State of New York
Public Service Commission

Case 15-E-0082 – Proceeding on Motion of the Commission as to the Policies, Requirements and Conditions for Implementing a Community Net Metering Program.

STAFF REPORT ON THE COLLABORATIVE REGARDING COMMUNITY DISTRIBUTED GENERATION FOR LOW-INCOME RESIDENTIAL CUSTOMERS

Dated: August 15, 2016

INTRODUCTION

On July 17, 2015, the New York State Public Service Commission (the Commission) issued an Order Establishing a Community Distributed Generation Program and Making Other Findings[1] (CDG Order) allowing multiple customers to net meter from a single generation facility. Community distributed generation (Community DG or CDG) would allow, among other things, residents, renters, homeowners, schools, and businesses to use cleaner energy and affordable power, a basic tenet of the State's Reforming the Energy Vision (REV) initiative.[2]

In the CDG Order, the Commission directed Department of Public Service Staff (Staff) to commence a collaborative (CDG Low-Income Collaborative or Collaborative) within 60 days of the Order's issuance to identify barriers to low-income customer participation in Community DG projects and mechanisms to remove those barriers. In accordance with that directive, Staff initiated a collaborative process involving NYSERDA, low-income community organizers, utilities and other interested stakeholders, and submits this report on the collaborative efforts.

BACKGROUND

The CDG Order established the parameters of the newly established Community DG program, summarized herein. The net metering credit produced by the facility will be measured in conformance with Public Service Law (PSL) §66-j and §66-l, and the utilities will offset the credit against the utility accounts of the participating customers. Allocation of credits to customer accounts will be processed on a monthly basis, and

---

1 Case 15-E-0082, 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).

2 Case 14-M-0101, Reforming the Energy Vision, Order Instituting Proceeding (issued April 25, 2014).

the project sponsor must distribute all excess credits at least once a year. Utilities are required to track and distribute credits in accordance with the customer information provided by the sponsor to each individual bill. Volumetric crediting applies to non-demand remote net-metered projects, and monetary crediting applies to demand-metered projects.

A project sponsor can be a third-party energy services company, a generation facility, a municipality, or any other type of business, non-profit or civic association and will have the responsibility for building, interconnecting, and owning or operating the facility in conformance with PSL §66-j and §66-l. Sponsors are required to provide utilities with information about the members, including how the credits should be distributed (account number(s), name, address, and the customer's proportionate share of the project, as a percentage of the generation facility's excess output beyond usage at the host meter).

Customers may procure the legal right to a portion of the solar facility's output (likely either through subscriptions or by purchasing ownership shares), with each customer's account credited by the utility with the output of the generation at full retail rates. The allocation of output may be altered by the sponsor after providing the utility 30 days' notice.

Customer protections in Community DG projects are of the utmost importance. Compliance on behalf of the sponsor with the Home Energy Fair Practices Act (HEFPA), where applicable, extends to Community DG residential customers.[3] Pending a Commission Order on the regulation of distributed energy resources (DER) providers, certain components of the Uniform Business Practices (UBP), such as marketing standards, customer

[3] CDG Order at 11.

enrollment and disclosure, also apply to the project developer and sponsor.[4]

The CDG Order established two phases to the initial community distributed generation program. Phase One, from October 19, 2015, through April 30, 2016, focused on two objectives of REV. These goals include providing the greatest locational benefits to the grid, or supporting economically distressed communities with the inclusion of at least 20 percent of the participants being low-income customers enrolled in existing utility low-income assistance programs, as shown in maps provided by the utilities (Community DG Opportunity Zones). Phase Two, which commenced May 1, 2016, expanded Community DG projects to the entirety of utility service territories without restrictions. The findings and recommendations of the CDG Low-Income Collaborative would apply to Phase Two and thereafter if adopted by the Commission.

A subsequent order directed electric utilities to file tariff leaves and operating procedures on Community DG by October 26, 2015.[5] On October 23, 2015, an extension to file comments until November 9, 2015, was granted in response to a letter from the Joint Utilities. The operating procedures filed by the utilities outline the program requirements, Community DG host self-certification process, and project process.

Per the CDG Order, "each member of the CDG project shall own or contract for a proportion of the credits accumulated at the generation facility's meter."[6] The cost of membership will vary with each project depending on the project sponsor.

