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March 12, 2019

Kathleen H. Burgess
Secretary
New York Public Service Commission
Three Empire State Plaza
Albany, New York 12223

Re: UIU Comments on Whitepaper on Standby and Buyback Service Rate Design and Residential Voluntary Demand Rates

Case 15-E-0751 – In the Matter of the Value of Distributed Energy Resources

Matter 17-01276 – In the Matter of the Value of Distributed Energy Resources Working Group Regarding Value Stack

Matter 17-01277 – In the Matter of the Value of Distributed Energy Resources Working Group Regarding Rate Design

Dear Secretary Burgess:

The Utility Intervention Unit (UIU) of the New York State Department of State's Division of Consumer Protection submits these comments in response to the Public Service Commission's (Commission or PSC) Notice Soliciting Comments on Staff Whitepapers (Notice) issued December 21, 2018 in the above captioned proceedings. The Notice seeks comments on the Department of Public Service (DPS Staff, or Staff) Whitepaper on Standby and Buyback Service Rate Design and Residential Voluntary Demand Rates (Standby Whitepaper),[1] in addition to two other DPS Staff Whitepapers filed in Case 15-E-0751 between December 12 and December 14, 2018. Specifically, these comments focus on the Standby Whitepaper,[2] which recommends changes to the New York utility standby and buyback service rates currently in effect. While UIU

[1] *See* Case 15-E-0571, *In the Matter of the Value of Distributed Energy Resources*, Whitepaper on Standby and Buyback Service Rate Design and Residential Voluntary Demand Rates (Standby Whitepaper), (filed December 12, 2018).

[2] The absence of feedback on any particular Staff proposal should not be construed as UIU taking a particular position on these issues.

acknowledges that the Standby Whitepaper discusses this optional rate as a "standby rate," the proposed rate is not a standby rate in the traditional definition.[3] UIU's comments, therefore, will refer to the proposed rate more accurately as an "optional demand rate."

As Staff acknowledged, the creation of this optional demand rate could have "pronounced and widespread" bill impacts to non-participating customers.[4] The Standby Whitepaper recommends that the Commission direct utilities to file draft tariff amendments introducing optional demand rates in place of current standby rates as part of either a utility's rate case or in a separate proceeding where bill impacts to non-participating customers "can be carefully considered and mitigated."[5] While UIU appreciates Staff's acknowledgment of potential non-participating customer bill impacts, UIU has concerns regarding the process as proposed. Mainly, by compartmentalizing the review to individual utility rate cases or proceedings, it will be difficult for parties to gain a holistic picture of how these rate design changes impact customers throughout the State. In sum, UIU recommends that the following be conducted in a generic statewide proceeding before utilities consider drafting mass market optional demand rate proposals: (1) a robust analysis regarding mass market bill impacts and cost shifts on both participating and non-participating customers, (2) a revisit to the utility cost of service models and service classifications, and (3) consideration of requirements and guidelines for customer outreach and education on any rate design changes.

BACKGROUND

To analyze how Staff's proposed mass market optional demand rate structure may impact customers, it is necessary to review the history of standby rates for both residential and commercial customers. Standby service and rates have been a topic of conversation in New York and other areas of the country for decades. Standby design principles can be found in the federal Public Utilities Policy Act of 1978 (PURPA, amended in 2005 by the Energy Policy Act).[6] In New York, the Commission provided guidelines for standby service customers on October 26, 2001, in Case 99-E-1470, which stated:

[3] *See* Standby Whitepaper, at note 14 ("These opt-in rates would not be 'standby rates' under the traditional definition, since there is no onsite generation.").

[4] Standby Whitepaper, at 6.

[5] *Id.* at 7.

[6] *See e.g.*, excerpts from PURPA Federal Legislation:

- Shall not be based upon an assumption (unless supported by factual data) that forced outages or other reductions in electric output by all qualifying facilities on an electric utility's system will occur simultaneously, or during the system peak, or both.
- Shall take into account the extent to which scheduled outages of the qualifying facilities can be usefully coordinated with scheduled outages of the utility's facilities.

