

STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: December 30, 2020

AT (OFFICE): NHPUC

FROM: Tanya Wayland, Energy Analyst, Sustainable Energy Division

SUBJECT: DE 20-198, White Rock Cooperative Estates, Inc.
Request for Waiver of Puc 909.09(a)(17)b, Indication Whether Group Host and Each Member Meets Definition of Low-Moderate Income
Staff Recommendation of Rule Waivers

TO: Commissioners
Debra A. Howland, Executive Director

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

White Rock Cooperative Estates, Inc. (White Rock) has requested a waiver of N.H. Admin. R., Puc 909.09(a)(17)b, the rule provision that requires applicants for group net metering registration to indicate whether the host and each member is a residential end-user customer with household income at or below 300 percent of the federal poverty guidelines. For the reasons described below, Commission Staff recommends that the requested rule waiver be granted and that rule waivers also be granted of two similar group host annual report requirements under Puc 909.10(a)(4)a and e.

White Rock is a resident-owned manufactured housing community that owns a low-moderate income (LMI) community solar project located in Tilton, New Hampshire (the Project). White Rock has filed an application with the Commission to register as the group net metering host for the Project, with the assistance of the Vermont Law School Energy Clinic. The Project was awarded grant funding from the Renewable Energy Fund (REF) RFP #2019-001 Grants for Community Solar Photovoltaic Projects Providing Direct Benefits to Low and Moderate Income Residential Electric Customers. White Rock residents will receive benefits associated with the Project both through lot rent reductions and through on-bill credits provided to them as members of a net metering group eligible for the LMI adder under RSA 362-A:9, XIV (c).

As the owner of a low-moderate income community solar project, White Rock's eligibility to receive group net metering host approval from the Commission is conditioned upon compliance with rules regarding income verification and identification of each LMI member. One of those rules, Puc 909.09(a)(17)b requires a group host registration applicant to verify that its group membership complies with the applicable income level eligibility requirements. In relevant part, that rule provision states that:

(17) For hosts registering a group with a low-moderate income community solar project [the host must provide]:

b. Indication whether the host and each member is a residential end-user customer with household income at or below 300 percent of the federal poverty guidelines.

See [Puc 909.09\(a\)\(17\)b](#).

On December 8, 2020, White Rock filed a letter with the Commission requesting a waiver of Puc 909.09(a)(17)b to support the Project's group net metering host registration application filed on November 30, 2020. White Rock's letter explained the process by which verification of its residents' income is performed through a "double-blind" process to protect the privacy of the participants. The double-blind process involves the host distributing a randomly-numbered survey to each of the Project's participating households (i.e., members), and each participating household returning the numbered survey to ROC-NH. ROC-NH and the Vermont Law School Energy Clinic then compile the survey results and provide those results to the Commission through the submission of an annual report. The income surveys ask participants to identify how many people reside in the household and the household's applicable income bracket, in order to identify which households meet the LMI definition (i.e., at or below 300% of the Federal Poverty Guidelines).

Because it uses this "double-blind" process, White Rock is unable to identify which individual group members are LMI in order to provide that information to the Commission under Puc 909.09(a)(17)b. According to White Rock, the greater privacy afforded by the "double-blind" process was an important factor in securing community support for Project participation and in ensuring that income surveys are completed each year. White Rock expressed concern that an alternative process might undermine the efficacy of such projects in serving LMI communities. White Rock noted that its resident income verification and reporting process was accepted by the Commission in connection with approval of its REF grant funding proposal.

Staff notes also that, once a group net metering host registration has been approved, the group host is required to submit annual reports containing information specified by rule. In relevant part, Puc909.10(a)(4)a and e provide as follows:

(4) Any host with a low-moderate income community solar project shall provide in xls format the following additional information, covering the immediately preceding calendar year, together with the host annual report:

a. Identification of each group member who is a residential end-user customer with household income at or below 300 percent of the federal poverty guidelines, who is a residential customer not identified as having such a household income level, or which is an affordable housing project; [and]

e. The total percentage of all monetary credits that was distributed to group members who are residential end-user customers with household income at or below 300 percent of the federal poverty guidelines or which are affordable housing projects[.]

See [Puc 909.10\(a\)\(4\)a](#) and [Puc 909.10\(a\)\(4\)e](#).

Staff has reviewed the rule waiver requested by White Rock and recommends that, pursuant to Puc 201.05,¹ the Commission grant a waiver of Puc 909.09(a)(17)b for White Rock, contingent upon continuation of annual report submission to ensure that LMI households remain a majority of group members in compliance with the requirements of its approved REF grant funding contract. Staff further recommends that the Commission grant related waivers of Puc 909.10(a)(4)a and e to accommodate the alternative income verification and reporting method.

The requested rule waivers would serve the public interest, in that the purpose of Puc 909.09(a)(17)b, and the similar annual report requirements, is to ensure that majority LMI participation is maintained for the project so it remains eligible to receive the statutory net metering adder amount. Staff believes that, under these particular circumstances, the purpose of the rules provisions may be satisfied by the alternative method proposed, consistent with the established expectations of the White Rock residents and with consideration for their privacy interests in individual income information. White Rock and the Project otherwise meet all applicable group net metering registration requirements. The recommended waivers would also serve the public interest by increasing the accessibility of renewable energy to low and moderate income residential electric customers.

In sum, the purpose of the rules provisions would be satisfied through the Project annual reporting process as required under the REF grant contract to ensure that LMI majority participation is maintained and the required percentage of net metering proceeds are passed on to the LMI group members. The recommended rules waivers 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 specified contingency, and the additional waivers of Puc 909.10(a)(4)a and e. See Puc 201.05.

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.

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