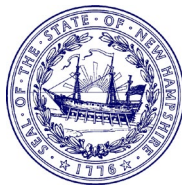


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June 27, 2024

Robert Newcomb
Pine Hill Homeowners Cooperative, Inc.
605 White Mountain Highway
North Conway, NH 03860

Re: WVR 2024-007– Pine Hill Homeowners Request for Waiver of Rule Puc 909.09(a)(17)b Indication Whether Group Host and Each Member Meets Definition of Low-Moderate Income

Dear Mr. Newcomb:

On June 24, 2024, the Department of Energy (Department) received a letter on behalf of Pine Hill Homeowners Cooperative (Pine Hill) requesting a waiver of N.H. Code of Administrative Rule Puc 909.09(a)(17)(b) in order to support the group net metering host registration application filed on June 10, 2024 for its low-moderate income community solar project. Administrative rule 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. The letter further requested that rule waivers be granted for two similar group host annual reports required by Puc 909.10(a)(4)(a) and Puc 909.10(a)(4)(e).

Pine Hill is a resident-owned manufactured housing community that owns a low-moderate income (LMI) community solar project located in North Conway, New Hampshire (the Project). Pine Hill has filed an application with the Department to register as the group net metering host for the Project, with the assistance of the Vermont Law School Energy Clinic and ROC-NH. The Project was awarded grant funding from the Renewable Energy Fund (REF) RFP #2021-004 Grants for Community Solar Photovoltaic Projects Providing Direct Benefits to Low and Moderate Income Residential Electric Customers. Pine Hill residents will receive benefits associated with the Project 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, Pine Hill’s eligibility to receive group net metering host approval from the Department 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) states, in relevant part:

- (a) An Applicant for registration or re-registration as a host shall provide to the commission, with a copy to the distribution utility, the following information:
[...]

- (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.

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, Puc 909.10(a)(4)(a) and Puc 909.10(a)(4)(e) provide as follows:

- (a) ON or before April 1 of each year, beginning the year after the host received a registration number, all hosts shall provide to the commission, with a copy sent to the distribution utility, an annual report containing the following information, covering the immediately preceding calendar year:
[...]

- (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[.]

One June 14, 2024, Pine Hill filed a letter with the Department requesting a waiver of Puc 909.09(a)(17)(b), Puc 909.10(a)(4)(a) and Puc 909.10(a)(4)(e) to support the

Project's group net metering host registration application filed on June 10, 2024. Pine Hill'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 Department 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, Pine Hill is unable to identify which individual group members are LMI in order to provide that information to the Department under Puc 909.09(a)(17)(b). According to Pine Hill, 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. Pine Hill expressed concern that an alternative process might undermine the efficacy of such projects in serving LMI communities. Pine Hill noted that its resident income verification and reporting process was accepted by the Department in connection with approval of its REF grant funding proposal.

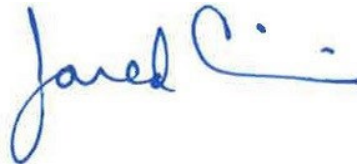
The requested rule waivers would serve the public interest in that the purpose of Puc 909.09(a)(17)(b), and the similar annual report requirements, is to ensure that majority LMI participation is maintained for the project so it remains eligible to receive the statutory net metering adder amount. Under these particular circumstances, the purpose of the rules provisions may be satisfied by the alternative method proposed, consistent with the established expectations of the Pine Hill residents and with consideration for their privacy interests in individual income information. Pine Hill 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. Granting the waivers would not disrupt the orderly and efficient resolution of matters before the Department.

On July 1, 2021, the Department came into existence and many functions previously performed by the New Hampshire Public Utilities Commission (NHPUC) were transferred to the Department. Under RSA 12-P:14, "[e]xisting rules, orders, and approvals of the [NHPUC] which are associated with any functions, powers, and duties, transferred to the [Department] pursuant to RSA 12-P:11 or any other statutory provision, shall continue in effect notwithstanding any provision of RSA 541-A:17, II to the contrary, and be enforced by the commissioner of the [Department] or the [NHPUC], as applicable, until they otherwise expire or are repealed or amended in accordance with applicable law, or for a period of 5 years, whichever occurs first." *See* 2021 N.H. Laws Chapter 91 (House Bill 2-FN-A-Local); 2022 N.H. Laws Chapter 245 (House Bill 1258). 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. Therefore, the DOE is authorized to enforce the relevant provisions of Puc 900, including Puc 909.09(a)(17)b, Puc 909.10(a)(4)a and e and to grant waivers of any such rules under Puc 201.05. *See* RSA 12-P:14.

After review, pursuant to the aforementioned statutory authority, I have found that the standards for a rule waiver set forth in Puc 201.05 have been satisfied. The Department grants a waiver of Puc 909.09(a)(17)(b) for Pine Hill, 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. The Department also grants waivers of Puc 909.10(a)(4)(a) and 909.10(a)(4)(e) to accommodate the alternative income verification and reporting method.

Sincerely,



Jared S. Chicoine
Commissioner

cc: Carlson Swafford, Vermont Law School Energy Clinic, Institute for Energy and the Environment