---

4 CDG Order at 12.

5 Case 15-E-0082, supra, Order Granting Reconsideration in Part (issued October 16, 2015).

6 CDG Order at 12.

Financing models for Community DG subscriptions can be structured as a power purchase agreement (PPA), lease, or loan. PPAs and leases allow subscribers to participate in a CDG project without a long-term commitment. In the PPA model, the developer would sell the power generated from the project to the customer at a fixed rate, typically lower than the local utility, for the duration of the contract term. Leases and PPAs generally require a credit score or debt-to-income ratio minimum, as discussed in the Financing Working Group's report, which is a significant barrier for low-income customers. The upfront costs required for a loan and ultimate ownership also limit low-income customer participation in CDG projects and make ownership an impractical option.

CDG LOW-INCOME COLLABORATIVE

In a September 3, 2015 Notice, Staff posed questions on issues related to the Collaborative, including: barriers and technical constraints to participation; standardized customer contracts; energy-efficiency requirements; marketing; data sharing; financing; and, potential business models.[7] Most parties agreed that the major barriers to low-income customer participation in Community DG projects are the upfront cost of the subscription and low credit scores that prevent outside financing. GRID Alternatives commented that the long-term return on investment from Community DG projects is not a priority for low-income consumers and that immediate up-front costs are more important to customers contemplating enrollment. Parties commented on potential solutions to these issues, including an incentive program for low-income project

[7] The commenting parties were GRID Alternatives, the City of New York, Acadia Micro, DE-Squared, Vote Solar, Clean Energy Collective, SunEdison, PosiGen, and NRG Energy.

subscribers and/or developers; extending low-income eligibility; and, direct grants and technical assistance offered by the New York State Energy Research and Development Authority (NYSERDA). Parties also commented on other subject areas, such as standard contracts or customer disclosures, marketing strategies, potential financing models, and data sharing. These comments served as the basis of the discussions going forward and the topics explored by the working groups.

Staff held five collaborative meetings and established five working groups — Financing, Energy Usage Data, CDG Customer (Subscriber), Incentives, and Oversight. Throughout numerous meetings, each working group evaluated the issues and potential solutions for low-income participation in CDG. The working group reports are summarized in the Summary of the Collaborative Working Group Reports. Both this summary and the full reports can be found on the Commission's website,[8] under the "CDG Low Income" page. Below is a brief summary of the work of each Working Group.

Financing Working Group

The Financing Working Group was tasked with exploring solutions to funding issues associated with serving the low-income customer population. Topics included investor concerns, such as low credit scores, high debt-to-income ratios, and default rates; upfront costs of projects and level of savings; NY Green Bank loan guarantees; a consumer cooperative structure; Community Development Financial Institutions; funding Community DG projects; and, the possibility of an Energy Insurance Fund. The Working Group determined that project and financing costs should be kept as low as possible.

Existing non-ownership financing mechanisms, like leasing or power purchase agreements, enable solar customers to

[8] http://www.dps.ny.gov/

purchase renewable energy with little or no upfront costs. However, these models generally require a credit score or debt-to-income ratio minimum for participants, which are barriers to many low-income customers. Given that the private financial sector views this group of customers as a new asset class, underwriters may still need to raise the cost of capital and use known factors, like credit scores, to offset that risk.

Energy Usage Data Working Group

The Energy Usage Data Working Group explored the most efficient means of transferring customer data to utilities and developers while addressing privacy concerns. Other topics the Working Group discussed included privacy concerns; access to meter data; streamlining data sharing between utilities and project developers; monitoring and evaluating performance; customer usage invoices; and, standardized business transactions and software.

Currently, most of the electric utilities, with the exception of Central Hudson, utilize secure spreadsheets in combination with either a web portal or secure email to exchange customer usage data with the Community DG hosts. The electric utilities' Community DG Procedural Requirements document, which includes the Data Exchange Protocols and, in some cases, the applicable forms, are located on each of their respective websites. Further details on an individual electric utility current data practices can be found in the Energy Usage Data Working Group's full report.

Acadia Micro (Acadia) proposed an alternative method of data transfer which uses a RESTful API (an application program interface which uses representational state transfer) for the transfer of data. Acadia stated that in order for the Commission to achieve the objectives of the Community DG program, the rules related to the exchange of customer data, including usage, should be scalable, secure, accessible, cost efficient, and uniform statewide.

