



Susan Vercheak*
Assistant General Counsel

November 16, 2015

Honorable Kathleen H. Burgess
Secretary
New York State Public Service Commission
Three Empire State Plaza
Albany, NY 12223-1350

Re: Case 15-E-0407 – Petition for Rehearing and Clarification of Order Establishing
Interim Ceilings on the Interconnection of Net Metered Generation

Dear Secretary Burgess:

Enclosed is the Petition for Rehearing of Orange and Rockland Utilities, Inc., Consolidated Edison Company of New York, Inc., Central Hudson Gas & Electric, Niagara Mohawk Power Corporation d/b/a National Grid, New York State Electric & Gas Corporation, and Rochester Gas and Electric Corporation.

Thank you.

Respectfully submitted,

Susan Vercheak

Enclosure

cc: Leonard Van Ryn

*Admitted only in New Jersey

**STATE OF NEW YORK
PUBLIC SERVICE COMMISSION**

	X	
Petition for Rehearing and Clarification of	X	Case 15-E-0407
Order Establishing Interim Ceilings on the	X	
Interconnection of Net Metered Generation	X	
	X	

**PETITION OF ORANGE AND ROCKLAND UTILITIES, INC.,
CONSOLIDATED EDISON COMPANY OF NEW YORK, INC.,
CENTRAL HUDSON GAS & ELECTRIC, NIAGARA MOHAWK POWER
CORPORATION d/b/a NATIONAL GRID,
NEW YORK STATE ELECTRIC & GAS CORPORATION, AND
ROCHESTER GAS AND ELECTRIC CORPORATION FOR
REHEARING**

I. INTRODUCTION

Pursuant to Section 22 of the Public Service Law and 16 NYCRR Section 3.7, Orange and Rockland Utilities, Inc. (“O&R”), Consolidated Edison Company of New York, Inc., Central Hudson Gas & Electric Corporation, Niagara Mohawk Power Corporation d/b/a National Grid, New York State Electric & Gas Corporation, and Rochester Gas and Electric Corporation (collectively, the “Joint Utilities”) seek rehearing of the Public Service Commission’s (“PSC” or “Commission”) *Order Establishing Interim Ceilings on the Interconnection of Net Metered Generation* (“Order”).¹

For the reasons set forth below in more detail, the Commission should grant rehearing because the Order’s elimination of a net metering cap for an indefinite period of time lacked

¹ Case 15-E-0507, *Orange and Rockland Utilities, Inc. – Petition for Relief Regarding Its Obligation to Purchase Net Metered Generation under Public Service Law Sec.66-j*, (“O&R Net Metering Cap Proceeding”), Order Establishing Interim Ceilings on the Interconnection of Net Metered Generation (issued October 16, 2015)(“Order”).

adequate notice of its determination, not only for O&R, but also for the other electric distribution utilities in the State; the Commission failed to support its determination that allowing the cap to “float” is in the “public interest;” and the Order contravened the statutory requirement that limits the Commission’s role to increasing the “percent limits” of the net metering cap, not removing them. These actions constitute errors of fact and law such that rehearing is required.

Specifically, the Commission did not provide adequate notice of its intent to eliminate the net metering cap (which the Order characterizes as “floating the cap”), albeit on an interim basis, for all of the State’s electric distribution utilities in response to a compliance filing made by O&R, thereby denying interested parties, including the Joint Utilities, a reasonable opportunity to comment.² Further, apart from a cursory review of O&R’s projected impact if all pending applications for interconnection were permitted to net meter, the Commission, having neither directed nor reviewed any other analysis of the impact of its action, including any consideration of grandfathering, determined that it was in the “public interest” to eliminate the cap, not only as to O&R, but as to all utilities across the State. Finally, the statutory provision upon which the Commission relied for its action only authorizes raising the net metering cap, which means a cap must be in place, as opposed to the cap elimination that the Commission has instituted for an indefinite interim period.

Because of these errors, the Commission should grant rehearing, re-establish the pre-existing cap, and then publish clear notice for a proceeding to establish a new cap to be effective

² O&R made its filing, as directed by the Commission requirement that each utility is to notify the Commission when it nears its net metering purchase cap. Case 03-E-0188, *Proceeding on Motion of the Commission Regarding a Retail Renewable Portfolio Standard*, Order Authorizing Funding and Implementation of the Solar Photovoltaic MW Block Programs (issued April 24, 2014)(“April 2014 Order”), p. 23; Case 14-E-0151, *et al. – Petition of Hudson Valley Clean Energy, Inc. for an Increase to the Net Metering Minimum Limitation at Central Hudson Gas & Electric Corporate*, Order Raising Net Metering Minimum Caps, Requiring Tariff Revisions, Making Other Findings, and Establishing Further Proceedings (issued December 15, 2014) (“December 2014 Order”), at pp. 14-15.

