STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on January 21, 2016

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Gregg C. Sayre
Diane X. Burman

CASE 15-E-0572 - Joint Petition for Change in Residential PV Net-Metering Anniversary Month Rule.

ORDER GRANTING MODIFIED RELIEF
AND MAKING OTHER FINDINGS

(Issued and Effective January 27, 2016)

BY THE COMMISSION:

BACKGROUND

According to the Public Service Law ("PSL"), utilities are required to offer net metering service to residential photovoltaic ("PV") customers, whereby the utilities offset the customers' generation production against their consumption during each billing cycle.[1] Customers receive a credit if energy production exceeds consumption in a given billing cycle.[2] If, at the end of a twelve-month period, a residential customer's cumulative energy production exceeds consumption, the PSL requires the utility to provide the residential customer with a cash out of any remaining credit for excess electricity produced

[1] PSL § 66-j(2).

[2] PSL § 66-j(4)(b).

during those twelve months. Utilities issue cash out payments at their avoided cost.[3]

By default, the one-year period begins to run on an anniversary date set immediately following installation and activation of the customer's PV system. This date, however, may not be the most advantageous for the customer. For example, assume a customer's anniversary date is set sometime at the end of the summer (when solar production is high in New York). That customer would receive a cash out amount, paid at the utility's avoided cost, that is lower in value than the tariff kWh rate that would be subtracted from billing cycles during the winter, when solar production is low. Accordingly, utilities must extend to their residential net metered customers a one-time option to select a different anniversary date that may be more beneficial to them.[4]

On September 17, 2015, CIR Electrical Construction Corp., Earthkind Energy, Empire Clean Energy Supply, Frey Electric Construction Company, NY-GEO, PUSH Buffalo, Renewable Rochester, Sierra Club Niagara Group, Solar Liberty Energy Systems, Inc., Renewable Energy Task Force, and residential net metered PV customers (Walter and Nan Simpson, Gordon and Diana Tracz, and Joan Bozer) (collectively, "Petitioners") filed a Petition requesting that the Commission address the method for assigning the anniversary date to residential net metered PV customers. Petitioners proposed four possible methods for

[3] PSL § 66-j(4)(c).

[4] Case 10-E-0645, In the Matter of the Interpretation of the Billing Period and Annual Credit Requirements Applicable to Certain Net Metered Customers, Order Directing Tariff Revisions and Making Other Findings (issued May 23, 2011).

making the assignment and ask that the Commission determine the best solution, taking into consideration any comments from interested stakeholders.

NOTICE OF PROPOSED RULEMAKING

Pursuant to the State Administrative Procedure Act ("SAPA") §202(1), a Notice of Proposed Rulemaking was published in the State Register on October 21, 2015 [SAPA No. 15-E-0572SP1]. The time for submission of comments pursuant to the Notice expired on December 7, 2015. The comments received are addressed below.

THE PETITION

Petitioners proposed the following approaches to assigning anniversary dates to residential net metered PV customers that could be adopted by the Commission:
(1) automatically assigning the most beneficial month as the default anniversary month from new and existing residential net metered PV projects; (2) allowing credits to accumulate without requiring residential net metered PV customers to cash them out annually on the anniversary date; (3) directing NYSERDA to address assignment of anniversary dates for residential net metered PV customers; and (4) eliminating anniversary dates and credits for residential net metered PV customers and simplifying net metering. The simplification would be accomplished through requiring utilities to pay customers for any excess production on a monthly basis at the retail rate, while the customers pay utilities for any electricity needed if PV production falls below consumption.

The Petitioners suggest first that the most beneficial month can be assigned by default, but they recognize that there may be difficulty ascertaining, as well as disagreement about, which month is the most beneficial month for all residential customers across the entire state. Petitioners discuss the possibility of implementing multiple anniversary dates for different regions of the state that may not benefit from using the same month.

Second, the Petitioners would extend the cash out, at the customer’s option, to a five-year period instead of requiring credit cash outs on the annual anniversary date.

Third, NYSERDA would be directed to implement educational efforts that better inform customers and system installers about the importance of selecting an anniversary date and how to choose one that is most beneficial to customers, as well as establishing a follow-up procedure to ensure that customers have, in fact, selected the most beneficial date. Petitioners further maintain NYSERDA should act retroactively to ensure existing customers have also selected the most beneficial date.

Lastly, Petitioners argue that eliminating anniversary dates and credits altogether would eradicate the incentive, created by the impact of the current method for assigning anniversary dates, to waste energy and build PV systems that are smaller than optimal.

COMMENTS

On December 7, 2015, Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., Central Hudson Gas & Electric Corporation, New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, and Rochester Gas and Electric Corporation (collectively, “Joint Utilities”) timely submitted comments. The Joint Utilities agree that customers should be able to choose an anniversary date that is most beneficial to them and capitalizes on their combination of generation technology and energy consumption. Although supportive of customers’ ability to choose an advantageous anniversary date, Joint Utilities believe that no change to the current method of assignment is necessary because their tariffs already give customers that discretion in the form of the one-time option to change anniversary dates.

Responding to the Petitioners’ other approaches, Joint Utilities note that the PSL mandates annual cash outs for residential net metered PV customers, and, accordingly, it is not realistic for the Commission to take those approaches, absent legislative changes.[5] Joint Utilities, however, agree that engaging NYSERDA to offer education and outreach on residential net metering and anniversary date assignment should be encouraged. That outreach, they maintain, would dovetail with the means customers already have to select the best anniversary dates for themselves.