> A standby service customer is essentially a customer which normally does not obtain all of its energy via deliveries through the utility's transmission and distribution grid. Two general categories of such customers were identified during the collaborative process: (1) customers with on-site generators (OSGs) that produce energy primarily to serve the customer's native load; and (2) wholesale generators that operate mainly to produce and sell electricity in the wholesale market. The standby rates would apply to both types of customers to the extent they rely on the electric utilities to deliver power that would otherwise be supplied by the generator. This would include what the wholesale generators have referred to as "station use."[7]

In 2003, the Commission adopted a "Standby Matrix" for each New York electric utility[8] to be used to design standby rates.[9] While this process was part of settlement negotiations, it has been debated over the years if these rates for standby services are the optimal solution. Currently, standby rates can be found in utility tariffs' Otherwise Applicable Service Classification (OASC) (see Table 1 below). In 2001, the Commission noted:

> The Standards reflect the premise that standby delivery service is sufficiently different from full delivery service to justify some difference in treatment, **but that not enough valid cost data exists for OSGs to justify creation of a separate service classification or classifications for standby service. Until such time that significant data exists on the operation and cost causation of various standby service customers to justify the creation of a separate standby delivery service rate classification, the Guidelines provide that standby delivery service will be provided as part of the otherwise applicable full-requirements class tariff.** That applicable service class will be based on the standby customer's maximum potential, or contract, demand. However, as explained below, the unique usage characteristics of standby customers, by virtue of these customers' intermittent and

[7] Case 99-E-1470, *Proceeding on Motion of the Commission as to the Reasonableness of the Rates, Terms and Conditions for the Provision of Electric Stand-By Service*, Opinion No. 01-4, Opinion and Order Approving Guidelines for the Design of Standby Service Rates (Electric Standby Service), at 4 (filed October 26, 2001).

[8] Central Hudson Gas & Electric Corporation (Central Hudson), Consolidated Edison Company of New York, Inc. (Con Edison), New York State Electric & Gas Corporation (NYSEG), Niagara Mohawk Power Corporation d/b/a National Grid (Niagara Mohawk), Orange and Rockland Utilities, Inc. (O&R), and Rochester Gas and Electric Corporation (RG&E).

[9] *See* Standby Whitepaper, note 11 ("These rates were implemented for Con Edison and O&R on July 29, 2003 in Cases 02-E-0780 and 02-E-0781 respectively, for NYSEG on July 30, 2003 in Case 02-E-0779, for Central Hudson on December 4, 2003 in Case 02-E-1108, and for Niagara Mohawk on June 21, 2002. Niagara Mohawk's Standby Matrix was recently modified in Case 17-E-0238, as described in greater detail later in this document. RG&E uses a methodology based on marginal costs marked up to achieve revenue requirement targets, implemented on July 29, 2003 in Case 02-E-0551.")

> more random reliance on the delivery system, will be recognized through rate design.[10] (emphasis added)

As such, standby rates are designed revenue neutral[11] to the applicable parent Service Classification and include these three delivery elements: (1) a Customer Charge, (2) a Contract Demand Charge, and (3) a Daily As-Used Demand Charge. Standby rates are mandatory for some accounts and usually apply to customers with Distributed Energy Resources (DERs) that are not net metered and are estimated to serve 15% or more of their maximum demand, which is determined during a qualification and exemption process.

Currently, residential and small commercial (collectively known as mass market)[12] standby rates are not billed based on demand in kW. Instead, these rates are based on volumetric electric usage or kWh. The delivery rate elements include: (1) a Customer Charge, (2) a flat monthly fee (instead of the commercial Contract Demand Charge), and (3) a Daily As-Used Demand charge on a volumetric kWh basis (instead of a demand kW charge used for commercial standby customers). While current standby rate structures are available to all mass market customers who meet certain criteria, there are only approximately two mass market customers statewide who opt for this service, and both happen to be located in the Niagara Mohawk service territory.[13]

On May 19, 2016, the Commission's REV Track Two Order discussed the need to refine the cost allocation methodology for standby rates.[14] On December 12, 2018, DPS Staff filed the Standby Whitepaper proposing a mass market optional demand rate that incorporates "a similar design to the larger-customer standby service rates."[15] Staff recommends that the rates include (1) Contract Demand Charges (based on individual customers' maximum demand) and (2) Daily As-Used Demand Charges (based on daily maximum on-peak demands to be offered in those areas where AMI is available).[16] Under Staff's proposal, all customers, regardless of whether they utilize onsite generation, would be eligible to sign up for the optional demand rate. Staff proposes that the rates should be designed on a revenue neutral basis to the OASC using load research data

[10] Electric Standby Service, at 6-7.

