



ENVIRONMENTAL LAW & POLICY CENTER

Protecting the Midwest's Environment and Natural Heritage

COMMENTS OF THE ENVIRONMENTAL LAW & POLICY CENTER, THE CITIZENS UTILITY BOARD, AND THE VOTE SOLAR INITIATIVE REGARDING DRAFT REVISIONS TO THE ILLINOIS NET METERING RULE

The Staff of the Illinois Commerce Commission are seeking informal comments to inform a pending rulemaking to update the Illinois net metering rules at 83 Ill. Adm. Code Part 465.¹ The Environmental Law & Policy Center (“ELPC”), the Citizens Utility Board (“CUB”) and the Vote Solar Initiative (“Vote Solar”) have reviewed the June 28, 2013 draft rule amendments and have the following recommendations. Suggested red-line edits are attached to these comments as Exhibit A.

The joint parties appreciate the opportunity to comment in this pending rulemaking. As a general principle, net metering is one of the most effective policies for supporting customer generation of renewable energy, and is currently enabling customer-sited generation in 43 states and the District of Columbia. The simplicity and understandability of net metering have been pivotal in reducing barriers to consumer uptake of energy technologies such as solar, and is arguably one of most successful market transformation policies for the renewable energy economy.

Furthermore, customer-sited solar generation enabled through the net metering billing arrangement offers many benefits to the electric utility system and by extension to non-solar customers, including but not limited to: reduction in utility energy and capacity generation requirements, particularly during peak periods; reduction in system losses; avoidance or deferral of distribution and transmission investments; localized grid support, including enhanced reliability benefits; fuel-price certainty; and reduction in air emissions and water use.

The joint parties respectfully recommend consideration of the following points:

(1) The Commission should require all electricity providers to file the required application form and program details in order to promote accountability and compliance.

Section 465.35(a) of the draft rule requires all electricity providers (including both utilities and alternative retail electricity suppliers (“ARES”)) to “establish an application form and procedures to enable eligible customers to participate in the net metering program offered by the electricity provider.” Based on ELPC’s research, many of the ARES subject to this rule have not established net metering application forms and procedures, nor have they “offered” net metering programs to their customers as required by law. Furthermore, many ARES were not aware of the requirement to establish and offer a net metering program when contacted by ELPC staff. The failure of many electricity providers to offer net metering programs has created problems for

¹ See <http://www.icc.illinois.gov/electricity/NetMetering.aspx>

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members of the public that are taking service from an ARES and are interested in developing solar or other eligible renewable energy technologies.

In order to promote accountability and compliance, the Commission should amend Section 465.35(a) to require all electricity providers to file their net metering application and program details with the commission annually. The Commission should publish links to these materials on a central webpage on the Commission's website so that the public can reasonably access materials that they need to understand and apply for net metering service. The Commission should also consider publishing a guidance document to assist ARES in developing the required net metering program, application form and procedures.

Recommended change – The Commission should amend Sec. 465.35(a) as follows:

Sec. 465.35(a) -- Each electricity provider shall establish and file with the Commission an application form and procedures to enable eligible customers to participate in the net metering program offered by the electricity provider. The Commission shall make these materials available to the public on a central webpage on the Commission's website.

(2) The Commission should publish annual net metering reports to promote accountability and compliance.

Section 465.40 requires all electricity providers to file an annual report summarizing the status of their net metering programs. The reports are not made publicly available, although ICC Staff have historically provided ELPC with copies of the filed reports on request. Based on ELPC's research, of the 81 ARES licensed to do business in Illinois, only 26 companies filed net metering reports in 2013, and only 19 companies have reported having any net metering customers. 12 of the 26 companies that filed reports requested confidential treatment for some or all of the information required by the report. Furthermore, many ARES were not aware of the requirement to file annual net metering reports or offer net metering programs when they were contacted by ELPC staff.

In order to promote accountability and compliance, the Commission should publish the required annual net metering reports on a central webpage on the Commission's website. Companies that do not file annual reports should be reminded of their responsibility to do so or face penalties as provided under the rules. *See* Section 465.70. The Commission should report aggregate data for companies that have sought and received confidential treatment for part or all of their net metering reports.