during a newly-defined interim period.³ Any new cap should be based on, among other factors, analyses of the impact of net metering so that the Commission can consider reasonable steps to avoid adverse consequences to non-net metered customers, including undue cost shifting. Moreover, the interim period must necessarily have an end date in order to reasonably evaluate such impacts. And, to the extent O&R, or any other electric utility, accepts applications after the date the Order was issued, the Commission is compelled to fashion relief such that the utilities' non-net metered customers are not adversely affected to the extent the current cap is exceeded as a result of the Order. Further, the Joint Utilities request that the Commission clarify that such customers will be subject to the prospective tariff changes that result from the process during the interim period (*i.e.*, the current net metering rate will not constitute a minimum compensation rate for net metered customers following the conclusion of the interim period).

The Companies also encourage the Commission to act on this Petition expeditiously so as to place on notice net metering applicants that may be impacted by the Commission's consideration of this Petition.

II. BACKGROUND

As the Commission recently observed, the statutory net metering cap of one percent of each utility's 2005 peak load was in part "to limit the cost-shifting effects of net metering, *i.e.*, shifting lost utility revenue and some interconnection costs to non-net metered ratepayers."⁴ The legislature authorized the PSC to raise the net metering cap upon the determination that doing so

³ The Joint Utilities read the Order to say that application of the "value of D" is the Commission's solution to pricing net metering. While the Joint Utilities agree that evaluating the "value of D" should proceed in a thorough and focused manner, nothing in this Petition should be construed as the Joint Utilities, either individually or collectively, agreeing that the result reached is necessarily the solution to the cost shifts of net metering.

⁴ December 2014 Order, at p. 13.

is in the public interest.⁵ In directing its first increase from one to three percent in June 2013, the PSC recognized the benefits of net metered generation, but found that net metering can “add complexity and cost to maintaining and managing the utility’s distribution system.”⁶ The Commission also recognized that the costs of net metering, “including lost utility revenues and interconnection costs in excess of those permissibly recovered from generators under the statutes, are ultimately borne by non-net-metered rate payers.”⁷ Accordingly, the Commission found that net metering costs must be “balanced appropriately against the benefits” and based on an analysis by the New York State Department of Public Service Staff (“Staff”) approved the increase of the cap to three percent.⁸ The Commission refused to “ignore the possibility of potentially unacceptable impacts to customer rates or the distribution system itself if we were to increase the limits beyond 3%.”⁹

The PSC addressed the cap again in December 2014 and ordered its increase to six percent.¹⁰ In so ruling, the PSC concluded that, assuming all additional net metered capacity was solar energy, the cap increase might result in additional utility-wide average delivery impacts on the average delivery bill of one half of one percent to more than one percent if the six-percent caps were reached.¹¹ Looking ahead, the PSC stated that “rate impacts related to increases in solar generation need not be considered again until the 6% penetration level is reached.”¹²

In April 2014, the PSC directed the New York State Energy Research and Development Authority (“NYSERDA”) to conduct a thorough examination of net metering for use in the

⁵ PSL Sec.66-j(3)(b).

⁶ Cases 12-E-0485, *et al.* – *In the Matter of Net Metering Limitations in Consolidated Edison Company of New York, Inc.’s Service Territory Pursuant to Public Service Law Sec. 66-j and Sec. 66-l*, Order Raising Net Metering Limits (issued June 13, 2013)(“June 2013 Order), at p.6.

⁷ *Id.*

⁸ *Id.*, at pp. 6-7, 8.

⁹ *Id.*, at p.7.

¹⁰ December 2014 Order.

¹¹ *Id.*, at p.13.

¹² *Id.*

Reforming the Energy Vision (“REV”) proceeding.¹³ The PSC directed NYSERDA, with Staff, to “develop a schedule, scope of study and a draft report for public comment, as well as consult with the Joint Utilities and other stakeholders to develop an approach to the study and review draft findings.”¹⁴ The Joint Utilities have no information about the status of that effort and no such information and analysis, which was clearly contemplated by the Commission as important and necessary, was apparently considered as part of decisions made in the Order. In addition, as the Order acknowledges,¹⁵ in December 2014, the legislature directed the PSC to analyze the economic and environmental elements of net metering by December 2015.¹⁶

In addition to these reviews and increases to the net metering cap, proposed studies of net metering, and the various REV and REV-related proceedings with implications for net metering,¹⁷ the Commission has taken other actions to expand net metering. For example, in April 2015, the Commission established a transition plan for grandfathering customers in connection with the correction of an unanticipated loophole for rate arbitrage in remote net metering.¹⁸ On July 17, 2015, the Commission established a community net metering program that has the potential to significantly expand the impact of this Order.¹⁹ And most recently, on October 16, 2015, the Commission directed modifications to remote net metering tariffs to

¹³ April 2014 Order, at p.23, referring to .Case 14-M-0101– *Proceeding on Motion of the Commission with Regard to Reforming the Energy Vision*, Order Instituting Proceeding (issued April 25, 2014)(“REV Proceeding”).