[11] *See* Standby Whitepaper, at note 8 ("The Guidelines defined 'revenue neutral' to mean that the full-service class would contribute the same revenues if the full class were priced under either the standard service class rates or the standby rates, based on historic usage patterns of the customers in that class.").

[12] Mass market standby rates are available in all New York utility service territories except Con Edison and Orange and Rockland.

[13] *See* Standby Whitepaper, at 5 (noting mass market customers "generally do not take service under standby rates . . . .").

[14] *See* Case 14-M-0101, *Reforming the Energy Vision*, Order Adopting a Ratemaking and Utility Revenue Model Policy Framework, at 127 (issued May 19, 2016).

[15] Standby Whitepaper, at 6.

[16] *Id*.

currently available and subject to revenue reconciliation within the Revenue Decoupling Mechanism (RDM) applicable to the OASC. Revenue neutral means the revenue requirement, which is the cost to operate and maintain the system for that class, assigned to this collective group is recovered in rates collected from customers in all of its subclasses. Currently, residential customers in utility service territories may have one parent service class (SC1) with subclasses that are designed revenue neutral to SC1 (*e.g.,* Con Edison) or separate residential service classes that have independent costs that are not designed revenue neutral (*e.g.,* Orange and Rockland); Staff's proposed optional demand rate would add another class/subclass depending on the definition of its parent service class. Thus, if a residential customer opts into Staff's proposed optional demand rate and experiences lower charges than what that customer previously paid, it follows that other residential customers, such as those in the default SC1 rate, will pay more to recover the difference. Staff's proposal acknowledges the potential cost shifts to non-participating customers and requests stakeholder comments regarding a reasonable bill impact threshold.[17]

COMMENTS

1. ANY OPTIONAL DEMAND RATE PROPOSAL SHOULD ADDRESS BILL IMPACTS AND COST SHIFTS

While UIU appreciates the Standby Whitepaper's attention to the potential bill impact of non-participating customers, UIU has concerns regarding the process as proposed. Mainly, before parties can responsibly opine on a reasonable threshold for bill impacts on non-participating customers, there must be a clear understanding of (1) the current assigned costs and service classes pertaining to mass market customers, (2) the suite of rate design options currently available and/or proposed for mass market customers, and (3) the assumptions and cost impacts behind designing a new rate structure for all mass market customers.

A) Proposed Changes to the Eligibility Criteria of the Mass Market Standby Rate Must Undergo Comprehensive Review to Understand Cumulative Cost Shifts

Stakeholders and DPS Staff are currently reviewing various delivery/commodity rate design proposals for mass market customers in a number of Commission proceedings that, if approved, could impact the potential cost shifts imposed by the creation of optional mass market demand rates that are proposed in the Standby Whitepaper. For example, the Value of Distributed Energy Resources Working Group (Matter 17-01277) is exploring various delivery/commodity rate designs for successor Net Energy Metering (NEM) mass market customers, which are customers with eligible onsite generation. Under that proceeding, each rate structure has additional potential cost implications to non-participants. In that Working Group, the utilities provided bill impacts for various rate design proposals to help parties understand the potential cost shifts. Staff

[17] *Id.* at 7.

will likely file a proposed rate for party comment and Commission consideration in the next few weeks.[18] Because Staff's proposed optional demand rates would be available to all mass market customers, including NEM, UIU suggests that, at a minimum, consideration of Staff's proposed optional demand rates for mass market customers be deferred until the Commission rules on the rate design successor for NEM mass market customers. Additionally, UIU observes that a time-varying rate structure for residential customers has been proposed by National Grid[19] and mass market customer responses to demand rates will be tested in a pilot program in the Consolidated Edison service territory.[20] With the various proceedings addressing mass market/residential time-varying rate design, it is difficult to gauge the total bill impacts and cost shifts to non-participating customers.