Recommended change – The Commission should amend Sec. 465.40 as follows:

Sec. 465.40 -- The report required by Section 16-107.5(k) of the Act shall be filed with the Chief Clerk of the Commission by April 1 of each year. The report shall include all information required under Section 16-107.5(k) of the Act, including, but not limited to, the following information: the total peak demand supplied by the

electricity provider during the previous year; the total generating capacity of its net metering customers; if the total generating capacity of its net metering customers is equal to or in excess of the 5% cap whether the electricity provider intends to limit total generating capacity of its net metering customers to 5%; and, the electricity provider's total number of net metering customers. The Commission shall make all reports available to the public on a central webpage on the Commission's website and, if applicable, shall report aggregate data for electricity providers that have sought and received confidential treatment for part or all of their net metering reports.

(3) The Commission's rules should establish a streamlined process to ensure that existing net metering customers do not lose their net metering contracts or bill credits when switching electricity providers.

Based on ELPC and Illinois Solar Energy Association (ISEA) research, many existing net metering customers have had their net metering contracts canceled and have experienced lengthy delays and the loss of net metering billing credits when switching (voluntarily or through municipal aggregation) from utility service to a retail electric supplier. This is causing substantial confusion and frustration in the market.

It is our understanding that ComEd and Ameren currently handle the switching process for existing net metering customers in different ways. Ameren apparently employs a streamlined process that allows customers to switch electricity providers without losing net metering service or their accumulated bill credits. On the other hand, ComEd apparently interprets the statute to require the company to cancel net metering service and accumulated bill credits when a customer switches, even if the customer has been moved to a new supplier through a municipal aggregation program. This causes a delay in customer enrollment and in some cases may cause customers to opt out of net metering altogether.

The Commission should include in the rule a provision for streamlining the enrollment of customers who take supply service from a retail electric supplier. Consistent enrollment procedures will make it easier for all parties – customers, utilities and suppliers – to administer the program and will promote net metering in Illinois.

Recommendation: The Staff should engage stakeholders in further discussion to develop language for the current rule that would create a streamlined process to ensure that existing net metering customers do not lose their net metering contracts or bill credits when switching electricity providers. This language could potentially be based on Ameren's existing process for net metering customers that switch their electricity supply from Ameren to an ARES.

(4) The Commission should require electric utilities to identify existing net metering customers when turning over electricity supply to an ARES through a municipal aggregation program.

Some ARES have reported difficulty in identifying existing net metering customers when the supplier is taking over electric supply service for a community through a municipal aggregation program. This complicates the smooth transition of net metering service from the utility to the ARES. The Commission should include in the rule a provision allowing ARES to identify existing net metering customers in the aggregation process so those customers can continue net metering service without a gap. If customer privacy issues are a concern, this could likely be resolved by including a simple customer consent check-box on the standard net metering application form that would allow the utility to provide the relevant information to facilitate the continuation of net metering service.

Recommendation: The Staff should engage stakeholders in further discussion to develop language for inclusion in this rule that would allow ARES to identify existing net metering customers when implementing a municipal aggregation contract.

(5) The Commission should clarify the requirement to consider meter aggregation for shared renewable energy systems.

Subsection (l) of the net metering statute requires electricity providers to “consider whether to allow meter aggregation for the purpose of net metering on:

(1) properties owned or leased by multiple customers that contribute to the operation of an eligible renewable electrical generating facility, such as a community-owned wind project, a community-owned biomass project, a community-owned solar project, or a community methane digester processing livestock waste from multiple sources; and

(2) individual units, apartments, or properties owned or leased by multiple customers and collectively served by a common eligible renewable electrical generating facility, such as an apartment building served by photovoltaic panels on the roof.” 220 ILCS 5/16-107.5(l).

For the purposes of this section, “meter aggregation” would allow multiple customers to effectively net meter their utility bills on a pro-rata basis for the type of shared facilities described in the statute. *Id.*

By including this language in the net metering statute, the General Assembly intended that some good faith consideration of meter aggregation projects take place. However, ELPC is not aware of any meter aggregation projects that have been proposed or “considered” in Illinois since the net metering statute was adopted in 1997.

