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July 26, 2022

Robert E. Kelley, Esq.
Optimus-Everbrook Senior Living
162 College Highway
Southampton, MA 01073

Re: MM2022-001 Hillsbrook Senior Living Request for Waiver of Puc 303.02

Dear Attorney Kelley:

On July 5, 2022, project developer Optimus Senior Living, owner of Allenstown Senior Living a/k/a Hillsbrook Village (Hillsbrook), filed a request with the Department of Energy (DOE) seeking a waiver of New Hampshire Code of Administrative Rules Puc 303.02, the so-called master metering rule. Puc 303.02 provides that, except in certain limited circumstances: "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."

Hillsbrook's request stated that the waiver would permit it to use a single master meter at its new building, pursuant to its original design, currently under construction in Allenstown, New Hampshire. Hillsbrook's construction site is located in the franchise area of Public Service Company of New Hampshire d/b/a Eversource Energy (Eversource).

On July 1, 2021, the DOE came into existence and many functions previously performed by the Public Utilities Commission (PUC) were transferred to the DOE. Under RSA 12-P:14, "[e]xisting rules, orders, and approvals of the [PUC] which are associated with any functions, powers, and duties, transferred to the [DOE] pursuant to RSA 12-P:11 or any other statutory provision, shall continue in effect and be enforced by the commissioner of the [DOE] until they expire or are repealed or amended in accordance with applicable law." *See* 2021 N.H. Laws Chapter 91 (House Bill 2-FN-A-Local).

The transfer of functions also operated to authorize the DOE to consider and grant or deny waiver requests regarding rules for which it exercises authority, consistent with the waiver standards established in Puc 201.05. The DOE now has primary responsibility for the adoption of public utility meter standards and related matters. *See, e.g.*, RSA 370, as amended effective July 1, 2021. The DOE therefore is authorized to enforce the relevant provisions of Chapter Puc 300, including Puc 303.02, and to grant waivers of any such rules under the standards established in Puc 201.05. *See* RSA 12-P:14.

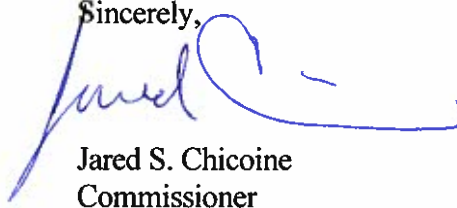
On July 12, 2022, the DOE Legal and Regulatory Support Divisions (Legal and Regulatory, respectively) received an electronic communication from Eversource stating that it did not object to the Hillsbrook waiver request. Regulatory reviewed the details provided in Hillsbrook's request for waiver of Puc 303.02, Eversource's emailed position statement, and prior similar requests reviewed by the DOE or the PUC, including that of the Prospect Woodward Home.¹

The purpose of the Puc 303.02 master metering rule is to incentivize energy conservation and efficiency. As referenced above, Regulatory staff have reviewed the information provided by Hillsbrook and determined that it has met the public interest requirement for a waiver by an "alternative method" as described in Puc 201.05(b)(2), through its building implementation of energy efficiency measures which will meet or exceed the requirements of New Hampshire's Energy Code.²

Pursuant to the statutory and rules authority cited above, I approve Hillsbrook's master metering rule waiver request, having found that it would serve the public interest within the meaning of Puc 201.05. Furthermore, this waiver will not disrupt the orderly and efficient resolution of matters before the DOE.

Please be advised that this rule waiver only extends to Puc 303.02, and not to any independent requirements of the utility's tariff, state or local building code, or any other federal, state, or local requirement.

Sincerely,



Jared S. Chicoine
Commissioner

cc: Chad Sico, Optimus Living Project Manager
Rorie E. Patterson, Director of Administration
David K. Wiesner, Legal Director
Jessica Chiavara, Esq., Eversource

¹ See, e.g. <https://www.puc.nh.gov/Regulatory/Docketbk/2017/17-009.html>. The Prospect Woodward Home Request for Waiver of Puc 303.02.

² RSA 155-A establishes New Hampshire's Building Code and was updated in 2019 to adopt the 2015 suite of codes: plumbing, mechanical, residential and commercial buildings, etc. The Building Code now includes the 2015 International Energy Conservation Code, as amended, which addresses energy efficiency requirements in residential and commercial buildings.