CDG Customer (Subscriber) Working Group

Participants in the CDG Customer (Subscriber) Working Group discussed the benefits and drawbacks of a standardized customer contract or disclosure statement; standardized outreach and marketing material; customer acquisition and status verification; and, coordination with the ESCO Low Income Collaborative report.[9]

The Working Group identified a goal of ensuring that low-income customers understand Community DG contract terms and conditions. The Working Group reviewed best practices from other states, in particular Minnesota, which has an operating community solar program with robust consumer disclosures.[10] Community DG sponsors were concerned that standardized contracts would impose an "inappropriate limitation" on their ability to develop new products and limit development of this new business model.

The Working Group recommended that a standardized list of clauses and disclosures be utilized across contracts, and that Community DG project sponsors go through this information with customers via a brief term sheet (one to two pages) or checklist. The information, which includes subscription costs and terms, is detailed in the CDG Customer Working Group's report. The Working Group also stated that standard clauses on dispute resolution, through the project sponsor or the Commission, as well as information regarding HEFPA rights and protections should be included in all customer contracts. It also recommended specific protocols around customer consent to

[9] Case 12-M-0476, Retail Access, ESCO Low Income Collaborative Report (issued November 5, 2015).

[10] http://mncerts.org/csg-disclosure

disclose energy usage data as well as income status, with the goal of appropriately protecting personal information and ensuring customers know how their information will be used.

The Working Group also agreed that outreach and marketing is critical to facilitating low-income participation in Community DG, and that community-based organizations with existing ties to low-income customers are best positioned to reach them. Recommendations included: community information sessions organized by low-income advocates, elected officials, or community-based organizations; programs available through local municipalities; and, multilingual and multicultural marketing.

Incentives Working Group

The Incentives Working Group was tasked with the identification of barriers and recommendations of solutions to create incentives for facilitating low-income customer participation in Community DG. The Working Group focused on several topics raised by the Collaborative: reviewing NYSERDA incentives targeted to low-income customers; coordinating opportunities with NY Green Bank or other similar financial institutions; availability of grants and technical assistance for nonprofit developers or sponsors; setting a rate for eligible low-income participants; establishing specific reporting requirements; identifying the economies of scale; incentives frameworks in other states; and, treating regional variations in incentive levels.

The Working Group reviewed the incentives and programs provided through NYSERDA, including its September 29, 2015 Compliance Filing Regarding Unencumbered Customer-Sited Tier Renewable Portfolio Standard (RPS) Funds and Low to Moderate Income Program Update, which outlines strategies to increase low-income customer participation in its solar PV programs through the expenditure of $13 million allocated in the Commission's April 2014 NY-Sun Order.[11] The Commission recently approved an additional allocation of $234.5 million in the Clean Energy Fund to increase low-income solar participation through targeted activities in the next three years.[12]

The Working Group identified additional options that can contribute to the success of incentives, such as production tax credits and rebates; several NYSERDA initiatives, including the NY-Sun Affordable Solar Program and Green Jobs-Green New York; coordination opportunities with NY Green Bank and/or other financial institutions; grants and technical assistance for nonprofit developers or sponsors; setting a net metered rate for eligible low-income participants; establishing specific reporting requirements; developing a statewide Community DG program-wide participation goal; and, providing access across regions.

An additional concern identified by the Incentives Working Group was the potential for projects to be situated within low-income communities, but without serving those living within the community. While low-income communities have some positive impacts from Community DG projects located in their neighborhoods, it would be preferable if incentives were available to allow them to participate in the projects in proximity to their residences. The Incentives Working Group recommended that the primary goal, regardless of location of a Community DG project or incentive level, should be direct

---

[11] Case 03-E-0188, Retail Renewable Portfolio Standard, Order Authorizing Funding and Implementation of the Solar Photovoltaic MW Block Programs from 2016 through 2023 (issued and effective April 24, 2014).

[12] Case 14-M-0094,et al., Clean Energy Fund, Order Authorizing the Clean Energy Fund Framework (issued and effective January 21, 2016).

benefits to low-income customers, including energy cost bill savings.