¹⁴ April 2014 Order, at p.23.

¹⁵ Order, at p.8.

¹⁶ PSL Sec.66-n.

¹⁷ *See, e.g.*, REV Proceeding, Staff White Paper on Benefit-Cost Analysis in the Reforming the Energy Vision Proceeding (issued July 1, 2015).

¹⁸ Case 14-E-0151, *et al.* – *Hudson Valley Clean Energy, Inc. – Petition for an Increase to the Net Metering Minimum Limitation at Central Hudson Gas & Electric Corporation*, Order Granting Rehearing in Part, Establishing Transition Plan, and Making Other Findings (issued April 17, 2015)(“April 2015 Order”).

¹⁹ 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 Generate Program and Making Other Findings (issued July 17, 2015)(“CDG Order”).

eliminate the limitations that a satellite account could not have on-site net metered generation and that a satellite could only receive remote net-metering credits from a single host.²⁰

III. O&R'S FILING AND THE ORDER

On July 13, 2015, pursuant to the PSC's directives that utilities advise the PSC when nearing their net metering cap while continuing to interconnect net metered customers,²¹ and consistent with a similar filing by Central Hudson in 2014,²² O&R submitted a letter notifying the Commission ("Notification")²³ that, based on installed generation capacity and pending applications, the cap of six percent for net metered generation (*i.e.*, 62 MW) would be exceeded in the near future.²⁴ Among other points, O&R stated that it would "*continue accepting interconnection applications from customers*" but would notify customers that rate treatment would be subject to the Commission's decision.²⁵ O&R did not in any way suggest that it would not interconnect these customers.²⁶

O&R provided the details of its current and pending applications that formed the basis of its Notification that it would exceed its cap of 62 MW.²⁷ As provided in the Notification, as of July 1, 2015, O&R had a combined interconnected generation capacity of 22.6 MW with pending applications for an additional 79.3 MW.²⁸ This dramatic increase was the result of O&R receiving 27 new applications, each for 2 MW, during May 2015, in part related to the Commission's April 2015 setting of grandfathering qualifications for remote net-metered

²⁰ Case 15-E-0267, *Proceeding on Motion of the Commission as to Multiple Generation Facilities at Host and Satellite Locations under Remote Net Metering Tariffs*, Order Directing Modifications to Remote Net Metering Tariffs and Making Other Findings (issued and effective October 16, 2015).

²¹ See note 2, *supra*.

²² December 2014 Order, at p.2.

²³ O&R Net Metering Proceeding, Letter (dated July 13, 2015)("Notification").

²⁴ *Id.*, at p.[1].

²⁵ *Id.* (emphasis added). The Order makes the factual error that O&R planned to cease interconnections for net metered customers upon reaching the cap. To the contrary, as quoted above, O&R specifically stated its intent to continue accepting interconnection applications.

²⁶ *Id. rate*

²⁷ Order, at p.2.

²⁸ *Id.*

customers.²⁹ Information was provided to the PSC as to possible impacts on O&R's customers, including its non-net-metered customers, for a single year and without projections as to further increases of net metering on O&R's system as a result of this Order and other recent Commission pronouncements.³⁰

The Commission apparently decided to treat O&R's Notification as a petition and caused a State Administrative Procedure Act ("SAPA") notice ("Notice") to be published in the New York State Register.³¹ The Notice stated the rule's purpose was to "[c]onsider relief regarding the amount of net metered generation capacity utilities must interconnect."³²

As discussed *infra*, the Notice first failed to generate the type of response typical to a Commission or SAPA notice indicating that the Commission was considering a generic change to a major, and controversial, policy. Next, the Commission reached its decision to change its net metering policy *for all utilities*, not based upon any independent analysis, but by simply rejecting O&R's projected impact associated with pending applications as "relatively minor" and failing to account for the benefits of net metered generation,³³ and stating that increases to net metering could not await resolution of REV³⁴ and a "transition from net metering to a more accurate means of pricing and recognizing the value of DER. . . is expected in REV."³⁵ While noting the long-term nature of that effort, the Commission stated that there is "sufficient time to develop and adopt more precise interim methods of valuing DER benefits and costs, as well as the design of appropriate rates and a valuation mechanism, before December 31, 2016,"³⁶ but without mandating that the interim period will not extend beyond December 31, 2016. The

²⁹ April 2015 Order.

