver of Rules, Puc 201.05, provides as follows:

- (a) The commission shall 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 the commission 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.
- (b) In determining the public interest, the commission shall waive a rule if:

- (1) Compliance with the rule would be onerous or inapplicable given the circumstances of the affected person; or
- (2) The purpose of the rule would be satisfied by an alternative method proposed.

(c) Any interested party seeking a waiver shall make a request in writing, except as provided in (d) below.

(d) The commission shall accept for consideration any waiver request made orally during a hearing or pre-hearing conference.

(e) A request for a waiver shall specify the basis for the waiver and proposed alternative, if any.

In the absence of the requested waiver, PH would be required to maintain individual electric meters for each of the 16 ILUs.

The purpose of the master metering rule is to incentivize energy conservation and efficiency. Here, that purpose will be met by the alternate method of making the new PH building envelope energy-efficient and through the installation of energy efficient mechanical, and lighting systems which exceed minimum requirements. Of the project's \$26 million budget, it is estimated that approximately \$850,000 is being spent on energy efficiencies for the building and of that, \$187,000 for the ILUs. Staff notes that because residents do not pay their own utility bills, individual meters would be less likely to incentivize individual resident's energy conservation.

Consistent with Puc 201.05, and prior master meter waiver requests granted, Staff concludes that this waiver would serve the public interest by satisfying the purpose of the rule through an alternative method, i.e., the installation of a number of energy efficient mechanical, lighting, and heating and power systems, including, but not limited to, high efficiency LED lighting systems, energy efficient windows and appliances, and tight thermal envelopes as described above. Granting this waiver, and allowing 16 ILUs that are approximately 22% of the total number of senior living units at PH to be master metered would not disrupt the orderly and efficient resolution of matters before the Commission.

### **Staff Recommendation**

Based on the foregoing analysis, and additional information provided to Staff by PH and Eversource, Staff recommends that the Commission grant the request for a waiver of the Master Metering Rule in Puc 303.02 for the 16 ILU units. Specifically, the ILUs may be served by the same master meter that is serving the rest of the building. Staff recommends that this waiver should be effective for so long as the enumerated energy efficiency measures are installed and implemented, and so long as PH continues to provide senior living and care in the ILUs as designed and permitted.

Staff also recommends that if, in the future, PH does not implement its plan as described above, or if the PH facility is no longer operated as a 501(c)(3) continuing care community for the elderly, then the waiver should no longer be effective, and PH should be required to install the electric infrastructure necessary to meter individual living units. At the same time, PH should promptly notify the Commission and Eversource of the changes.

Executive.Director@puc.nh.gov

amanda.noonan@puc.nh.gov

deandra.perruccio@puc.nh.gov

Mary.Schwarzer@puc.nh.gov

mmiller@peabodyhome.org

ocalitigation@oca.nh.gov

richard.chagnon@puc.nh.gov

Stephen.Eckberg@puc.nh.gov

tom.frantz@puc.nh.gov