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May 22, 2015

Re: DE 10-212, Commercial and Industrial Renewable Energy Incentive Program  
Request for Reversal of Incentive Amount Limitation Based on 40% of PUC and Other  
Sources of Project Cost Funding

To Whom It May Concern:

In 2010, the Commission approved the commercial and industrial solar energy incentive program (Program), supported by the renewable energy fund established under RSA 362-F:10. *See* Order No. 25,151 dated October 1, 2010 (Initiation Order). On February 20, 2015, the Commission issued Order No. 25,764, which approved an expansion and modification of the Program (Modification Order).

In a memorandum dated May 14, 2015, Commission Staff described the request of a representative of several applicants that the Commission review and reverse the Program application term and administrative policy that includes federal grants, including the U.S. Department of Agriculture (USDA) Rural Energy for America Program (REAP) grant, in the funding sources that are counted, together with the Program incentive requested, toward the applicable incentive cap based on 40% of total project costs. The applicant representative objected to this inclusion on both procedural grounds and policy grounds, as described in Staff's memorandum.

In particular, the applicant representative noted that the Initiation Order approved, and the initial Program application form described, the 40% all-source funding limitation with reference to "rebates or incentives from the state and utility," but that this application language was revised in 2012 to instead reference "rebates or incentives from the PUC and other sources." The applicant representative claimed that this application language change should not have occurred without a public process involving notice and hearing.

Staff's memorandum described the policy basis for adoption of the 40% all-source funding limitation and the circumstances related to the application language change. Staff emphasized that the policy of limiting total government and utility funding sources to 40% of project costs was approved by the Commission at the inception of the Program, and the subsequent application language changes served merely to further explain the original intent and scope of this approved limitation. At the time of the Initiation Order, the primary funding sources available for renewable energy were utility and state grants. Once Staff became aware of federal grants and other funding sources, the application language was clarified, since all such funding

sources were intended to be included under the 40% cap. Because the application language changes were deemed merely to be explanatory clarifications of an existing policy, Staff did not seek formal Commission approval or initiation of a public process prior to implementing these changes.

Staff also noted that project developers have been aware of the 40% all-source funding limitation for years, have submitted applications for Program incentives that expressly confirm their agreement to this limitation, and have accepted incentive payments reduced on the basis of the limitation, without formal objection or challenge to the policy or its implementation. Staff further observed that the Commission approved the 40% funding limitation covering federal, state, and other funding sources, pursuant to the Modification Order, as a term carried over from the original Program into the expanded and modified Program.

The Commission has considered the applicant representative's request for reversal of the 40% all-source funding limitation under the original Program, Staff's memorandum regarding this reversal request, and the reasons supporting Staff's recommendation that the request be denied. The Commission has determined that there is no basis for reversal or modification of this original Program limitation, either on procedural grounds or on policy grounds.

Accordingly, the Commission has denied the applicant representative's reversal request.

Sincerely,

A handwritten signature in black ink, appearing to read "Debra A. Howland". The signature is fluid and cursive, with the first name being the most prominent.

Debra A. Howland  
Executive Director

cc: Docket File  
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