³⁰ Order, at p.5.

³¹ Notice of Proposed Rule Making, NYS Register, August 5, 2015 (I.D. No. PSC-31-15-00009-P).

³² *Id.*

³³ Order., at pp.11-12.

³⁴ *Id.*, at p.7.

³⁵ *Id.*, at pp.8-9.

³⁶ *Id.*, at p.9.

Order thereby acknowledges that the interim period during which the cap may float could last more than 14 months, and with no estimated time frame for completing the “long-term” effort during which the new “interim method” would be in place for some or all net-metered customers.

Pending completion of the determination of net metering pricing during the interim period, the Commission stated that “net metering must continue, to avoid the disruption of DG development efforts that would contravene the State’s energy policies.”³⁷ Stating that “rather than engaging in another effort to arrive at the proper level of the ceiling,” the Commission ordered utilities to interconnect net metered generation without “an artificially set ceiling level.”³⁸ The Commission observed that the interim period for the “floating” ceiling will “close at the level that accommodates the acquisition of the net metered generation necessary to smooth the transition to the implementation of the valuation of [distributed energy resources] DER. . .”³⁹ The Commission found that what it viewed as “the sufficiently short” nature of the interim period will limit any “adverse impacts” of net metering, including “adverse ratepayer impacts.”⁴⁰ Thus, the Commission determined that “[f]loating the ceilings as an interim measure serves the public interest.”⁴¹ The Order does not refer to any analysis of current, expected, or long-term net-metering impacts that were conducted to support the Order’s conclusions or justify the Order’s determinations, including no analysis of the additional net metering that may result from the Order’s “floating the cap” and other recent Commission actions to expand net-metering opportunities.⁴²

³⁷ *Id.*, at p.10.

³⁸ *Id.*

³⁹ *Id.*

⁴⁰ *Id.*, at pp. 10-11.

⁴¹ *Id.*, at p.11.

IV. THE ORDER ELIMINATES THE NET METERING CAP FOR AN INDEFINITE PERIOD WITHOUT ADEQUATE NOTICE AND IN VIOLATION OF STATUTORY REQUIREMENTS.

Characterizing the Notification as a Petition, the Commission caused a SAPA notice to be published in the New York State Register. The Notice was procedurally defective in failing to notify the public of the Commission's intended action.⁴³ Specifically, there was no reasonable basis to assume that a request for comments on a compliance filing made by a single utility would be the basis for the Commission implementing a new generic policy with respect to net metering, especially considering the manner in which the Commission had properly noticed and duly considered its intended action to increase the net metering cap on two prior occasions. The Notice's statement that the Commission might "adopt, reject, or modify, in whole or in part, the relief proposed, may resolve related matters, and may extend relief, in whole or in part or as modified or related, to other electric utilities" is so broad as to provide no meaningful insight into the possible outcome and should not be considered adequate or meaningful notice. Thus, there was no reasonable opportunity for O&R, other utilities, or other interested parties to comment because the Notice did not state or reasonably indicate that the Commission was considering "floating" (*i.e.*, eliminating) the cap, for O&R and all other utilities, for an indefinite interim period. That this was inadequate notice for such a significant action is further demonstrated by the virtual absence of filed comments. Typically net metering proceedings draw extensive comments from stakeholders. For example, when the Commission recently increased the cap to six percent, comments were submitted by 37 stakeholders. In contrast, the Notice drew only two comments.⁴⁴

⁴³ *E.g.*, see Order, Dissent of Commissioner Diane X. Burman, pp. 1-2.

⁴⁴ Solar Energy Industries Association and SolarCity Corporation filed comments. Neither addressed the concept of elimination of the cap or of a "floating" cap.

The Order properly points to the authority accorded the Commission by the legislature to address the net metering cap.⁴⁵ PSL Sec.66-j(3)(b) states: “The Commission shall have the authority, after January first, two thousand twelve, to increase the percent limits if it determines that additional net energy metering is in the public interest.” However, PSL Sec.66-j(3)(b) only permits the Commission to raise the “percent limit” of the net metering cap. With this language, the legislature circumscribed the Commission’s ability to change the cap to an *increase* of the limits and not to completely remove the limits. Although the Commission characterizes its action as a “floating” cap, as discussed below, this nomenclature does not change the fact that the actual and practical import of the Order is that there is no cap at all during the interim period and the Commission thereby exceeded the statutory constraint.