Recommendation: The Commission should adopt the recommended language below to facilitate the “consideration” of meter aggregation programs in a more meaningful way. Electricity providers should be required to summarize the factors “considered” and ultimate determination in a written document provided to the Commission and the project sponsor. The Commission should also engage stakeholders in further discussions about meter aggregation and “shared” renewables programs in Illinois and should consider inviting outside experts to help facilitate these discussions.² This workshop, along with others suggested in these comments, could proceed in parallel with the current net metering rulemaking in order to inform future amendments of the Commission’s rules.

Section 465.90 -- Electricity providers shall consider applications for meter aggregation in accordance with Section 16-107.5(1) and shall summarize the factors considered and ultimate determination in a written document provided to the Commission and the project sponsor.

(6) The Commission should consider developing a solar-specific “avoided cost” rate for customers that are not eligible to receive 1:1 kWh credits in order to more accurately reflect the grid benefits of distributed solar.

Under the draft rule, “non-competitive customers” receive compensation for net excess generation “at the electricity provider’s avoided cost of electricity supply.” See Sec. 465.50(c). “Avoided cost” is defined as “the incremental costs to the electricity provider of electric energy or capacity or both, which, but for the purpose from an eligible customer, the electricity provider would generate itself or purchase from another source.” This definition matches the definition of “avoided costs” set forth at Part 430 of the Commission’s rules, which governs purchase and sale of electricity from qualified facilities (“QFs”) under the federal Public Utility Regulatory Policies Act (“PURPA”). See 83 Ill. Adm. Code 430.30; 18 C.F.R § 292. Illinois utilities annually file their avoided cost rates with the ICC and maintain tariff riders applicable to retail customers that self-generate in parallel with the utility.³

The Federal Energy Regulatory Commission (“FERC”) has recently affirmed that, under certain conditions, states are within their authority to develop avoided cost rates that are based on the costs of specific types of generation being avoided.⁴ As explained by the Interstate Renewable Energy Council (“IREC”), this clarification opens the door for a large number of states with

² The Interstate Renewable Energy Council (IREC) has developed model rules for “shared renewables” programs and would be a good resource for further discussion of meter aggregation and shared renewables in Illinois. See <http://www.irecusa.org/regulatory-reform/shared-renewables/>

³ For example, ComEd’s latest revision to “Rider POG” (Parallel Operation of Retail Customer Generating Facilities) is available at https://www.vcomed.com/Documents/customer-service/rates-pricing/rates-information/proposed/Supp_Statement_Rider_POG_42013.pdf. ComEd’s ratebook, including Rider POG, is available at <https://www.comed.com/Documents/customer-service/rates-pricing/rates-information/current/Ratebook.pdf>, p. 337.

⁴ *California Public Utilities Commission*, Order Granting Clarification and Dismissing Rehearing, 133 FERC ¶ 61,059 at PP 26, 31 (2010) (available at <http://www.ferc.gov/whats-new/comm-meet/2010/102110/E-2.pdf>).

renewable generation procurement mandates (including Illinois) to establish technology-specific avoided cost pricing which takes into account transmission, distribution, and other “location-based benefits” of distributed generation.⁵

Recommendation -- The Staff should convene a workshop process to consider the development of technology-specific avoided costs that could more appropriately compensate net metering customers and help spur growth in DG markets. This workshop, along with others suggested in these comments, could proceed in parallel with the current net metering rulemaking in order to inform future amendments of the Commission’s net metering and Part 430 rules.

Conclusion

We look forward to further engaging in the Commission’s rulemaking process to help improve the implementation of Illinois’ net metering policy. Representatives of our organizations will plan to participate in any follow-up workshop discussions that the Commission schedules to answer questions and provide specific examples of the issues discussed in our written comments.

Respectfully submitted,



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⁵ Interstate Renewable Energy Council, *Unlocking DG Value: A PURPA-Based Approach to Promoting DG Growth* (May 2013) (available at <http://www.irecusa.org/wp-content/uploads/2013/05/Unlocking-DG-Value.pdf>).