

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

**IN RE: APPLICATION FOR CERTIFICATION : DOCKET NO. RES-23-49
AS ELIGIBLE RENEWABLE ENERGY RESOURCE :
FILED BY MSD WISCASSET LLC :
NEW GENERATION :**

ORDER

On December 1, 2023, MSD Wiscasset LLC¹ (Company) filed with the Rhode Island Public Utilities Commission (Commission or PUC) an application seeking certification for its Wiscasset Generation Unit, a 4.95 MW AC (6.98646 MW DC) solar energy Generation Unit located in Wiscasset, Maine, as an eligible New Renewable Energy Resource in accordance with the PUC’s Rules and Regulations Governing the Implementation of a Renewable Energy Standard (Rules) and R.I. Gen. Laws § 39-26-1.

The Company provided supplemental and clarifying information to the PUC from December 14, 2023, through December 19, 2023, regarding the Commercial Operation Date.

With the application, the Company filed a request for a waiver from 810-RICR-40-05-2.6(H), to allow the net metering facility located outside of Rhode Island to qualify as an eligible renewable energy facility in Rhode Island. Previously, the Public Utilities Commission (PUC) has interpreted the Renewable Energy Standard (RES) (R.I. Gen. Laws § 39-26-1 to 10) as requiring net metering facilities, even if grid-connected, to be located in Rhode Island.² In 2022, amendments to the RES law eliminated the requirement that

¹ The authorized representative was identified as Declan McCarthy, Chief Financial Officer, Luminace REC Operating SB, LLC, 200 Liberty Street 14th Floor New York, NY 10281, 646-992-2391, declan.mccarthy@luminace.com.

² Order No. 23710 (Nov. 12, 2019); <https://ripuc.ri.gov/sites/g/files/xkgbur841/files/eventsactions/docket/4858-4891-Kearsarge-Ord23710-11-12-2019.pdf>.

customer-sited generation facilities must be located in Rhode Island in order to qualify as an eligible renewable energy resource under the RES.³

Because the PUC has not yet revised the rules governing the Implementation of a Renewable Energy Standard,⁴ the Company requested the PUC waive or otherwise determine inapplicable the requirement in 810-RICR-40-05-2.6(H) to allow a final review of their application. The Commission issued a Notice to Solicit Comments through January 19, 2024. No comments were received.

At an Open Meeting held on January 31, 2024, the Commission first considered and approved the waiver request. Entities subject to a regulation should not be adversely impacted by application of a rule that has been affected by legislation. While the amendments did not directly invalidate the RES Regulations and do not require the Commission to certify renewable net metering facilities located outside of Rhode Island, it does represent a policy change by the State to now allow the Commission to certify such facilities if they meet all other requirements of the RES.

In this case, the applicant has requested a waiver based on the change of law in the interim before new rules are promulgated. The public has been given notice and an opportunity to comment and no comments were received. Granting a waiver properly reflects the current law and eases compliance with the RES for obligated entities by making more facilities eligible to sell their RECs to obligated entities. Approval would represent a fair and practical result where no member of the public nor any other potential applicant objected.

³ 2022 P.L. ch. 218 (June 27, 2022); (Subsection (d) ...Procurement of NE-GIS certificates from off-grid and customer-sited generation facilities, if located in Rhode Island and verified by the commission as eligible renewable energy resources, may also be used to demonstrate compliance.)

⁴ 810-RICR-40-05-1.

Following its ruling on the waiver, the Commission examined the remainder of the application and determined that with the waiver, the application is proper, reasonable, and in compliance with the Rules and hereby grants the Company certification as an eligible renewable energy resource pursuant to R.I. Gen. Laws § 39-26-1.⁵ The PUC's determination in this docket is based on the information submitted by the Company and the PUC may reverse its ruling or revoke the Company's certification if any material information provided by the Company proves to be false or misleading.

Accordingly, it is

(24916) ORDERED:

1) The request for a waiver from 810-RICR-40-05-2.6(H), to allow the net metering facility located outside of Rhode Island to qualify as an eligible renewable energy facility in Rhode Island for purposes of the Renewable Energy Standard is hereby approved.

2) The Wiscasset Generation Unit meets the requirements for eligibility as a New, Solar Renewable Energy Resource with its 4.95 MW AC (6.98646 MW DC), Grid-Connected Generation Unit having a Commercial Operation Date July 18, 2023 and located within the NEPOOL control area in Wiscasset, Maine.

3) Eligibility as a New, Solar Renewable Energy Resource is granted.

4) The Generation Unit's NEPOOL-GIS Identification Number is MSS74384.

5) The Company's Generation Unit as identified above is hereby assigned unique certification number RI-2349-N24.

⁵ Pursuant to Section 2.6 and other relevant Sections of the Rules, a thirty-day period for public comment was provided during which time no such comments were received.

6) The facility's Renewable Energy Certificates (RECs) become Rhode Island-eligible effective on the first day which the Rhode Island certification number is issued. All RECs associated with the production of eligible energy that are minted on or after the Effective Date are eligible for the Renewable Energy Standard.

7) Although the PUC will rely upon the NEPOOL GIS for verification of production of energy from the Company's Generation Unit certified as eligible in this Order, the Company will provide information and access as necessary to the PUC, or persons acting on its behalf, to conduct audits or site visits to assist in verification of continued eligibility for and compliance with Rhode Island Renewable Energy Standard Certification at any time, at the PUC's discretion.

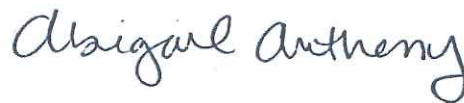
8) The Company shall notify the PUC in the event of a change in the facility's eligibility status.

EFFECTIVE AT WARWICK, RHODE ISLAND ON JANUARY 31, 2024
PURSUANT TO AN OPEN MEETING DECISION. WRITTEN ORDER ISSUED
FEBRUARY 2, 2024.

PUBLIC UTILITIES COMMISSION



Ronald T. Gerwatowski, Chairman



Abigail Anthony, Commissioner



John C. Revens, Jr., Commissioner



NOTICE OF RIGHT OF APPEAL: Pursuant to R.I. Gen. Laws § 39-5-1, any person aggrieved by a decision or order of the PUC may, within seven days from the date of the order, petition the Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or order.