

# STATE OF NEW HAMPSHIRE

## Inter-Department Communication

**DATE:** February 8, 2019

**AT (OFFICE):** NHPUC

**FROM:** Jason Morse, Energy Analyst, Sustainable Energy Division *JM*

**SUBJECT:** REC 19-020 Froling Energy Request to Serve as an Aggregator of Renewable Energy Certificates

**TO:** Chairman Martin P. Honigberg  
Commissioner Kathryn M. Bailey  
Commissioner Michael S. Giaimo  
Debra A. Howland, Executive Director

**CC:** Karen Cramton, Director, Sustainable Energy Division *KC*  
David K. Wiesner, Director, Legal Division

On January 28, 2019, Froling Energy submitted a request to be registered by the Commission as an aggregator of Renewable Energy Certificates (RECs) generated by sources producing useful thermal energy. After initial Staff review, it was determined that waivers of certain provisions of Puc 2507.01(a) and 2505.10(a) would be necessary to approve this request. Staff recommends that the two rules waivers be granted and that the Commission approve Froling Energy as an aggregator of Class I Thermal RECs.

### *Application Analysis*

Pursuant to Puc 2507.01 (a), a person seeking to register as an aggregator must provide the following information:

- 1) *The name of the aggregator:* The applicant is Froling Energy. In order to qualify as an aggregator of RECs, Froling Energy obtained NEPOOL-GIS facility number 16022.

### *Rule Waiver Request*

Puc 2507.01(a) provides that “[a] person **not otherwise qualified to obtain certificates** may purchase, combine, and re-sell certificates if such person registers as an aggregator pursuant to this section.” (emphasis added)

Froling Energy is currently qualified to obtain Class I Thermal RECs from an eligible biomass source (Facility) which it owns and operates. The Facility is rated at 0.950 MW-equivalent and uses wood chips to produce useful thermal energy. The Facility was certified by the Commission as an eligible source to produce Class I Thermal RECs on July 31, 2017. Because an independent monitor verifies the useful thermal energy generated by individual certified facilities, such as the Facility, there is no

apparent conflict of interest created by Froling Energy being registered as an aggregator of Class I Thermal RECs in addition to being an owner of the Facility and obtaining RECs from the useful thermal energy it produces.

Staff recommends that the Commission waive the application of this rule provision because the addition of Froling Energy as a registered aggregator of Class I Thermal RECs will serve the public interest, and because the waiver would not interfere with its duties as an aggregator and is unlikely to create any conflict of interest.

#### ***Application Analysis***

- 2) *The address and telephone number of the aggregator:* The office address provided for Froling Energy is 590 Hancock Road, Peterborough, NH 03458. The telephone number is 603-924-1001 x2.
- 3) *Identification of the independent monitor or monitors responsible for verifying the production of energy from the applicable sources.* The independent monitor will be Adam Kohler, PE. Mr. Kohler is currently registered with the Commission as an independent monitor for Class I Thermal RECs.
- 4) *A disclosure of whether there is any family or business relationship between such independent monitor and the aggregator:* Froling Energy represented that there is no family relationship between Mr. Kohler, the independent monitor, and any employee of Froling Energy. Froling Energy reported a limited business relationship, stating that, during a 2018 project completed by Froling Energy at the University of New Hampshire, Mr. Kohler, “as an employee of UNH was somewhat involved in the supervision of the project.” Froling Energy also reported that “in the long term past, Adam worked for us as the Engineer of record on a few biomass boiler projects,” however, “at this time the only relationship that Froling Energy has with Adam is as an Independent Monitor.” The prior business relationships described are not “prohibited relationships” based on Puc 2507.02.

Froling Energy also provided a description of how Mr. Kohler as the independent monitor will be compensated for his services. Froling Energy stated that, for the first year, the independent monitor’s services would be “provided as part of our contracts with our customers, often as required by project bid documents. Therefore, even though we may pay him his fees for those services, Adam Kohler works directly for our clients.” After the first year, the independent monitor would work directly for the certified thermal energy facility owners, and would not be compensated by Froling Energy.

#### ***Rule Waiver Request***

Puc 2505.10 (a) provides that “[a] source producing useful thermal energy or a source producing biodiesel **shall retain the services of an independent monitor directly.**” (emphasis added)

According to Froling Energy, the independent monitor would not have a direct contractual relationship with the thermal energy sources during the first year, but would have such a direct relationship after that first year. Staff recommends that the

Commission waive the application of the quoted rule provision, because the inclusion of independent monitoring services in the project contract for the first year is reasonable and would not create a conflict of interest as the independent monitor's compensation is not based on the quantity of RECs generated and there is otherwise no prohibited relationship. The rule waiver therefore would serve the public interest under these limited circumstances.

### ***Analysis***

Staff notes that there are currently only five entities registered as aggregators of Class I Thermal RECs. The addition of Froling Energy as a registered aggregator of Class I Thermal RECs would increase the market options for owners of eligible useful thermal energy sources.

In conclusion, Staff recommends that the Commission waive the two cited rules provisions under Puc 201.05, based on a finding that the waivers will not disrupt the orderly and efficient resolution of matters before the Commission, and will serve the public interest, where compliance with the rules would be onerous given the circumstances of the affected person and the purpose of the rules would be satisfied by the alternative methods proposed. Staff further recommends that the Commission approve Froling Energy as a registered aggregator of Class I Thermal RECs.

**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.**

Executive.Director@puc.nh.gov

amanda.noonan@puc.nh.gov

azanna.wishart@puc.nh.gov

jim@frolingenergy.com

karen.cramton@puc.nh.gov

Mary.Schwarzer@puc.nh.gov

Docket #: 19-020-1      Printed: February 08, 2019

**FILING INSTRUCTIONS:**

- a) **Pursuant to N.H. Admin Rule Puc 203.02 (a), with the exception of Discovery, file 7 copies, as well as an electronic copy, of all documents including cover letter with:**
- DEBRA A HOWLAND  
EXECUTIVE DIRECTOR  
NHPUC  
21 S. FRUIT ST, SUITE 10  
CONCORD NH 03301-2429
- 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.**