Finally, Joint Utilities urge the Commission to reject the Petitioners’ buy and sell all approach with prices set at retail rates, thereby encouraging customers to invest in and install PV systems that are sized at no more than is necessary to meet their energy consumption needs. Joint Utilities reasoned that monthly cash outs at the retail rate would exacerbate the already existent cost-shifting impacts of net metering to other customers and, again, conflict with the annual cash outs already required by law.[6]

[5] It should be noted that such legislative action is possible; proposed Assembly Bill A3096 proposes an accounting of credits every five years.

[6] PSL § 66-j(4)(c).

DISCUSSION AND CONCLUSION

Petitioners have not justified revision of the method for assigning an anniversary date for residential net metered PV customers because the current method is sufficiently flexible and customers themselves are best positioned to take responsibility for cost-effective operation of their PV systems. Additional outreach and education, however, is appropriate to ensure that customers can make informed decisions.

Though Petitioners contend that the current method for assigning an anniversary date does not reliably leave customers with the most optimal cost recovery on their PV investments, they fail to adequately value the flexibility the current method offers to customers. Presently, although the anniversary date for residential net metered PV customers is set immediately following installation and activation of the PV system, customers are given a one-time option to select a different anniversary date. This option allows customers to choose a month that is more profitable to them, taking into consideration the utilities' avoided costs and the seasonal effects on those costs discussed above.

Furthermore, each customer is best positioned to determine financially prudent operation of their PV systems. Though the option to change the anniversary month from the default is a one-time only option, customers can take that opportunity to closely monitor their energy consumption and production for the first year of service to determine whether another month would be more advantageous than the default and if so, which month in particular is best. To require the utilities to select the most favorable month for customers would discourage them from taking responsibility to optimize the benefits that could be realized from their PV systems, and would only engender additional disputes over which month is preferable. Given that the most advantageous month could vary depending upon the characteristics of the particular PV system, its geographic location, and other factors, any date selected for all customers regardless of individual characteristics is likely to result in disagreements that would be difficult to resolve, and the selection of the most preferable month is therefore best left to the consumer instead of having the utility decide for them.

Several of the other forms of relief the Petitioners request do not accord with PSL § 66-j. That statute specifies an annual cash out at avoided cost, and so proposals for monthly or five-year cash outs performed at rates other than avoided cost conflict with the statutory directive.

However, more extensive outreach and educational efforts by the utilities and PV installers are needed. Accordingly, utilities shall advise residential solar customers that are net metered in writing of the option to select an anniversary date as of the time the first net metered bill is issued. Furthermore, installers should advise new and existing residential net metered solar customers of the option to select an anniversary date.

To assist in outreach efforts, the New York State Energy Research and Development Authority (NYSERDA) is encouraged to work with installers to create and provide the outreach and educational materials the installers will use to inform customers of the option to select an anniversary date. The materials would emphasize the importance of anniversary date assignment and give guidance on how to choose a more beneficial date, based on customer PV usage and geographical location. NYSERDA could provide these materials to installers at the time grants are awarded to them, and urge them to work with customers to select the most favorable option upon installation.

Moreover, Department of Public Service Staff shall discuss with NYSERDA the potential for these and other outreach efforts, including efforts to reach existing customers through installers, following issuance of this Order. These educational and outreach efforts would benefit customers and help them take advantage of the current method for assigning anniversary dates.

Moreover, in conducting the inquiry into the cash out process the Petitioners requested, it was discovered that Orange and Rockland Utilities, Inc. ("O&R") uses the average locational-based marginal price ("LBMP") from only the anniversary month standing alone as its avoided cost for calculating annual cash out payments. In contrast, the other utilities use the average LBMP avoided cost over the number of months a customer has taken service in arriving at the cash out. Cashing out at the monthly LBMP could be significantly disadvantageous to a customer if the price for that month is lower than the cumulative average avoided cost or could overpay the customer to the disadvantage of other ratepayers if the reverse is true.

Accordingly, ORU should either revise its tariff language to provide for calculation of cash out payments at the cumulative avoided cost or justify its current methodology. As a result, it is directed to file, within thirty days of the date of this Order, either tariff revisions taking effect on seven days' notice providing for the cumulative methodology or an explanation of why the existing methodology is justified. If the latter course is selected, the explanation will be noticed under SAPA and further proceedings will be conducted in conformance with that notice.

The Commission orders:

1. Central Hudson Gas & Electric Corporation, Consolidated Edison Company of New York, Inc., New York State Electric & Gas Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, Orange and Rockland Utilities, Inc., and Rochester Gas and Electric Corporation shall advise residential solar customers that are net metered in writing of the option to select an anniversary date as of the time the first net metered bill is issued to a customer.

2. The Petition filed by CIR Electrical Construction Corp., Earthkind Energy, Empire Clean Energy Supply, Frey Electric Construction Company, NY-GEO, PUSH Buffalo, Renewable Rochester, Sierra Club Niagara Group, Solar Liberty Energy Systems, Inc., Renewable Energy Task Force, and residential net metered PV customers (Walter and Nan Simpson, Gordon and Diana Tracz, and Joan Bozer) is granted to the extent of the modified relief provided for in Ordering Clause No. 1 and in the body of this Order and is otherwise denied.

3. Orange & Rockland Utilities, Inc. is directed, within thirty days of the date of this Order, to either file tariff revisions, to take effect on seven days' notice, modifying its calculation of annual cash out payments in conformance with the discussion in the body of this Order, or an explanation justifying its current methodology for calculating the annual cash out.

4. The requirements of § 66(12)(b) of the Public Service Law concerning newspaper publication of the tariff amendments described in Ordering Clause No. 3 are waived.

5. The Secretary in her sole discretion may extend the deadlines set forth in this Order. Any requests for an extension must be in writing, must include a justification for

the extension, and must be filed at least one day prior to the deadline.

6. This proceeding is continued pending compliance with Ordering Clause No. 3 and is thereafter closed unless the Secretary finds good cause to continue it further.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary