KW MANAGEMENT Inc.

3/7/2016

Via Electronic Mail

Debra A. Howland
Executive Director
New Hampshire Public Utilities Commission
21 S. Fruit Street, Suite 10
Concord, NH 03301-2429

Re: DE 10-212 Commercial and Industrial Solar Rebate Program Recommended Program Changes

Dear Ms. Howland:

KW Management, Inc. is pleased to provide a response to PUC Staff (Staff) proposals to redesign the existing C&I Rebate program. After reviewing the Staff recommendations, I would like to discuss several points that I believe have significant detrimental ramifications to NH small business owners.

1. Both the USDA, through its REAP Grant, and the State of NH, through the C&I Rebate, have implicit goals of fostering the use of solar energy by providing financial incentives. Likewise, the Federal government encourages the use of solar and other renewables through the 30% Income Tax Credit (ITC), as well as depreciation. Since the PUC does not disadvantage those that take advantage of the ITC or depreciation, neither should they prevent someone who receives a USDA REAP Grant from participation in the C&I Rebate program. It makes no sense to specifically and exclusively target and penalize applicants of USDA REAP grants, meant to assist small rural businesses seeking further funding assistance. Dis-incentivizing NH business from seeking complementary funding, from otherwise complementary sources, at no expense to the state, would be detrimental to all parties.

a. THE USDA REAP Grant is a Federal program that brings Federal money into the State of NH without the state having to do anything to obtain that. It is a highly complex application, awarded annually, that runs typically, between 100 to 150 pages, depending on the award level sought of its three-tiered structure.

b. In NH, where farms and small businesses, in particular, may not even be able to make use of either the ITC or depreciation – due to their low tax appetite, the REAP Grant provides an absolutely necessary financial incentive. Since it is entirely a Federal program, like the ITC and depreciation, applicants for the USDA REAP grant should not be prevented from getting the C&I Rebate. Solar would not be possible to many farms and small businesses without the benefit of both incentives. To restrict participation in both, would mean fewer would be installing solar simply because it would no longer be a financially viable proposition. This is the anti-thesis of the reason for incentives for renewable energy in the first place.

c. Unless the State of New Hampshire has a disagreement with the Department of Agriculture, there is no legitimate reason to specifically penalize those who seek USDA REAP grants, but not other grants and/or rebates. No limitation on any Federal incentive should be imposed.

d. Staff has indicated that precluding C&I Rebate applicants from receiving also a USDA REAP Grant would "spread the money around more." As Staff has proposed, instead of an applicant receiving 15% from the current C&I program and 25% from the USDA REAP Grant, if they applied for a USDA grant they would get only the 25% from the USDA or the PUC. Under that restriction, there is no reason for any business to invest time and money in a highly complex USDA application, when they can get the same amount by just applying for the C&I rebate. In that case, the business loses because they would only get 25% maximum in incentives and the state would pay out 25% for the C&I rebate, rather than 15% as presently administered. Both the state and the applicant lose out and zero Federal dollars come into the state. It becomes a lose-lose proposition.

e. Similarly, municipalities do not have the ability to take advantage of either the ITC or depreciation, which combined may constitute 55%-65% of the total renewable system costs, that taxable entities enjoy. Although not related to the USDA REAP Grant, communities may have the ability to obtain other incentives such as Community Block Grant (CBG). Particularly because they cannot benefit from tax related incentives, they should be able to receive CBGs without having to forfeit or have reduced their C&I rebate.

2. This proposal to "simplify and streamline administration" would do exactly the opposite. The only requirements that were deleted were the Energy Audit and the panoramic photo, but in fact, new and more onerous restrictions were added:
a. Applications must be fully vetted and engineered correctly to enable determination of their compliance with the program technical and administrative requirements. Otherwise, poorly vetted applications, incapable of satisfying the programs requirements, will likely receive reserved funding, which is antithetical to what presumably are the PUC's goals. Reducing Step 1 requirements and moving them to Step 2 only adds instability to the program. Both installer and applicant need to have clarity and certainty – as do financial institutions – that the project is approved, prior to any construction, and final payment will be made, so long as the installation proceeds in accordance with program requirements. Findings of program ineligibility should be determined long before construction begins, not after.
b. Step 1 should be the gate to confirm that the proposed array project is "real", viable, technically correct, and not simply a "space reservation" as Staff has recommended. Step 2 should not be introducing a new tier of requirements other than verification that the array was built and has been commissioned in accordance with the original design and program requirements.
c. The PUC should not be dictating that "meeting program terms and terms would be placed squarely on the installer". While the installer likely will be filling out the application and providing the support documentation, it is the array owner that is the applicant, not the installer. The applicant is the recipient of the rebate and the one who receives a 1099. The PUC should not be requiring indemnification by the installer or withholding or delaying payment to the installer. When the installation is complete, inspected, and an approved grid interconnection is made, the installer has complied with all aspects of the construction of the array and should be paid in full for his or her work.
d. Staff has suggested introducing "interim milestone events" which, by definition and by nature, cannot simplify or streamline the existing program, but only add a further layer of complexity.
e. The additional requirement to complete a REC application and become REC certified by the PUC has been suggested by Staff. This is a new added requirement that creates further complexity not suggested by legislators as part of the program. This should not be a requirement as many choose to register their RECs outside of the State of NH. RECs will likely continue to be sold out of state until the State of NH legislates a fair and reasonable base price for RECs, in the neighborhood of $165-$167 ea. Or in some cases choose to not sell their REC's but retire them.

