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STATE OF NEW HAMPSHIRE

Inter-Department Communication

DATE: November 22, 2019

AT (OFFICE): NHPUC

FROM: Kurt Demmer
Utility Analyst — Electric Division *RC*

SUBJECT: DE 19-114, The Woods at RiverWoods Exeter; Master Metering Request
Petition to Waive Puc 303.02; Master Metering Rule

TO: Commissioners
Debra Howland, Executive Director

CC: Tom Frantz, Director, Electric Division
Amanda Noonan, Director, Consumer Services and External Affairs
Rich Chagnon, Assistant Director Electric Division
Mary Schwarzer, Staff Attorney

Summary

On June 24, 2019, RiverWoods at Exeter (RiverWoods), located in Exeter, New Hampshire, filed a request for waiver of N.H. Code Admin. Rules Puc 303.02 (the master metering rule) through its counsel, Hinkley, Allen, & Snyder LLP. RiverWoods seeks permission to master meter each of four buildings at The Woods campus. Collectively, the buildings contain 201 individual apartments or independent living units (ILUs). At present, each ILU is separately metered for electricity. RiverWoods asserts that the waiver is necessary to allow the installation of four separate generators which will provide back-up electricity inside each individual apartment in the event of a loss of power. Common areas and hallways in each apartment building are already master metered for backup electricity. No new construction or substantial renovations are planned in conjunction with this project. The project does not include energy efficiencies or energy conservation.

Commission Staff (Staff) issued data requests on August 28, 2019. RiverWoods provided responses on September 9, 2019. Staff issued follow-up data request on October 3, 2019. RiverWoods provided responses on October 16, 2019. *See attached.* For the reasons explained below, Staff recommends that this waiver request be denied.

Background and RiverWoods' Position

RiverWoods is a 501(c) 3 corporation and operates as a continuing care retirement community. Residents execute a life care contract, pay an entrance fee, and pay on-going monthly service fees. In return, RiverWoods provides residents with various levels of care based on the residents' status, including independent living, assisted living, and skilled nursing status. Four of the five buildings at

The Woods campus --the Crawford, Dixville, Franconia, and Monadnock buildings—were originally constructed in 1994. The Pinkham building was constructed in 1995. The Crawford, Dixville, Franconia, and Pinkham buildings contain The Woods campus independent living units (ILUs). There are 201 ILUs in total. Each ILU is currently separately metered for electricity. RiverWoods wishes to provide hardwired backup electricity in each of the buildings' ILUs. RiverWoods asserts that, unless a master meter is installed at each building (four master meters in total) changes to supply uninterrupted electric power by backup generator to each ILU without also running power through the individual electric meters would require significant rewiring. RiverWoods anticipates serving all of The Woods campus including the four buildings at issue with one new generator. The new generator would also replace the existing backup generator and perform its functions.

RiverWoods further explained that if a generator were attached to the buildings' ILUs in their present condition, the existing individual ILU utility meters would inappropriately charge for electricity that a generator would produce for each ILU. The existing backup generator is currently serving each building's common areas, including dining halls and hallways, and ensures continuous electrical service in those locations when there is a power outage. The backup generator also serves all areas of the Monadnock Building. That fifth building is a healthcare facility and includes assisted living units (ALUs) and skilled nursing units (SNUs). It has one meter, and is billed under a commercial rate. In addition, all buildings' heating and cooling are already on a master meter and thus can be powered by the backup generator.

At present, RiverWoods pays all electric bills for each ILU. The resident(s) does not see the bill. Instead, RiverWoods reviews each bill to track electric usage, and pays them. The facility also uses a Leviton Energy Monitoring system which monitors energy usage at a building-wide level. Residents' monthly service fees from RiverWoods include charges for electricity which are established annually. Monthly service fees for ILU residents can be increased to account for overall electric utility costs. An increase of that nature requires notice to residents 60-days in advance of the effective date.

In its petition, RiverWoods asserts that this waiver request is similar to a request for a master metering rule waiver that RiverWoods was granted in 2003 for The Ridge campus. *See Utilil Energy Systems Use of Electric Master Meters*, Docket No. DE 03-217, December 19, 2003 Secretarial Letter (waiver for new construction including energy efficiencies); *id.* December 3, 2003 Staff Recommendation. RiverWoods identified the following as factors that support this waiver request: ILU residents do not pay their own electric bills; ILUs are similar to shared living facilities; and installing master meters increases the potential that a competitive supplier might seek to serve the RiverWoods' facility load.

The Woods Campus Certifications

At The Woods campus, ALUs and SNUs are licensed and regulated by the Department of Health and Human Services (DHHS) per the requirements of RSA 151. DHHS mandates the safety and health conditions of the ALU and SNU residents. ILUs however are not subject to those requirements. Further, RiverWoods has not identified a health or safety regulation that requires ILU residents to have access to backup generation for their living units in the event there is a loss of power.

The NH Insurance Department (NHID) does require RiverWoods to obtain and maintain a Certificate of Authority which is intended to financially protect all residents, including ILU residents. The NHID regulations require the facility to provide housing and care throughout the remainder of the resident's life. Those regulations do not regulate the health and safety of the ILU residents. The Woods is also the recipient of tax-exempt bonds issued by the New Hampshire Health and Higher Education Facilities Authority (NHHEFA) and the agreement of repayment of those bonds will continue until April 2030.

