

CHAIRMAN
Thomas B. Getz

COMMISSIONERS
Clifton C. Below
Amy L. Ignatius

EXECUTIVE DIRECTOR
Debra A. Howland

STATE OF NEW HAMPSHIRE



PUBLIC UTILITIES COMMISSION
21 S. Fruit St., Suite 10
Concord, N.H. 03301-2429

TDD Access: Relay NH
1-800-735-2964

Tel. (603) 271-2431

FAX No. 271-3878

Website:
www.puc.nh.gov

September 14, 2009

Scott F. Eaton, Director
Administrative Rules Division
Office of Legislative Services
State House Annex, Room 219
25 Capitol Street
Concord, New Hampshire 03301

Re: Puc 2600 – Greenhouse Gas Emissions Reduction Fund
PUC Docket: DRM 08-127

Dear Mr. Eaton:

Enclosed please find documents to be filed with your office regarding the above-referenced docket:

- 1) Appendix II-C, Rulemaking Notice Form (2 copies);
- 2) Fiscal Impact Statement – FIS 09:170 (2 copies);
- 3) Puc 2600 – Commission Approved Initial Proposal (2 copies);
- 5) Cross Reference Table of Applicable Statutes (2 copies);

Please include the Rulemaking Notice Form in the next available Rulemaking Register.

Thank you.

Sincerely,

A handwritten signature in black ink that reads "Thomas B. Getz". The signature is stylized with a large, flowing "G" and "Z".

Thomas B. Getz
Chairman

Enclosures

APPENDIX II-C

RULEMAKING NOTICE FORM

Notice Number _____

Rule Number **Puc 2600**

| | |
|---|--|
| <p>1. Agency Name & Address:</p> <p>Public Utilities Commission 21 South Fruit Street Suite 10 Concord, NH 03301</p> | <p>2. RSA Authority: <u> RSA 125-O:8, II, RSA 125-O:23 </u></p> <p>3. Federal Authority: _____</p> <p>4. Type of Action:</p> <p>Adoption <u> X </u></p> <p>Amendment _____</p> <p>Repeal _____</p> <p>Readoption _____</p> <p>Readoption w/amendment _____</p> |
|---|--|

5. Short Title: **Puc 2600 – Greenhouse Gas Emissions Reduction Fund**

6. (a) Summary of what the rule says and the effect of the rule on those regulated: **Puc 2600 provides for the administration of the greenhouse gas emissions reduction fund, the non-lapsing special fund established pursuant to the mandate of RSA 125-O:8, II and 125-O:23. The rules establish a process whereby the Commission can issue requests for proposal to solicit bids for programs for energy efficiency, energy conservation and greenhouse gas emission reduction.**

6. (b) Brief description of the groups affected: **Puc 2600 affects those persons seeking use of monies from the greenhouse gas emissions reduction fund such as private entities, state agencies, and other local and governmental agencies and instrumentalities.**

RULEMAKING NOTICE FORM - Page 2

6. (c) Specific section or sections of state statute or federal statute or regulation which the rule is intended to implement:

| | |
|-------------|---|
| Puc 2601.01 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2601.02 | RSA 125-O:8, II; RSA 125-O:23, II |
| Puc 2602.01 | RSA 125-O:8, II; RSA 125-O:23; RSA 125-O:21, II |
| Puc 2602.02 | RSA 125-O:8, II; RSA 125-O:23; RSA 155-D:2, II |
| Puc 2602.03 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.04 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.05 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.06 | RSA 125-O:8, II; RSA 125-O:23; RSA 125-O:2, IV |
| Puc 2602.07 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.08 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.09 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.10 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.11 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.12 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.13 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.14 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.15 | RSA 125-O:8, II; RSA 125-O:23; RSA 125-O:20, XII |
| Puc 2602.16 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.17 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2603.01 | RSA 125-O:8, II; RSA 125-O:23; RSA 125-O:23, III |
| Puc 2604.01 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2604.02 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2604.03 | RSA 125-O:8, II; RSA 125-O:23; RSA 125-O:23, VII |
| Puc 2605.01 | RSA 125-O:8, II; RSA 125-O:23; RSA 125-O:23, IV |
| Puc 2605.02 | RSA 125-O:8, II; RSA 125-O:23, V |
| Puc 2605.03 | RSA 125-O:8, II; RSA 125-O:23; IV |
| | |

7. Contact person for copies and questions including requests to accommodate persons with disabilities:

Name: **Suzanne Amidon**
Address: **21 South Fruit Street**
Suite 10
Concord, NH 03301