3. The newly proposed restrictions on Program and Applicant Eligibility would prevent most legitimate farms in the State of NH from participation in the C&I program. We have worked with dairies, organic vegetable farms, orchards, stables, sheep farms, and others, that although they operate as a legitimate commercial entity – generally, in the form of an LLC – they often have only a single residential meter. The USDA allows this, but requires that only the estimated commercial portion of the bill is compensated. I would recommend that the PUC adopt a similar guideline for farms.

4. Under Electric Load Requirements, Staff is eliminating in its new proposal, by its definition, the ability of a business to use their building to supply multiple commercial tenants in its building, on separate meters, or in separate locations, while preserving that right for municipalities and neighborhood associations. Currently a business may have, for example three (or a dozen) meters for its business on the same location, but because of the physical proximity of the array and one particular meter, may choose to provide grid interconnection through that meter. If that meter had a lower amount of usage than 50% of the system usage, that business could not participate in the C&I Rebate under the new load requirements – even though all the meters were for their businesses and or commercial tenants. While the new restrictions presumably have been proposed to eliminate single "phantom" meters – absent a true business host - installed just for backfeeding purposes, the new load requirements severely cripple legitimate businesses from choosing which meter to make their grid interconnection to. A more moderate percentage of usage by the host meter, such as 10-15%, is recommended.

5. The reduction from $0.75/W to $0.55/W is too much, too soon, for a reduction in Category I Rebates. An interim number of $0.70/W would be recommended. Neither does there appear to be any enumeration of the justification of why the Cap should be reduced by 15% from 40% to 25%. In DE 10-212, C&I Program

Clarification Regarding 40% Cap (May 13, 2015), the Staff defended and recommend the 40%. Staff indicated that "The Program has included the 40% total funding limitation since its inception... The Program with this funding limitation makes good use of public funds without providing rebates in excess of necessary levels." The Staff went on to recommend the 40% cap - "[to] preserve the integrity of the Program and of Program implementation, and to provide the proper incentives without overpaying applicants, Staff recommends the Commission continue to implement the Program as it has been since inception, limiting the rebate paid to 40% of total project costs taking into consideration federal and all other rebate and grant funding source...". As shown, less than one year ago, the Staff recommended maintaining the 40% cap which would include the USDA REAP Grant. However, the Staff appears to have retreated from this stance by 1) reducing the cap to 25% and 2) specifically denying applicants "the proper incentives" because they choose to obtain a USDA REAP Grant. I would recommend the current level of 40% of total project costs should be maintained for the Category I C& I Rebate.

6. Utility CAP restrictions affect all renewable energy projects. If a project is waitlisted, due to the CAP, that should not be a basis for the C&I Rebate application approval to be automatically revoked at 9 months. While it is not in the interest of the program or other applicants, to have that time limit become open-ended, two three-month extension requests, in writing, should be allowed. The same applies to USDA REAP Grants which are awarded only on an annual basis, in June or September, depending on the size of the project.

7. The proposal calls for new policing and punitive powers which are not specially granted under the current legislation. While I support the highest standards of quality products and workmanship, I believe that consequences and recourses cannot and should not be created without legislative approval.

8. The proposal for a new level of bureaucracy for a third party consultant is not warranted. If an auditor is required they should be a PUC employee.

9. With respect to energy modeling, since latitude is the standard "optimum", regulations should not redefine optimum at 35 degrees, even though at certain azimuths higher output may occur. Likewise, a slightly SSW azimuth, will at certain pitches, yield a higher production output, but it is not necessary to redefine True South.

Sincerely,
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Mark P. Weissflog, President
KW Management, Inc.

cc: Harmony Energy Inc.

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