In addition, the proposed rate relies in part on Advanced Metering Infrastructure (AMI) capability, which New York utilities have not yet fully implemented. The AMI deployment in the Con Edison service territory will not be complete until 2022.[21] Orange and Rockland does not expect to complete AMI deployment until December 2020,[22] and, while other utilities have proposed AMI, the Commission has not yet addressed these proposals.[23] Thus, to the extent that AMI is required to participate in this rate, the proposal appears premature.

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[18] *See* Matter 17-01277, *In the Matter of the Value of Distributed Energy Resources Working Group Regarding Rate Design*, Rate Design Proposal Letter (filed February 1, 2019).

[19] Case 17-E-0238, *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Niagara Mohawk Power Corporation d/b/a National Grid for Electric Service* (National Grid Rate Case), Proposal of Niagara Mohawk Power Corporation d/b/a National Grid for Voluntary Residential Rate Structure to Further Adoption of Beneficial Electrification Technologies (Corrected Version) (filed November 21, 2018). National Grid proposes to establish "a voluntary residential rate structure for further adoption of beneficial electrification technologies including electric vehicles and cold climate heat pumps." Specifically, the Company proposes to offer a voluntary residential rate design that includes the following components: (1) a monthly customer charge (matching the current residential charge) plus an incremental monthly charge of $43.46 for the cost of the interval metering; (2) two delivery kW demand charges; and (3) volumetric seasonal time-of-use (TOU) and critical peak pricing (CPP) kWh supply charges. UIU filed comments raising concerns with National Grid's proposal. *See* National Grid Rate Case, UIU Comments on National Grid's Rate Design Proposal (filed December 21, 2018).

[20] *See* Case 18-E-0397, *Tariff filing by Consolidated Edison Company of New York, Inc. to Make Revisions to its Electric Tariff Schedule, P.S.C. No. 10, to Add New Riders Z (Residential) and AA (Small Commercial) Innovative Pricing Pilot to Implement Rate Structures for Residential and Small Commercial Customers*, Order Approving Tariff Amendments with Modifications (issued December 13, 2018).

[21] Case 19-E-0065, *Proceeding on Motion of the Commission as to the Rates, Charges, Rules and Regulations of Consolidated Edison Company of New York, Inc. for Electric Service*, Customer Energy Solutions Panel Direct Testimony, at 119 (filed January 31, 2019).

[22] Case 17-M-0178, *Petition of Orange and Rockland Utilities, Inc. for Authorization of a Program Advancement Proposal*, Advanced Metering Infrastructure Metrics Report, at 3 (filed November 15, 2018).

[23] *See e.g.*, National Grid Rate Case, Report of the Niagara Mohawk Power Corporation d/b/a National Grid on the Proposed Implementation of Advanced Metering Infrastructure (filed November 15, 2018).

For these reasons, UIU urges that Staff's optional demand rate design proposal for mass market customers be explored in a generic proceeding, which will allow the impact on ratepayers to be evaluated holistically prior to directing utilities to file tariffs based on the proposal.

B) Additional Analysis Regarding the Impact of Expanding Eligibility to Non-Self-Generating Customers Is Needed

Staff's proposal to create optional demand rates for all mass market customers could have unintended consequences on non-participating customers, including cost shifting to non-participating customers. Until such information is presented,[24] the Commission cannot make an informed decision on Staff's proposal. The Standby Whitepaper states that "…a rate design that provides a better match between cost causation and revenue recoveries than the existing rates should be made available to customers wherever possible."[25] To determine cost causation, however, one must understand a customer's typical usage, among other factors. UIU cautions that the overall cost of service methodologies, breakdown of service classes, and revenue allocation process can be as important as the rate design. If the amount of money allocated to a service classification is not correct, it is unlikely that a rate design, no matter how well-developed, will send a correct price signal because that service class may still pay above-average rates. Therefore, further inquiry into the current assigned costs and service classes pertaining to mass market customers is needed before the rate design proposal can be further considered. In addition, the Standby Whitepaper directs all electric utilities to use Niagara Mohawk's Allocated Cost of Service (ACOS) Study to allocate cost elements into Customer, Shared, and Local Charges to design standby rates in the next electric rate proceedings.[26] UIU is concerned that it is unclear how this directive would impact mass market rates and customer bills.