Title: **Staff Attorney**
Phone #: **603-271-6616**
Fax#: **603-271-3878**
E-mail: **suzanne.amidon@puc.nh.gov**
TTY/TDD Access: Relay NH 1-800-735-2964 or dial 711 (in NH)

8. Deadline for submission of materials in writing or, if practicable for the agency, in the electronic format specified: **October 27, 2009**

☒ Fax

☒ E-mail

☐ Other format (specify):

9. Public hearing scheduled for:

Date and Time: **October 21, 2009 at 2:00 P.M.**

Place: **Public Utilities Commission**

21 South Fruit Street, Suite 10

Concord, NH 03301

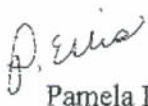
10. Fiscal Impact Statement (Prepared by Legislative Budget Assistant)

FIS # **09:170** dated **September 9, 2009**

11. Statement Relative to Part I, Article 28-a of the N.H. Constitution: **The proposed rules do not modify an existing program or responsibility, and does not apply to any political subdivision and therefore do not violate Part I, Article 28-a.**

STATE OF NEW HAMPSHIRE
Inter-Department Communication

DATE: September 9, 2009

FROM:  Pamela Ellis
Office of Legislative Budget Assistant
State House, Room 102
Concord, New Hampshire 03301

RE: FIS 09:170

TO: Suzanne Amidon, Esq.
Public Utilities Commission
21 South Fruit St, Suite 10
Concord, NH 03301

Attached is the fiscal impact statement listed above. It should be reviewed and then submitted to the Division of Administrative Rules, Office of Legislative Services, in accordance with the N.H. Rulemaking Manual dated September 2001.

Attachment

LBAO
FIS 09:170
09/09/09

Fiscal Impact Statement for Public Utilities Commission rules governing Greenhouse Gas Emissions Reduction Fund. [Puc 2600]

1. Comparison of the costs of the proposed rule(s) to the existing rule(s):

There is no difference in cost when comparing the proposed rules to the interim rules.
Any costs or benefits related to these proposed rules are attributable to RSA 125-O:23.

2. Cite the Federal mandate. Identify the impact on state funds:

No federal mandate; no impact on state funds.

3. Cost and benefits of the proposed rule(s):

There are no costs or benefits attributable to the proposed rules. Any costs or benefits associated with the proposed rules are attributable to RSA 125-O:23.

A. To State general or State special funds:

None.

B. To State citizens and political subdivisions:

None.

C. To independently owned businesses:

None.

CHAPTER Puc 2600 Greenhouse Gas Emissions Reduction Fund

PART Puc 2601 PURPOSE AND APPLICABILITY

Puc 2601.01 Purpose. The purpose of Puc 2600, pursuant to RSA 125-O:8, II and 125-O:23, is to provide for the administration of the greenhouse gas emissions reduction fund.

Puc 2601.02. Applicability. Puc 2600 shall apply to those persons seeking use of monies from the greenhouse gas emissions reduction fund including:

- (a) Private entities;
- (b) The department;
- (c) The commission; and
- (d) Other state and local governmental agencies and instrumentalities.

PART Puc 2602 DEFINITIONS

Puc 2602.01 “Allowances” means those Regional Greenhouse Gas Initiative (RGGI) allowances comprising the state’s annual budget for CO2 emissions specified in RSA 125-O:21, II.

Puc 2602.02 “Building energy code” means the building code defined in RSA 155-D:2, II.

Puc 2602.03 “Conservation” means a reduction in energy use and greenhouse gas emissions through reduced energy consumption or demand.

Puc 2602.04 “Commission” means the public utilities commission.

Puc 2602.05 “Cost-effective” means that the reasonably expected energy efficiency gains and other benefits of a proposed measure or program exceed the reasonably projected costs of implementing the measure or program calculated over its expected life.

Puc 2602.06 “Department” means the department of environmental services.

Puc 2602.07 “Demand response programs” means mechanisms to reduce the demand from electricity customers in response to supply conditions, peak demand, or market prices.

Puc 2602.08 “Energy audit” means the inspection, survey and analysis of energy flows in a building, process or system with the objective of understanding the energy dynamics of the system under study and assessing the opportunities for energy efficiency and conservation improvements.

Puc 2602.9 “Energy efficiency” means using less energy or energy in a different manner that results in lower net greenhouse gas emissions to provide the same level of energy service or comparable functionality.

Puc 2602.10 “Greenhouse gas emissions reduction fund” means the non-lapsing, special fund established by RSA 125-O:23.

Puc 2602.11 “Low-income residential customers” means those residents of New Hampshire who are eligible for either federal, state or utility low-income energy assistance, energy efficiency or weatherization programs.

Puc 2602.12 “New Hampshire’s peak electric load” means the annual hour of maximum electric load measured in megawatts for the New Hampshire electric grid.