Unitil

Staff has contacted Unitil regarding RiverWoods' master metering rule waiver request. Unitil informed Staff that it takes no position on the waiver request.

Staff Analysis

The Master Metering Rule, N.H. Code Admin. Rules Puc 303.02, provides as follows:

- (a) No utility shall install master metering in a building with multiple dwelling units. The energy in each dwelling unit in such a building shall be separately metered;
- (b) A utility shall only install master metering in commercial buildings and as consistent with the International Energy Conservation Code 2009 (Code) as adopted pursuant to RSA 155-A: 1, IV; and
- (c) Hotels, motels, dormitories, boarding houses and time-sharing interests in condominiums as defined in RSA 356-B: 3 shall not be considered a dwelling unit within the meaning of Puc 303.02(a) above.

The Waiver of Rules, N.H. Code Admin. Rules Puc 201.05, provides as follows:

- (a) The commission shall waive the provisions of any of its rules, except where precluded by statute, upon request by an interested party, or on its own motion, if the commission finds that:
 - (1) The waiver serves the public interest; and
 - (2) The waiver will not disrupt the orderly and efficient resolution of matters before the commission.
- (b) In determining the public interest, the commission shall waive a rule if:
 - (1) Compliance with the rule would be onerous or inapplicable given the circumstances of the affected person; or
 - (2) The purpose of the rule would be satisfied by an alternative method proposed.

- (c) Any interested party seeking a waiver shall make a request in writing, except as provided in (d) below.
- (d) The commission shall accept for consideration any waiver request made orally during a hearing or pre-hearing conference.
- (e) A request for a waiver shall specify the basis for the waiver and proposed alternative, if any.

ILUs are dwelling units. *See Unitil Energy Systems Use of Electric Master Meters*, Docket No. DE 03-217, December 19, 2003 Secretarial Letter. In the absence of the requested waiver, Unitil will be required to maintain the existing individual electric meters for each ILU, despite the fact that ILU residents do not pay electric service charges directly associated with their own utility use, but instead pay for electricity through monthly service fees.

The purpose of the master metering rule is to incentivize energy conservation and efficiency. Here, granting the waiver will diminish RiverWoods' incentive and ability to monitor and achieve energy conservation and efficiency. RiverWoods is not installing any equipment that will allow it to track individual ILU usage in conjunction with a master meter. The existing Leviton monitoring system only measures building load. Thus, the Leviton system, by itself, is not an adequate alternative or reasonable substitute to individual ILU electric meters as the system only monitors electric usage at the building level, not the unit level.

Significantly, this RiverWoods project does not include new construction, or substantial remodeling. For most waiver requests granted by the Commission, the primary savings are due to avoiding construction costs associated with installing or retrofitting individual meters. Since this is an existing individual metering configuration, and there is no significant renovation or construction taking place, the cost of installing individual meter sockets and meters is not a factor. *See* Docket No. DE 19-063 *Sanborn Crossing Apartments Limited Partnership Petition to Waive Puc 303.02; Master Metering Rule*, June 17, 2019 Secretarial Letter; *id.* June 11, 2019 Staff Recommendation at 4.

In addition, RiverWoods is not proposing any concurrent substantial energy efficiency or conservation measures that would satisfy the purpose of the master metering rule through an alternative means. RiverWoods has described some energy efficiency initiatives it has taken in the last five years for these four circa 1994 buildings. Those past actions – even if Staff were to somehow retroactively include them as relevant to this waiver request—would not achieve the International Energy Conservation Code 2009 standards incorporated by reference in the master metering rule. *See* Puc 303.02(b).

Staff is no longer persuaded that installing master meters increases the potential that a competitive supplier might seek to serve the RiverWoods' facility. *See Unitil Energy Systems Use of Electric Master Meters*, Docket No. DE 03-217, December 19, 2003 Secretarial Letter. Given that RiverWoods manages and pays all of the electric accounts, this facility and all facilities that manage electric bills in a similar manner are sufficiently positioned to take advantage of competitive suppliers whether or not master meter rule waivers are granted.

Staff points out that currently each building's heating and cooling are already on a master meter and thus can be powered by the existing backup generator. As a result, at present, under existing metering configurations, if there is a loss of power, residents in each ILU do not lose heating and cooling of their unit, and common areas within each building will maintain power, heating and cooling.

In the context of the requirements and purpose of the master metering rule, Puc 201.05 (waiver criteria), and prior master metering requests the Commission has granted, Staff concludes that waiver would not serve the public interest because the purpose of the master metering rule would not be satisfied. In the alternative, Staff has no basis to conclude that compliance with the master metering rule would be onerous or inapplicable, because the existing meter configuration at The Woods campus buildings at issue has been in compliance with the master metering rule from 1994 to the present.

Staff Recommendation

Based on the foregoing analysis, Staff recommends that the Commission deny this request for a waiver of the Master Metering Rule in Puc 303.02 for the 201 ILUs located in The Woods campus as requested in the June 24, 2019 filing. The four buildings at issue should continue to operate as they have since approximately 1994, that is, as buildings that contain individually metered ILUs. In the event that RiverWoods undertakes significant renovations of any of its buildings, including significant additional energy efficient measures, it may resubmit a request for a waiver of the master metering rule at that time.

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Subject: DE 19-114

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Good morning –

Please see attached. The hard copies have already been delivered to the PUC. Please let us know if you have any questions.

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