

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 12-139

NEW HAMPSHIRE ELECTRIC COOPERATIVE, INC.

Request for Waiver of Net Metering Rule Puc 901.02(b)

Order *Nisi* Addressing Rules Puc 901.02(b) and Puc 903.2(i)(1)

NOTICE OF ORDER NO. 25,426

October 19, 2012

SUMMARY OF ORDER

On May 23, 2012, New Hampshire Electric Cooperative, Inc. (NHEC) filed a letter requesting a waiver of Puc 901.02(b). The petition and subsequent docket filings, other than information for which confidential treatment is requested of or granted by the Commission, is posted to the Commission's website at <http://www.puc.nh.gov/Regulatory/Docketbk/2012/12-139.html>.

Puc 901.02(b) establishes the calculation of accumulated surplus for purposes of determining whether a customer-generator had accumulated a surplus of 600 kilowatt hours (kWh) or more. The rule states that customer-generators are eligible for payment of accumulated surplus if the accumulated surplus is 600 kWh or more, but under a strict reading of the rule, only the surplus generated in the last 12-month billing cycle preceding March of any year counts toward the 600 kWh amount. NHEC said that the rule imposed a costly administrative burden by requiring it to maintain separate "banks" for accumulated surplus depending on when it was accumulated. Staff reviewed the petition and recommended that the Commission interpret Puc 901.02(b) to allow customer-generators to be paid when the accumulated surplus reached 600 kWh regardless of when the surplus was accumulated. Staff also recommended that the Commission clarify Puc 903.02(i)(1), which requires electric distribution utilities to pay

customer-generators for the accumulated surplus at the avoided cost rate applicable for the period in which the surplus was accumulated. Staff said that a plain reading of the rule would require electric distribution utilities to pay separate avoided costs for each 12-month billing period, thus requiring the utilities to separately determine the billing period in which the surplus was accumulated and the avoided cost for that period. Staff said that this interpretation imposed administrative burdens on the utilities and that it would be consistent with the purpose of the rule to allow utilities to use the then-applicable avoided cost rate in any period when a customer-generator accumulated a surplus 600 kWh.

Based on the petition and Staff's recommendation, the Commission found that it is appropriate to waive Puc 901.02(b) until such time as the rule is amended, and that it is just and reasonable to interpret Puc 903.02(i)(1) to allow utilities to pay the then-applicable avoided cost rate for qualifying surplus amounts produced by customer-generators. The Commission decision was on a *nisi* basis to allow opportunity for public comment. The full order is available on the Commission's website.

All persons interested in responding to the Order *Nisi* be notified that they may submit comments or file a written request for a hearing which states basis for a hearing no later than November 5, 2012 for the Commission's consideration; any party interested in responding to such comments or request for hearing shall do so no later than November 12, 2012. The Order *Nisi* shall be effective November 19, 2012, unless the Petitioner fails to satisfy the publication obligation set forth above or the Commission provides otherwise in a supplemental order issued prior to the effective date.