Puc 2602.13 “Passive solar heating and ventilation systems” means the technologies that create heat or cooling without the use of active mechanical systems. Passive solar heating technologies convert sunlight into usable heat or store heat for future use, with little or no use of other energy sources. Passive ventilation systems use building design features that allow or promote air flows for natural ventilation and/or cooling with little or no use of other energy sources.

Puc 2602.14 “Private entity” means a for profit or not for profit legal entity that is not a governmental agency, including, but not limited to, non-municipal utilities, corporations, partnerships, individuals and other forms of business and not for profit organizations.

Puc 2602.15 “Regional greenhouse gas initiative or RGGI” means “regional greenhouse gas initiative” as defined in RSA 125-O:20, XII, namely “the program to implement a memorandum of understanding (MOU) between signatory states, dated December 20 2005 and as amended on August 8, 2006 and April 20, 2007, and the corresponding model rule to establish a regional CO2 emissions budget and allowance trading program for emissions from fossil fuel-fired electricity generating units.”

Puc 2602.16 “Revolving loan fund” means a source of money from which loans are made for energy efficiency, conservation, or demand response purposes where, as borrowers repay loans, funds become available for new loans to other borrowers.

Puc 2602.17 “Weatherization” means the practice of protecting a building and its interior from cold and hot weather including sunlight, precipitation, and wind, and of modifying a building to reduce energy consumption and optimize energy efficiency.

PART Puc 2603 LOW INCOME RESIDENTIAL CUSTOMERS

Puc 2603.01 Energy Efficiency for Low Income Residents.

(a) Pursuant to RSA 125-O:23, III, the commission shall allocate no less than 10 percent of the greenhouse gas emissions reduction fund, on an annual basis to assist low income residents:

- (1) To reduce total energy use, including heating fuels; and
- (2) To foster the development and retrofitting of highly efficient and affordable housing.

PART Puc 2604 ENERGY EFFICIENCY PROGRAMS

Puc 2604.01 Use of Greenhouse Gas Emissions Reduction Fund.

(a) Pursuant to RSA 125-O:23, the greenhouse gas emissions reduction fund shall be used to support energy efficiency, conservation and demand response programs to reduce greenhouse gas emissions generated within New Hampshire.

(b) The commission shall select and fund eligible programs through:

- (1) The solicitation of proposals pursuant to Puc 2604.02;
- (2) An adjudicative proceeding, pursuant to Puc Part 203, for the system benefits charge core efficiency programs approved pursuant to RSA 374-F;
or
- (3) Otherwise through an adjudicative proceeding, pursuant to Puc Part 203.

(c) Eligible programs shall include, but not be limited to, the following:

- (1) Energy audits;
- (2) Weatherization of New Hampshire residential and commercial building stock;
- (3) Energy efficiency related work force training and development;
- (4) Revolving loan funds for energy efficiency related investment;
- (5) Energy efficiency related industrial process and control systems;
- (6) Integration of passive solar heating and ventilation;
- (7) Programs to increase compliance with the building energy code;
- (8) Programs to improve the electric and thermal energy efficiency of new and existing residences and commercial buildings;
- (9) Programs to foster the development and retrofitting of highly efficient and affordable housing;

(10) Education, outreach and information programs that promote energy efficiency, conservation, and demand response; and

(11) Demand response programs to reduce New Hampshire's peak electric load.

(d) Notwithstanding this part, the commission will have the authority to rebate certain monies in the greenhouse gas emissions reduction fund to electric ratepayers pursuant to Puc 2605.

Puc 2604.02 Solicitation of Proposals.

(a) The commission shall periodically issue requests for proposals (RFPs) for programs to be supported by the greenhouse gas emissions reduction fund.

(b) To be eligible for monies from the greenhouse gas emissions reduction fund, a proposal shall be designed to improve energy efficiency, conservation or demand response, and reduce greenhouse gas emissions in New Hampshire.

(c) Persons eligible to respond to any request for proposals include the following:

(1) Private entities;

(2) The department;

(3) The commission; and

(4) State and local government agencies and instrumentalities, including municipal utilities.

(d) RFPs shall include:

(1) A description of information to be included in submitted proposals;

(2) Requirements for funding agreements that selected recipients will be required to enter into prior to receiving funding;

(3) Monitoring and reporting requirements; and

(4) Proposal submission requirements.

(e) The commission shall request supplemental information or revisions from persons submitting proposals when such information or revisions will:

(1) Clarify the terms within the proposal; or

(2) Otherwise assist the commission in the revision and evaluation of the proposal.

