

THE STATE OF NEW HAMPSHIRE



PUBLIC UTILITIES COMMISSION

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March 17, 2014

Gerald M. Eaton, Esq.
413 Mountain Road
Concord, NH 03301

Re: DE 13-304; Newbury Elderly Housing, Inc. and Community Action Program
Belknap-Merrimack Counties, Inc.
Joint Request to Waive Puc 303.02

To the Parties:

On October 18, 2013, Newbury Elderly Housing, Inc. (NEH) and Community Action Program Belknap-Merrimack Counties, Inc. (BM-CAP) jointly requested a waiver of Puc 303.02(b), which precludes "master metering" in a multi-tenant building. The rule requires separate meters so that tenants can have control over any portion of their electric heating, air conditioning or electric water heating and can thus monitor their individual energy use.

BM-CAP is constructing a 34 unit low-income elderly housing project in Newbury, New Hampshire. NEH will own and operate the building. Although Puc 303.02(b) requires separate meters for each unit, under the terms of the grant from the United States Department of Housing and Urban Development (HUD) which financed the project, NEH must include the costs of heat, hot water and air conditioning in the rent, which is fixed at a percentage of the resident's income regardless of the electricity used. NEH is contractually required to rent under these terms for 40 years with an option to renew for another 20 years.

BM-CAP stated that the cost of buying and installing meter sockets to comply with Puc 303.02(b) is at least \$30,000, and these sockets may never be used because they would likely be obsolete by the end of the HUD contract in 40 or 60 years. BM-CAP and NEH thus requested a waiver of Puc 303.02(b).

Under Puc 201.05, the Commission may waive any rule if it finds a waiver serves the public interest and does not disrupt the orderly and efficient resolution of matters before the Commission. A waiver request requires consideration of whether compliance with the rule would be onerous given the circumstances or whether the purpose of the rule is satisfied by the alternative method proposed.

BM-CAP stated that Puc 303.02(b) is both onerous and that BM-CAP can satisfy the purpose of the rule. The rule is onerous because the cost of installing separate meter sockets and related wiring is at least \$30,000 and the meters will not be used for at least 40 years. BM-CAP stated it will nonetheless satisfy the purpose of the rule, which is to encourage efficiency, because the project includes the most up-to-date energy efficiency measures. Petition at 2-3. Finally, BM-CAP noted that the Commission has twice granted similar waivers in Dockets DE 10-067 and DE 03-217.

On March 13, 2014 Commission Staff issued a report supporting the waiver request. Staff noted that the factors relied upon by the Commission to grant a similar waiver in Docket DE 10-067 apply equally here, mostly that the building will employ many energy efficient measures in its construction and operation and that the additional costs to install the meters will add unnecessary costs for a low-income housing project.

For these reasons Staff recommended that the Commission grant the waiver of Puc 303.02(b), subject to the condition that CAP promptly notify the Commission if the facility is no longer under the HUD requirement to include costs of heat, air conditioning and hot water in the rent.

The Commission has determined that the standards for a waiver are satisfied here and that granting a waiver, subject to the condition recommended by Staff, is consistent with the public good. Please be advised that the rule waiver only extends to the Commission rule and not to any independent requirements of the state building code.

Sincerely,

A handwritten signature in blue ink that reads "Debra A. Howland /cel".

Debra A. Howland
Executive Director

cc: Service List (Electronically)
Docket File

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 #: 13-304-1 Printed: March 17, 2014

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
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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.