Renewable Net Metering Credit
Low or Moderate Income Housing Eligible Credit Recipients
Determination of "Benefits to Tenants"

Pursuant to the recent amendments to Chapter 26.4 of Title 39 of the General Laws entitled "Net Metering" (the "Act"), certain low or moderate income housing developments that comply with the provisions of R.I.G.L. Section 39-26.4-2(3)(iii) are eligible to receive net-metering credits under the Act. To be considered an Eligible Credit Recipient under the Act, the property must satisfy the following provisions:

1. Must receive assistance under any federal, state, or municipal program to assist the construction of rehabilitation of housing affordable to low- or moderate-income households; and
2. Must be encumbered by a deed restriction or other covenant that:
    a. Restricts occupancy of at least 50% of the units in the property to households with a gross annual income that does not exceed eighty percent of the area median income ("AMI") as defined by HUD;
    b. Restricts the monthly rent, including a utility allowance, that may be charged to residents to an amount that does not exceed thirty percent of the gross monthly income of a household earing eighty percent of AMI; and
    c. Has an original term of not less than thirty years from the inception of the deed restriction or covenant.
3. Must agree that the value of the net-metering credits will be used to provide benefits to tenants of the property.

A. Individually Metered Properties.

Properties in which the residents are responsible for their own energy costs and have a direct relationship with National Grid are not subject to the above provisions, as they are considered "residential accounts" as set forth in Section 39-26.4-2(3)(i). Any tenants of such properties who participate in a net-metering arrangement will be an "eligible credit recipient" and will receive a benefit due to lower energy costs. For properties in this category which have a utility allowance in calculating the rent payable by tenants, Rhode Island Housing will consider the value of the net-metering credit available to the tenant in establishing the applicable utility allowance to ensure that the credit results in a benefit to tenants as provided in the statute.

B. Sub-Metered Properties

For properties with a sub-metering system, the "benefit to tenant" obligation will be satisfied if the owner determines the energy charge to each resident based on the net energy costs of the property, after taking into account the value of the net metering credit to the property.

C. Master Metered Properties

For properties with a master metering system, where the owner is responsible for energy costs for the entire property, and tenants are not responsible for energy costs, owners can satisfy the "benefit to tenants" obligation in one of the following ways:

1. Properties Without Surplus Cash

For properties that are not generating positive net cash-flow sufficient to cover all operating expenses out of current revenue, the "benefit to tenant" obligation will be satisfied where any net savings in energy costs are included in the property's cash flow and used to satisfy current operating expenses. This will result in improved ability of the property to timely address accounts payable, reduce the need for future rent increases, and improve the overall financial condition of the property.

2. Properties With Surplus Cash

Properties that are generating surplus cash through current operations can satisfy the "benefit to tenants" requirement in one of two ways:

a. By using an amount equal to at least 50% of the value of the net-metering credits provided to the property for other energy conservations upgrades or improvements that will increase energy efficiency of the property; or
b. By agreeing to deposit an amount equal to 50% of the value of the net-metering credits provided to the property into a replacement reserve account to be used to provide funding for future capital expenses of the property. The amount deposited into this account must be in addition to any deposits required by any lender or federal, state or municipal program under which the property is assisted. This additional deposit will be administered in the same manner as any replacement reserve fund provisions imposed by the lender or governmental assistance provider, and will result in additional resources available to address future capital needs of the property. The remainder of the net – metering credit will be included in cash flow of the property and will be handled in accordance with the loan document or other documents governing distributions of surplus cash flow of the property.