(f) The commission shall recommend coordination or collaboration between applicants and shall allow revisions to proposals if such coordination, collaboration or revisions will improve:

- (1) Efficient management of the program;
- (2) Cost effectiveness of the program; or
- (3) The ability of the applicant or applicants to accomplish the purposes of RSA 125-O:23.

Puc 2604.03 Selection of Proposals.

(a) In determining whether and to what extent it will fund proposals submitted pursuant to Puc 2604.02 (a) above, the commission shall consider the extent to which each proposed program can be expected to:

- (1) Reduce greenhouse gas emissions from all fuels used to provide electricity, heating and cooling in New Hampshire;
- (2) Be cost-effective;
- (3) Reduce New Hampshire's peak electric load;
- (4) Promote:
 - a. Market transformation for energy efficient technologies, strategies and design;
 - b. Innovative technologies;
 - c. Economic development; and
 - d. Reduced energy costs;
- (5) Leverage funds or resources from other sources to maximize its impact;
- (6) Effectively measure and verify program performance against stated goals;
- (7) Promote collaboration and provide useful information for future program evaluation and improvements; and
- (8) Otherwise be consistent with the public interest and the purposes of RSA 125-O:19.

(b) The commission shall fund those proposals that it finds:

- (1) Support one or more of the purposes set forth in (a) above;
- (2) Are realistically proposed and achievable by the applicant;

(3) Are most likely, on balance, to advance the purposes of RSA 125-O, within the constraint of available funds.

(c) Following selection of a proposal, the commission shall establish a schedule of disbursement of funds that will consist of one or more of the following:

- (1) Upfront funding of the proposal;
- (2) Increments of funding based on the passage of time or specified milestones;
- (3) Reimbursement of actual expended costs; or
- (4) A loan of funds for a period of time.

(d) Pursuant to RSA 125-O:23,VIII, the commission may enter into funding agreements for the implementation of programs that are contingent, in whole or in part, on future proceeds from budget allowance auctions held within 12 months of the date such agreements become effective.

PART Puc 2605 RATEPAYER REBATES

Puc 2605.01 Allowance Sales in Excess of Threshold Prices

(a) Notwithstanding Puc 2604 above, pursuant to RSA 125-O:23, IV the commission shall order and provide for the rebate to all electric ratepayers on a uniform per kilowatt hour basis all auction proceeds that exceed threshold prices for any allowance sale made prior to January 1, 2016.

(b) For purposes of this section, “threshold prices” means the prices listed below for any allowance sale made prior to January 1, 2016 that are deposited in the fund:

- (1) 2009, \$6 per ton;
- (2) 2010, \$8 per ton;
- (3) 2011 and 2012, \$9 per ton;
- (4) 2013 and 2014, \$12 per ton; and
- (5) 2015, \$15 per ton.

Puc 2605.02. Unencumbered Funds. If the commission finds that there is a significant amount of unencumbered dollars in the greenhouse gas emissions reduction fund that are not needed for program or administrative purposes, the commission shall order and provide for the rebate of such unencumbered dollars on a uniform per kWh basis to electric ratepayers.

Puc 2605.03 Rebate to Electric Ratepayers. The commission shall order and provide for the rebate of any monies eligible for rebate under this part in a timely manner to be set forth by commission order.

Appendix

(a) A cross reference of the specific sections of state and federal statutes which Puc 2600 is intended to implement is set forth as follows:

| | |
|-------------|---|
| Puc 2601.01 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2601.02 | RSA 125-O:8, II; RSA 125-O:23, II |
| Puc 2602.01 | RSA 125-O:8, II; RSA 125-O:23; RSA 125-O:21, II |
| Puc 2602.02 | RSA 125-O:8, II; RSA 125-O:23; RSA 155-D:2, II |
| Puc 2602.03 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.04 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.05 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.06 | RSA 125-O:8, II; RSA 125-O:23; RSA 125-O:2, IV |
| Puc 2602.07 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.08 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.09 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.10 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.11 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.12 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.13 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.14 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.15 | RSA 125-O:8, II; RSA 125-O:23; RSA 125-O:20, XII |
| Puc 2602.16 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2602.17 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2603.01 | RSA 125-O:8, II; RSA 125-O:23; RSA 125-O:23, III |
| Puc 2604.01 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2604.02 | RSA 125-O:8, II; RSA 125-O:23 |
| Puc 2604.03 | RSA 125-O:8, II; RSA 125-O:23; RSA 125-O:23, VII |
| Puc 2605.01 | RSA 125-O:8, II; RSA 125-O:23; RSA 125-O:23, IV |
| Puc 2605.02 | RSA 125-O:8, II; RSA 125-O:23, V |
| Puc 2605.03 | RSA 125-O:8, II; RSA 125-O:23; IV |