Oversight Working Group

The Oversight Working Group was charged with exploring the definition of low-income customer as well as eligibility criteria; determining the application of consumer protections and HEFPA; discussing regulatory uncertainty; developing program reporting requirements; the customer consent process and protocols; and, coordinating with the DER Oversight Proceeding.

With respect to HEFPA, the Working Group identified certain sections which would generally be applicable. As noted by the Commission in the July 17 Order, Community DG project sponsors fall within the definition, at PSL §53, of an entity that "sells or facilitates the sale or furnishing of ... electricity to residential customers" and would therefore have to comply with HEFPA. However, the Commission also noted that only some HEFPA provisions are applicable to Community DG.

The Working Group identified that simply continuing the 20 percent per Community DG project goal for low-income customer participation into Phase Two with such customer eligibility based on utility discount programs was not an adequate solution. Research conducted by the Working Group, which was based on estimates of customer counts and is based on a number of facilitating assumptions, found that utility low-income programs currently serve less than a third of New York's low-income customers, largely driven by New York City. To address this, the Working Group identified three possible solutions, and supports one of those solutions that is centered on program goals and income verification.

The Working Group recommended that reporting on Community DG low-income penetration and efficacy should be provided annually, and possibly more frequently if a need is demonstrated. At a minimum, such a report should identify numbers of participating customers, and energy use of installed Community DGs regardless of fuel source (e.g., kWh or therms).

CONCLUSION AND NEXT STEPS

Since the Collaborative last met, the Commission has taken several actions that reinforce the serious issues surrounding this customer segment and that may provide additional avenues to support involvement in CDG by low-income customers. On May 20, 2016, the Commission adopted a regulatory framework for addressing low-income customer needs, and which increased funding for low-income discount programs approximately 87% to nearly $250 million.[13] In this Order the Commission adopted a policy that an energy burden at or below 6% of household income shall be the target level for all 2.3 million low-income households in New York. Additionally, on July 15, 2016, the Commission issued an Order Regarding the Provision of Service to Low-Income Customers by Energy Service Companies, which imposed a moratorium on energy service company (ESCO) service to low-income customers.[14] In this Order, the Commission emphasized the importance of ensuring the assistance program dollars achieve their intended effect of making low-income customer’s energy bills affordable, and not allowing these funds to be absorbed by other entities. This stresses the idea the a low-income customer enrolled in a CDG project should not be subject to additional costs that would mitigate the value of the

[13] Case 14-M-0565, Energy Affordability for Low Income Utility Customers, Order Adopting Low Income Program Modifications and Directing Utility Filings (issued May 22, 2016).

[14] Case 12-M-0476, Retail Access, Order Regarding the Provision of Service to Low-Income Customers by Energy Service Companies (issued July 15, 2016).

assistance already provided to make their energy needs affordable. Finally, on August 1, 2016, the Commission issued and Order Adopting a Clean Energy Standard that, among other things, provided for a continued obligation and opportunity for utilities to ensure that low-income customers have access to energy efficiency, DER, and other clean energy alternatives.[15]

Although, the Collaborative spent a great deal of time and effort investigating the barriers to low-income customer participation in CDG projects, workable solutions have not arisen that would overcome those barriers. Further, the Commission recognized in the REV Track One Order that there may be circumstances where there is not a developing market for DER projects and the public interest warrants utility investment.[16] One such example identified by the Commission is low or moderate income customers that can use DER to moderate their energy bills and take advantage of REV. Moreover, utility ownership of CDG and the issues surrounding low-income participation could be addressed in the context of REV demonstration projects.

In light of the recent Commission actions, Staff proposes that the Collaborative be suspended and that future Commission action on these issues be addressed in a Staff whitepaper. Staff will prepare a whitepaper that addresses, among other things, utility ownership of community distributed generation in order to ensure low-income CDG participation. Stakeholder comments will be solicited on the Staff whitepaper and the Commission will consider the whitepaper, the comments thereto, and the work of the Collaborative in its decision.

---

[15] Case 15-E-0302, Clean Energy Standard, Order Adopting a Clean Energy Standard (issued August 1, 2016).

[16] Case 14-M-0101, Reforming the Energy Vision, Order Adopting Regulatory Policy Framework and Implementation Plan (issued February 26, 2015).