

**STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION**

DE 10-024

**RESIDENTIAL SOLAR WATER HEATING REBATE AND
RENEWABLE ENERGY FUND BUDGETS**

Order Approving Solar Water Heating Rebate and Renewable Energy Fund Budgets

ORDER NO. 25,092

April 21, 2010

I. PROCEDURAL BACKGROUND

On February 9, 2010, the Commission issued a Notice of Opportunity to Comment on Additional Energy Incentive Programs (Notice) following the approval of an incentive program for certain residential renewable electrical generation facilities pursuant to RSA 362-F:10:V. *See* Order Nos. 24,985 (July 14, 2009) and 25,020 (October 2, 2009) in Docket No. DE 09-054, *Residential Renewable Energy Generation Incentive Program*. In the Notice, the Commission proposed a residential solar water heating rebate program, scheduled a technical session on February 26, 2010 and public comment hearing on March 18, 2010, and requested public comment on several questions on the use of the moneys in the Renewable Energy Fund (REF), including whether the Commission should issue a Request for Proposals (RFP) for the moneys. The Notice also directed Staff to file its recommendation on March 12, 2010.

On February 18, 2010, the Office of Consumer Advocate (OCA) indicated that it would be participating in the docket on behalf of residential customers pursuant to RSA 363:28. The Commission received public comments directed to the executive director and the director of the Commission's Sustainable Energy Division via electronic mail and in writing. The scheduled technical session was held on February 26, 2010.

On March 11, 2010, Staff requested an extension of the deadline for filing its recommendation to March 15, 2010. The Commission granted the extension by a secretarial letter dated March 12, 2010. Staff filed its recommendation for the application process for the residential solar water heating program on March 15, 2010. Also on March 15, 2010, Staff filed its recommendations regarding 1) the budget for REF moneys, 2) a budget for a commercial and industrial (C&I) rebate program, and 3) the merits of issuing an RFP for REF moneys.

The hearing took place as scheduled on March 18, 2010. At the hearing, the Commission allowed additional written comments to be filed by March 26, 2010, including written answers to questions asked by the Commissioners at hearing. Staff filed its response to hearing questions and its recommendation with respect to both the residential solar water heating rebate program and the REF budget on March 26, 2010.

II. STAFF RECOMMENDATIONS

Staff filed draft applications for the solar water heating rebates and its recommended REF budget on March 15, 2010. Staff stated that it met in technical session with interested parties on February 26, 2010, and considered the comments and recommendations of such parties in developing both the application forms and the budget. According to Staff, the technical session was attended by professional installers of solar electric and solar water heating installations as well as the New Hampshire Office of Energy and Planning (NH OEP), the New Hampshire Sustainable Energy Association, Public Service Company of New Hampshire, Granite State Electric Company d/b/a National Grid and the Granite State Hydropower Association.

In its March 15, 2010 filing, Staff proposed a two-level rebate for the residential solar water heating program. The first rebate, funded with REF money, would provide an incentive payment scaled to the size of the solar water heating system based on rated annual system output,

with an output rating typically equivalent to one collector receiving \$500, two collectors \$750, and three collectors \$875. (State Rebate). The second rebate, funded with federal money through the American Recovery and Reinvestment Act (ARRA), provided by the NH OEP, would provide an appliance rebate of \$750 for qualifying systems (Federal Rebate).

Pursuant to Staff's recommendation, to pre-qualify for a solar water heating system rebate, an applicant would have to complete the first step of a two-step application. In Step 1, the applicant would identify the installer, electrician, and/or plumber working on the installation, certify that the installation meets the Solar Rating Certification Corporation standards of OG-100 or OG-300 and provide additional documentation regarding the functionality of the system. In Step 2, the applicant would provide documentation that demonstrated the installation was installed and functioning as planned. Step 1 and 2 apply to both the State and Federal Rebates.

Regarding a budget for the REF, Staff noted that, as of January 31, 2010, there is \$2,454,436 in unallocated REF moneys. Staff recommended that \$500,000 be set aside for the new State Rebate residential solar water heating rebate, \$1,000,000 for a commercial and industrial (C&I) incentive program, and the remaining \$954,436 for the mandatory residential renewable energy generation program established pursuant to RSA 362-F:10(V). Staff said it expected that some utilities and competitive energy suppliers will be making alternative compliance payments into the REF in July 2010; however, there is no certainty as to what those moneys will be. Therefore, Staff based its analysis upon the January 2010 balance.

Staff recommended capping the amount available for the State Rebate solar water heating incentive at \$500,000 because this amount would fund approximately 660 installations at an average rebate amount of \$757 per system, the same number of installations that could be funded with the ARRA money at \$750 per installation. Staff also recommended the Commission set

aside \$1,000,000 for a C&I incentive due to the high demand among those customers for a renewable energy rebate program, and the fact that a residential rebate program is already in place. Staff recommended that once the residential solar water heating program is in place, the Commission begin the process to initiate a C&I rebate program. Finally, because the residential renewable energy generation rebate is mandated by law, and based on the participation in the program, Staff recommended that the remainder of REF moneys be allocated for the mandatory incentive payment. In response to recommendations that the Commission issue a request for proposal (RFP) for the use of REF moneys, Staff opined that the Commission should not go forward with an RFP until such time as REF moneys could support a total of \$2 million for C&I incentive programs.

At the March 18, 2010 hearing, parties and the Commission pointed out application sections that needed clarification. In addition, the Commission asked Staff to more specifically address how it derived a budget of \$500,000 for the solar water heating rebate program. A number of public comments were also favorable to the initiation of a C&I incentive program as soon as practicable. Finally, the Granite State Hydropower Association requested that the Commission consider issuing an RFP for REF moneys to allow its members to propose to install fish passages to qualify for generating Class IV renewable energy certificates or to perform upgrades at their facilities to increase their electrical output.

On March 26, 2010, Staff filed revised application forms in response to comments raised at the hearing. In addition, Staff repeated its recommendation that the Commission defer any decision to issue an RFP for REF moneys until such time that a C&I incentive program could be funded at \$2,000,000. Finally, Staff explained that the structure of its recommended three-tier payment for the State Rebate is based on the number of systems funded by ARRA money, a

survey of other states' rebate amounts for residential solar water heating systems, and the combined incentive of the State and Federal Rebates.

III. COMMISSION ANALYSIS

A. Residential, Commercial and Industrial Rebate Programs

Pursuant to RSA 362-F:10, I, the REF is to be used by the Commission to support thermal and electrical renewable energy initiatives. RSA 362-F:10, VIII states that the Commission, after notice and hearing, by order or rule, may establish incentive or rebate programs for customers-sited renewable electric and/or thermal energy projects in addition to the mandatory incentive program established by RSA 362-F:10, V. We issued notice and conducted a hearing on Staff's proposed residential solar water heating program and find that the record demonstrates that the public interest would be served by approving the program. The support of the REF moneys for the State Rebate will incent the installation of solar water heating systems, and the installation of such systems will provide jobs for the community of installers and plumbers. The installation of these renewable energy systems will reduce the use of fossil fuels to heat water, reduce homeowners' energy costs, and reduce greenhouse gas emissions. The establishment of the State Rebate program will also leverage the supplemental federally funded Federal Rebate. We therefore approve the State Rebate program.

We also approve the Federal Rebate, which uses federal ARRA money to incent the use of certain qualified solar hot water appliances. We understand that the ARRA money must be committed no later than April 22, 2010, or it is no longer available to support the Federal appliance rebate. Therefore, we approve the program for installations that are put into place on and after April 21, 2010. We emphasize that the REF money allocated for the State Rebate is limited to \$500,000.

In approving the residential solar water heating rebate program, we have decided to adjust the State Rebate amounts. Staff recommended a three-tiered rebate to approximately match the number of collectors based on rated system output – \$500 for one, \$750 for two, and \$825 for three. According to the Staff, evidence shows that most solar water heating systems will consist of two collectors and be eligible to receive the \$750 rebate. However, we do not want to encourage homeowners to build more capacity than they need. Therefore, we have decided to increase the tier-one rebate to \$600 to provide more incentive for a small installation. We will hold the tier-two rebate – the most commonly installed Btu capacity – at \$750, which matches the ARRA Federal Rebate amount for a total incentive of \$1500. Finally, although only a small number of residential applicants may choose to use the solar installation for space heating purposes, we do not want to discourage such use. Therefore, we will set the tier-three rebate at \$900. Assuming that 30% of applicants apply for the tier one rebate, 50% for tier two, and 20% for tier three, \$500,000 would fund 660 installations, leaving an additional \$15,000 if needed.

Various proposed requirements of the two rebate programs were detailed in the draft forms filed by staff in this docket. We approve the terms and conditions and various other requirements of the rebate programs, with certain modifications that will be reflected in final rebate application and rebate request forms that we direct staff to file in this docket and post to the Commission's website.

We accept Staff's recommendation that we set aside \$1,000,000 of REF moneys for a C&I incentive program. We direct Staff to schedule a technical session and a hearing for the proposed program, consistent with the requirements of RSA 362-F:10, VIII. Finally, we conclude that, in view of the limited funds currently available through the REF, it is premature to

issue an RFP. We understand that there are some parties who prefer that an RFP be issued in the very near term. We find that the most effective use of limited funds, at this time, is to establish a rebate program for C&I customers and, when sufficient additional funds become available, to issue an RFP at a later date.

B. Treatment of Certain Confidential Customer Information

In reviewing the solar water heating rebate application approved by this order, we find that note 17 in the terms and conditions, which allows certain information to remain confidential, requires clarification. The Right-to-Know Law provides each citizen with the right to inspect public information in the possession of the Commission, RSA 91-A:4, I. The New Hampshire Supreme Court has reviewed the confidentiality of customer names and addresses in *Lamy v. Public Utilities Commission*, 152 NH 106 (2005). Referring to *N.H. Civil Liberties Union v. City of Manchester*, 149 NH 437 (2003), the *Lamy* Court described a three-step analysis for determining whether disclosure of public records is required under RSA 91-A:5, IV. First, the court evaluates whether a privacy interest is at stake that would be invaded by the disclosure. Next, it assesses the public's interest in disclosure, that is, whether disclosure of the information informs the public about the conduct and activities of their government. In the final step, the Court balances the interest in disclosure and the interests in non-disclosure. The Commission uses the same three-step analysis in determining whether information it receives is subject to disclosure under the Right-to-Know law.

As recognized by the Court in *Lamy, supra*, electric service customers have a privacy interest in their names and home addresses. In that case, an individual sought disclosure of the names and addresses of customers who had made voltage complaints to the Commission. Although the Court recognized that individual names and home addresses are often publicly

available, it acknowledged “some nontrivial privacy interest” in protecting the unnecessary disclosure of names and address of home owners. *Lamy* at 110 (citations omitted). We find that there is a privacy interest in the names and addresses of home owners who apply to the Commission for incentive payments and rebates for renewable energy installations. However, as noted in *Lamy*, the privacy interest of residential customers is weaker than in cases where names and addresses are associated with other private information, such as financial information. *Id.*

Next we assess whether disclosure of the information will inform the public about the conduct of government activities. The Commission has created a residential rebate program for small renewable energy generation facilities, and with this order, residential solar water heating systems, both of which are funded with REF moneys. The REF consists of alternative compliance payments made by utilities and competitive suppliers who can not meet their Electric Renewable Portfolio Standard (ERPS) obligations with the purchase of Renewable Energy Certificates (RECs). The cost of complying with the ERPS is passed along to ratepayers, therefore the public may desire to know the beneficiaries of such public funds. The public availability of the names and addresses of the recipients of the REF moneys would inform the public, the majority of whom are ratepayers who have indirectly contributed to the REF, about the Commission’s administration of the REF moneys.

We find that the disclosure of the names and addresses of recipients will shed light on the Commission’s activities in the rebate programs and outweighs the privacy interests of rebate applicants concerning their names and addresses. Therefore, we will include names and addresses among the categories of information that may be posted for public information purposes. Accordingly, the language in Note 17 of the current application shall read, “Certain information, including name, address, system details and total installed costs of systems installed

with program support, may be available to the public and may be publicly posted. Additional information may be released upon official request. Certain personal information including Social Security number, telephone number and email address, will remain confidential to the extent permitted under state law.” We direct Staff to modify the Residential Small Renewable Electrical Generation Systems application approved by Order No. 25,020 (October 2, 2009) to reflect this ruling.

Based upon the foregoing, it is hereby

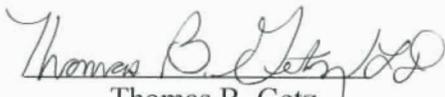
ORDERED, that the two-Step application process for a State REF-funded rebate and a Federal ARRA-funded rebate for residential solar water heating installations as modified herein is APPROVED; and it is

FURTHER ORDERED, that the REF budget proposed by Staff in its March 15, 2010 recommendation is hereby APPROVED; and it is

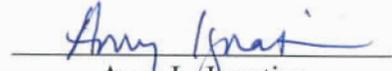
FURTHER ORDERED, that the residential solar water heating application and the residential small renewable electrical generation system application shall be modified to clearly state that the names and addresses of rebate recipients may be made publicly available; and it is

FURTHER ORDERED, that we direct Staff to schedule a technical session and a hearing for the proposed C&I incentive program, consistent with the requirements of RSA 362-F:10, VIII.

By order of the Public Utilities Commission of New Hampshire this twenty first day of
April 2010.


Thomas B. Getz
Chairman


Clifton C. Below
Commissioner


Amy L. Ignatius
Commissioner

Attested by:


Debra A. Howland
Executive Director

