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July 27, 2015

Re: DE 10-212, Commercial and Industrial Renewable Energy Rebate Program
Clarification Regarding Sale-Leaseback Financing Transactions and System Ownership
Changes

To Whom It May Concern:

On October 1, 2010, the Commission approved a commercial and industrial renewable energy rebate program (Program), supported by the Renewable Energy Fund created by RSA 362-F:10. *See* Order No. 25,151, dated October 1, 2010, which initiated the Program; and Order No. 25,764, dated February 20, 2015, which expanded and modified the Program.

One of the approved terms and conditions of the Program requires the applicant to “commit that [the] system will not be sold or otherwise transferred, except to the host property owner or as part of a sale of the affected property, for a period of 10 years following Step 2 approval.” *See* Order No. 25,764 at 16, 19 and 21.

On June 19, 2015, Commission Staff filed a memorandum recommending that the Commission clarify the scope of the 10-year restriction on system sales and transfers. The memorandum described a Program applicant’s request that this restriction not prohibit the use of a sale-leaseback financing transaction designed to permit the realization of federal income tax benefits by a tax equity investor through a lease arrangement with the system operator who has a long-term power purchase agreement with the host customer. According to Staff, the requested clarification effectively would represent a limited exception to the general 10-year restriction on system sales and transfers.

Staff explained that the sale-leaseback transaction structure essentially is a financing mechanism designed to permit project stakeholders to monetize available federal tax incentives. The tax equity owners hold merely a passive investment interest in the project, and the system operator at all times operates and maintains the installed system and provides electric service to the host customer under the terms of its long-term power purchase agreement. The system operator does not change during the 10-year period, and usually does not change during the entire term of the long-term power purchase agreement. These sale-leaseback transactions are intended to efficiently realize federal tax benefits, which in turn provide direct or indirect economic value to project participants and stakeholders.

The Commission has considered the clarification request described in Staff's memorandum and has granted the request. Accordingly, the relevant Program term is clarified as follows:

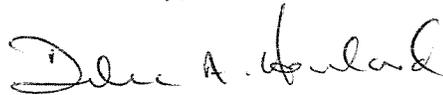
Transfers of title to a renewable energy system to effect a sale-leaseback transaction will not be considered a "sale" or "transfer" subject to the 10-year restriction on system sales and transfers, provided that:

- (1) the transaction serves as a financing mechanism to permit the realization of federal tax benefits by a tax equity investor;
- (2) the tax equity investor enters into a lease arrangement with the system operator and the system operator enters into a power purchase agreement with the host customer; and
- (3) electric service to the host customer under its power purchase agreement with the system operator is continuously administered by the system operator as a dedicated provider.

This Program term clarification will apply to all approved and pending applications and to all applications hereafter submitted in the Program.

It should be noted that the foregoing clarification is for the sole purpose of clarifying the Program term restricting the sale or transfer of an eligible system, and is not applicable to other terms and conditions of the Program, including, but not limited to, interpretation and application of the applicant cap restrictions.

Sincerely,



Debra A. Howland
Executive Director

cc: Docket File
Service List (Electronically)

SERVICE LIST - EMAIL ADDRESSES - DOCKET RELATED

Pursuant to N.H. Admin Rule Puc 203.11 (a) (1): Serve an electronic copy on each person identified on the service list.

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Docket #: 10-212-1 Printed: July 27, 2015

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- b) Serve an electronic copy with each person identified on the Commission's service list and with the Office of Consumer Advocate.
- c) Serve a written copy on each person on the service list not able to receive electronic mail.

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