

**BEFORE THE NEW YORK STATE
PUBLIC SERVICE COMMISSION**

Proceeding on Motion of the Commission as to the)
Policies, Requirements and Conditions for)
Implementing a Community Net Metering Program)

Case 15-E-0082

**PETITION OF THE INDICATED JOINT UTILITIES
FOR CLARIFICATION AND RECONSIDERATION**

I. INTRODUCTION

Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc. , Central Hudson Gas and Electric Corporation, and Niagara Mohawk Power Corporation d/b/a/ National Grid, (together, the “Indicated Joint Utilities” or the “Utilities”) respectfully seek clarification and reconsideration of the Public Service Commission’s (“PSC” or the “Commission”) Order Establishing a Community Distributed Generation Program and Making Other Findings (“Order”),¹ on two issues as described in greater detail below. First, the Utilities seek clarification of the role of the Community Distributed Generation (“CDG”) Sponsor (“CDG Sponsor”) with respect to compliance with the Community Distributed Generation Program (“CDG Program”). The Utilities also seek reconsideration regarding the distribution of excess credits between sponsors and subscribers.

II. RESPONSIBILITY FOR PROGRAM COMPLIANCE

The Order has established a variety of requirements for the CDG Program, including specific requirements for the sponsors and subscribers.² Meanwhile, as part of the Reforming the

¹ Case 15-E-0082 – *Proceeding on Motion of the Commission as to the Policies, Requirements and Conditions for Implementing a Community Net Metering Program*, Order Establishing a Community Distributed Generation Program and Making Other Findings (issued July 17, 2015)(“Order”).

²*Id.*, at pp. 7-8. For example, if any individual is in excess of a demand of 25kW, such subscribers are limited to an aggregated distribution of credits at no more than a 40 percent share of the CDG facility output.

Energy Vision proceeding (“REV Proceeding”),³ the Commission has begun a proceeding to establish rules, regulation, and oversight for Distributed Energy Resource (“DER”) providers and products (“DER Proceeding”).⁴ The latter is proceeding apace with a technical conference scheduled for August 20, 2015, and comments scheduled to be filed on September 28, 2015. The Utilities request that, during the gap between implementation of the CDG Program and establishment of rules in the DER Proceeding, interim requirements be established to require DER providers to self-certify to the Commission that they are viable financial entities, that each project meets the thresholds established by the Order, and they are able to meet their obligations with respect to the subscribers.

The Utilities respectfully request that during this bridge period, the Commission also require CDG Sponsors to file a project-by-project notice with the Department of Public Service Staff (“Staff”) in which the CDG Sponsor would formally certify that its specific distributed generation project complies with all CDG Program criteria established by the Commission in its Order. In addition, the Joint Utilities request that the Commission require a CDG Sponsor to certify its creditworthiness to the Commission for each CDG project during the bridge period. This request is consistent with the Order itself.

The Order establishes that the role of the CDG Sponsor is to “manag[e] the project’s relationships with the utility and coordinat[e] the subscribership.”⁵ Moreover, the Order begins to address oversight of this role by requiring the Sponsor’s compliance with Public Service Law (“PSL”) Article 2, the Home Energy Fair Practices Act (“HEFPA”), requiring compliance with some provisions of the Commission’s Uniform Business Practices, and looking toward the DER

³ Case 14-M-0101 – *Proceeding on Motion of the Commission in Regard to Reforming the Energy Vision*, Order Instituting Proceeding (issued April 25, 2014)(“REV Proceeding”).

⁴ Case 15-M-0180- *In the Matter of Regulation and Oversight of Distributed Energy Resource Providers and Products*, Staff Proposal (issued July 28, 2015)(“DER Proceeding”).

⁵ Order, at p. 9.

Proceeding.⁶ While recognizing the phased element of the CDG Program, the Utilities believe that the foregoing requested requirements are necessary now to implement the Order during the bridge process.⁷ Meanwhile, pending Commission action,⁸ the Utilities plan to propose protections in the tariff filing required by the Order as an interim measure.

III. DISTRIBUTION OF EXCESS CREDITS

The Utilities recommend that to more efficiently and effectively implement the CDG Program, the distribution of excess credits between and among CDG Sponsors and subscribers should be enhanced.⁹

More specifically, similar to the current administration of remote net metering, all credits on the CDG Sponsor's account should be allocated to subscribers on a percentage basis each month, according to the percentages specified by the CDG Sponsor. To the extent excess credits are held in reserve on the CDG Sponsor's account through a less-than-100-percent allocation, the Utilities believe that these credits should be treated similarly to remote net metering and be carried forward and reallocated in the subsequent month's allocation of excess credits until such time as the 100 percent allocation is reached. CDG Sponsors can submit modifications to subscriber allocations monthly. As such, CDG Sponsors can achieve the desired allocation of reserved excess through the reallocation process.

In addition, the Utilities note that all credits on subscribers' accounts should remain on their accounts until such time as they are used, and should not be returned to the CDG Sponsor if they cannot be used by the subscriber at the end of the annual period. Subscribers have already

⁶ Order, at pp.11-12.

⁷ This request is also aligned with the requirements currently in utility tariffs for energy service companies. *See, e.g.,* PSC No. 10 – Electricity, Consolidated Edison Company of New York, Inc., General Rule 19, Leaves 133-151.

⁸ The Utilities are filing concurrently with this Petition a request for an extension of time in which to file the tariff amendments required by the Order.

⁹ While the Order referenced PSL Sections 66-j and 66-l as establishing the framework for CDG, at pp.4-5, it is the Commission that is establishing the CDG Program.

paid for these credits in accordance with their agreement with the CDG Sponsor. This means that the requirement that utilities return credits to the CDG Sponsor's account adds a needless administrative burden and, moreover, removes credits from the subscriber who has paid for them.

IV. CONCLUSION

For the foregoing reasons, the Indicated Joint Utilities request that the Commission grant the Petition for Clarification and Rehearing by clarifying and modifying the Order in the manner discussed above, and for such other relief as the Commission deems appropriate.

Dated: New York, New York
August 17, 2015

Respectfully submitted,

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