



Carlson Swafford
Vermont Law School Energy Clinic
PO Box 96, South Royalton, VT 05068
cswafford@vermontlaw.edu

June 24, 2024

New Hampshire Department of Energy

By email: Tanya.P.Wayland@energy.nh.gov, deandra.m.perruccio@energy.nh.gov

Re: Pine Hill Community Solar Project Host Application to Register for Group Net Metering and Rule Waiver Request

On behalf of Pine Hill Homeowners Cooperative, Inc. (“Host”), please find **attached** a copy of the application to register the Pine Hill Community Solar Project (the “Project”), a low-moderate income community solar project, for group net metering, previously filed with the Department of Energy with a copy sent to Eversource. We also provide the following information and documentation to assist with the registration process.

Host Election to Receive Payment

In accordance with Puc 909.13(c) and (d)(3), the Host elects to receive a monthly payment from Eversource equal to the host’s on-bill credit amount.

Income Verification Process

The Project received funding from the Renewable Energy Fund’s Grants for Community Solar Photovoltaic Projects Providing Direct Benefits to Low and Moderate Income Residential Electric Customers (the “Grant”). In 2021, the Project participants completed anonymous income surveys as part of that Grant process; 19 households completed the survey of which 9 households were low income, 8 households were moderate income, and 2 households were not LMI for a total of 89.5% LMI. Income surveys were repeated in October 2023; 15 households returned the survey of which 5 households were low income, 7 households were moderate income, and 3 were not LMI for a total of 80% LMI. Three income surveys remain outstanding, and that information and summary information will be provided with the group registration application. Assuming most conservatively that those members are not LMI, this would be 12/18 LMI members, which is 67% LMI, meeting the majority requirement. The Host facilitated the income surveys in coordination with the Energy Clinic and ROC-NH using 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, and the participating households returning the numbered survey to ROC-NH. ROC-NH and the Energy Clinic compile the survey results and provide those results to the Department of Energy in accordance with the terms of the Grant agreement. The income surveys ask participants to identify how many people reside in the participating household and that household’s applicable

income bracket to identify which households meet the definition of low-moderate income (below 300% of the Federal Poverty Guidelines).

We have **attached** a copy of the 2023 income surveys and a summary of the survey results. We request that the Department of Energy keep the attached income surveys confidential as they reveal confidential personal information about individuals at the Pine Hill community, release of which may be an invasion of privacy.

Rule Waiver Request

Because the income surveys were conducted using a double-blind process, we are unable to identify which specific group members are LMI. Therefore, we request a waiver of Puc 909.09(a)(17)(b) which requires a host registering an LMI group 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.

We believe the Host meets the standard for a rule waiver under Puc 201.05. Under Puc 201.05, the Department of Energy should waive the provision of any of its rules upon the request by an interested party if the Department of Energy finds that the waiver serves the public interest and the waiver will not disrupt the orderly and efficient resolution of matters. Under Puc 201.05, a rule waiver is considered in the public interest if 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. The Department of Energy should grant the Host's waiver request because strict compliance with the rule would be both onerous to the Host and the Project participants and because the double-blind income survey process satisfies the purpose of Puc 909.09(a)(17)(b).

First, strict compliance with Puc 909.09(a)(17)(b) would be onerous because it would require the Host and each of the Project's participants to draft and execute a new group net metering agreement; the group net metering agreement approved by the Department of Energy as part of the Grant process mandates a confidential annual income process. Our experience indicates that the confidential treatment of participant income information through the double-blind process was an important factor in securing community participation and ensuring income surveys are completed each year. We are concerned that an alternative process would undermine the efficacy of such projects in serving low-income communities. Second, the double-blind income survey process satisfies the purpose of Puc 909.09(a)(17)(b) because it provides evidence that at least half of the Project's group members are low-moderate income households and that at least 12% of the Project's net metering credits are allocated to LMI customers per Puc 909.13(h). The 2023 income survey results show that 80% of the Project's group members are LMI. Because the Host will distribute the Project's financial benefits equally among the group members, at least 80% of the Project's net financial benefits will be distributed to LMI customers.

For the above stated reasons, we believe the Department of Energy should grant a waiver of Puc 909.09(a)(17)(b). We will provide any further information that may help the Department of Energy grant the requested rule waiver.

Host is an Affordable Housing Project

The Host qualifies as an Affordable Housing Project in accordance with the definition set out in Puc 902.01(4). Specifically, the Host meets the definition of a multi-family residential housing project, a limited equity cooperative manufactured housing park in which most members are of low or moderate income. The Host is a “Resident Owned Community” or “ROC”. ROCs are low-moderate income manufactured housing communities based on a cooperative ownership structure where every household participates in the ownership of the underlying property.

Please contact me if you have any questions or need further information.

Sincerely,

Carlson Gray Swafford, Esq.

Carlson Swafford

Attachments:

1. Copy of 2023 income surveys and summary of results