If the Standby Whitepaper is indeed proposing that utilities rely on Niagara Mohawk's ACOS Study to allocate cost elements in the mass market optional demand rate, UIU urges caution. UIU is unaware of a cost of service manual that explicitly endorses the rate design utilized in National Grid's ACOS study.[27] Applying the ACOS methodology to a limited number of mass market customers with onsite generation may be acceptable to allocate costs.[28] Using the same methodology for many customers in the same service classification, who have diverse load profiles, may result in inequalities. For example, the load profiles and usage levels for heat pump

[24] *See* Comments, Section 1, *supra.*

[25] Standby Whitepaper, at 6.

[26] *See* Standby Whitepaper, at 9 (directing Central Hudson, Con Edison, NYSEG, RG&E, and O&R to perform an ACOS study).

[27] As an example, the National Association of Regulatory Utility Commissioners (NARUC) does not set definitive guidelines for demand cost categories as utilized in National Grid's ACOS study.

[28] In addition, there exist only 1-2 mass market customers meeting the current criteria and utilizing standby rates in New York State.

and electric vehicle customers may be different than "typical" mass market customers whom utilities originally considered for the purposes of their cost of service studies. Thus, any rate design change must evaluate usage levels and load patterns for a variety of mass market customers, including customers adopting electrification technologies. Because cost of service issues will impact the rates customers pay and the related price signal, UIU recommends that cost of service issues pertaining to mass market rate design should be handled concurrently with any proposed mass market rate design changes in a generic statewide proceeding.

Finally, if the Commission does adopt the Standby Whitepaper's proposal for an optional demand rate, UIU suggests that customers seeking to sign up for the optional demand rate should be separated into their own service classification for the purposes of the cost of service study. As UIU explained in prior comments, allowing all customers to opt into a demand rate may result in large users becoming "structural winners" who sign up for the optional demand rate, pay lower rates, and then fail to provide a commensurate benefit to the distribution system.[29] Essentially, non-participating customers would be paying more to compensate for the lower rates paid by "structural winners" who are not providing additional benefits to the distribution system. By delineating the mass market customers into their own appropriate service classification rather than requiring that rate design changes be revenue neutral, the burden on non-participating customers can be eased.[30] UIU further recommends that the creation of a separate service classification should be handled concurrently with any proposed mass market rate design changes in a generic statewide proceeding.[31]

2. ANY MASS MARKET RATE DESIGN PROPOSAL SHOULD INCLUDE REQUIREMENTS FOR CUSTOMER OUTREACH AND EDUCATION

Similar to UIU's concerns pertaining to National Grid's residential time-varying rate design proposal in Case 17-E-0238, the optional demand rate proposal does not include any details regarding an outreach and education plan for mass market customers. If the Commission adopts DPS Staff's mass market optional rate design proposal, UIU urges the Commission to require each utility to file a detailed Outreach and Education Plan before optional demand rates are made available to mass market customers.

[29] *See e.g.*, National Grid Rate Case, UIU Comments on National Grid Rate Design Proposal (filed December 24, 2018), at 7 (UIU analysis of bill impacts for National Grid's two demand rate indicated that "[h]igh usage . . . customers . . . could adopt this rate, take no action to 'further the State's energy goals', and pay less on an annual basis; thus, shifting more costs onto other customers. . . . As the table illustrates, high usage . . . customers could see an annual bill savings up to approximately 10% before electrification adoption and without altering load.")

[30] UIU observes that there may still be cost-shifts among service classifications depending on the cost of service methodology and revenue allocation.

[31] *See* Comment 1, Paragraph A, *supra*.

Conclusion

UIU appreciates the opportunity to comment and urges the Commission to adopt the recommendations herein when reviewing the Standby Whitepaper.

Respectfully submitted,

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