STATE OF NEW HAMPSHIRE

Intra-Department Communication

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FROM: Elizabeth R. Nixon, Energy Analyst

SUBJECT: DE 10-212 Commercial and Industrial Solar Rebate Program
Program Clarification Regarding Pre-Approved Step One Applications for Multiple Separately-Metered Projects at Same Site

TO: Martin P. Honigberg, Chairman
Robert R. Scott, Commissioner
Debra A. Howland, Executive Director and Secretary
Karen Cramton, Director, Sustainable Energy Division

CC: David K. Wiesner, Staff Attorney

The Public Utilities Commission (Commission) approved a Commercial and Industrial (C&I) solar rebate program (Program), pursuant to RSA 362-F:10, VIII, by Order No. 25,151 issued on October 1, 2010. The Program was recently expanded and modified pursuant to Order No. 25,764, dated February 20, 2015. Recently, a developer requested that the Commission consider a clarification concerning the effect of the final group net metering rules on several C&I Program Step 1 applications approved prior to the final adoption of the rules. Under the final group net metering rules and its normal course of business, the distribution utility determined that a separate meter will not be installed for each of the projects covered by the approved applications if all of the projects are located at the same site.

The Program term at issue was previously clarified by the Commission through a secretarial letter dated December 18, 2013, based on a Staff memorandum dated November 4, 2013. The relevant clarification to the definition of "project" and maximum rebate amount per project is as follows:

> *Clarify that the project maximum rebate of $50,000 is not limited to a single project per address but that multiple projects at a single address or multiple addresses are eligible so long as each project is separately metered.*

The developer has asked that the Commission clarify the interpretation of this Program term where the approved Step 1 applications described multiple projects at a single address, each of which would be separately metered, but now upon installation there will only be one utility meter for all projects on the site as a result of the final adoption in January 2015 of the Commission's group net metering rules, Puc 902 and Puc 909. These rules define a "facility" for group net metering purposes as "the energy generating

equipment interconnected with the electric distribution system through one or more meters that the distribution utility has installed, or would have installed, in the normal course of its business." *See* Puc 902.09.

Staff understands that the normal business practice of the distribution utilities in the state is to install only a single meter at a single location to accommodate such solar project installations. As a result, the applicant proposes to submit Step 2 applications for these single location sites with multiple projects that are not each separately metered, as had been described in the approved Step 1 applications, even though these projects are all behind a single utility meter covering the entire site. In the absence of the clarification requested by the developer, Staff would only approve one rebate for each site, provided that the project meets all other Program terms and conditions; any additional Step 2 applications for the site would be denied.

The developer has proposed that the Commission consider clarifying the relevant Program term such that, if an applicant has received Step 1 application approvals prior to the final adoption of the group net metering rules in January 2015, then it may receive the full rebate amount for each of the projects described in such approved Step 1 applications, even if the distribution utility requires the installation of a single meter for the entire site at which such projects are located, based on the group net metering rules.

The developer maintains this clarification is warranted because the provisions and effect of the group net metering rules remained uncertain until their final adoption, and the developer made business decisions in reliance on the status quo as it existed prior to the final adoption of these rules. In effect, the developer proposes that such Step 1 applications be "grandfathered" based on the timing of their approval relative to the timing of final adoption of the group net metering rules by the Commission.

Staff does not support the requested clarification of the relevant Program term, for the following reasons:

1. Although the final group net metering rules were not adopted until January 2015, the interim rules were in place with the understanding that final rules would be adopted; in addition, the proposed language for the final rules was publicly available at the time of the Step 1 application submittals;[1]

[1] On January 3, 2014, the Commission adopted the final proposal of the interim group net meter rules. On June 13, 2014, the Staff request for Fiscal Impact Statement, which included a copy of the proposed changes to Puc 900 in Docket DRM 13-311, was sent to the service list for the docket. On June 20, 2014, the Commission's approved initial proposal for Puc 902 and 909 was sent to the service list. On July 25, 2014, an Order of Notice announcing a public comment hearing on August 27, 2014 regarding the proposed changes to Puc 902 and 909 was issued and sent to the service list. The public hearing for the rule changes was held on August 27, 2014. On November 21, 2014, the Executive Director filed a final proposal of the rules with the Office of Legislative Services. The proposed Puc 902 and Puc 909 rules were approved by the Joint Legislative Committee on Administrative Rules on December 18, 2014. On January 7, 2015, the Commission filed the final adopted Puc 902 and 909 rules with the Office of Legislative Services, with an effective date of January 8, 2015.

2. Clarification of the Program term as requested by the developer may effectively result in installation of single "projects," some of which would have a total aggregate capacity greater than 100 kilowatts, which would exceed the maximum capacity allowed under the Program at the time of application;

3. The final approved rebate payment to C&I Program applicants has always been based on the final design of the installed project, not on the preliminary design indicated in the Step 1 application; and

4. The applicable Program terms and conditions should be applied consistently from applicant to applicant, regardless of the timing of their applications in relation to other related rules; "grandfathering" of certain applications would not further this objective.

Finally, Staff asks that the requested clarification be addressed, if possible, prior to April 17, 2015, the date the modified C&I Program begins, to allow the developer adequate time to prepare for submission of new Step 1 rebate applications under the expanded and modified Program, if desired, in the event the Commission's resolution of the clarification request effectively results in denial of "grandfathered" treatment for its approved Step 1 applications.