Consistent with this statutory language, in the prior instances where the Commission decided to raise the ceiling to another, higher *fixed* numerical percentage limit pursuant to PSL Sec.66-j(3)(b), Staff performed, and the Commission relied upon, an analysis of the effect of a potential increase in net metering caps as the basis to find that the change was in the public interest. Here, however, the Order attempts to justify eliminating the cap by characterizing O&R’s projection as “reasonably consistent” with prior analyses so as to support the Commission’s conclusion that rate impacts are “relatively minor,” particularly because “O&R has not attempted to value benefits that could be offset against the costs it posits.”⁴⁶ However, this conclusion drawn by the Commission does not constitute a reasonable basis for its action.

First, there was no reasonable basis for the Commission to conclude that the impacts are relatively minor by alluding to benefits that presumably offset these bill impacts without any attempt to quantify such benefits, and which benefits the Order itself acknowledges will be

⁴⁵ Order, at p.4.

⁴⁶ *Id.*, at p.12.

challenging to identify and quantify.⁴⁷ Second, there was no basis at all for the Commission to conclude that eliminating the cap for an indefinite period would be “relatively minor” for all other utilities in the State based on O&R’s projection.⁴⁸ Third, O&R’s projection was simply a short-term view of the impact of the potential net metering already interconnected or in the application phase, which did not, and could not reasonably consider the impacts of the Order and other Commission actions to expand net metering.

Accordingly, the Order fails to address the potential harm to non-net-metered customers of any utility of eliminating the cap for an indefinite period of time, especially in an environment where new and untested means of applying net metering (*i.e.*, community DG projects) are being made available that, by the Commission’s own acknowledgement, “may induce a substantial number of additional applications” for net metering.⁴⁹ The benefits are asserted based solely on the view that net metering promotes State energy goals that override and/or justify ignoring adverse impacts on non-net-metered customers. As noted above, the statute requires that the cap may be raised upon a demonstration that competing interests have been considered based on analysis to warrant a finding that “additional net energy metering is in the public interest.” Mere assertions that increases in net metering are in the public interest, without any attempt to identify, let alone quantify, such benefits so as to reasonably find net benefits as a result of such action, do not satisfy the statutory requirement to determine the cost-shifting effects of increased net metering and do not adequately address the needs of all customers in the State.

While studies on the benefits and costs of net metering are “underway,”⁵⁰ the completion of those studies and an analysis of the results should necessarily have preceded any

⁴⁷ *Id.*, at p. 14.

⁴⁸ It is emphasized that O&R’s descriptions and analysis reflected its own experience, not that of the other utilities.

⁴⁹ CDG Order, at p. 35.

⁵⁰ Order, at p. 8.

determination to further increase the net-metering cap, much less allow unlimited net metering for any period. Indeed, less than a year ago, as noted above, the Commission specifically observed that such a review would be part of the consideration for raising the cap above six percent.⁵¹

In addressing this issue, any statutory provisions with respect to the rates, terms, and conditions of net metering are only required for the projects installed under the statutorily-set caps. PSL Sec.66-j(3)(a)(iii) required the Commission’s approval of a model contract with a schedule establishing reasonable rates, terms, and conditions consistent with PSL Sec. 66-j. The statute further directs that electric utilities make that contract available to customer-generators “on a first come, first served basis *until* the total rated generating capacity for solar and farm waste electric generating equipment, micro-combined heat and power generating equipment, fuel cell electric generating equipment and micro-hydroelectric generating equipment owned, leased or operated by customer-generators in the [electric] corporation’s service area is equivalent to one percent of the corporation’s electric demand for the year two thousand five, as determined by the department.”⁵²

Thereafter, the statute authorizes the Commission to increase the foregoing net metering limits while also duly considering what constitutes reasonable terms and conditions for such increases.⁵³ In other words, impliedly recognizing the cost-shifting elements of net metering, the legislature designed a structure that applied only “until” net-metered capacity reached the cap.⁵⁴ While authorizing the Commission to extend net metering, the legislature limited application of the mandatory structure of its program. Thus, after expanding the cap above the statutory limit,

⁵¹ December 2014 Order, at p. 13.

⁵² PSL Sec.66-j(a)(iii)(emphasis added).

⁵³ PSL Sec.66-j(b).

⁵⁴ PSL Sec.66-j(3)(a)(iii) and Sec.66-l(3)(iii).

the Commission is not compelled to replicate statutory requirements for net metering and should make appropriate adjustments to net metering provisions in excess of the statutory cap.

The Order calls for instituting a process to develop an “interim” method of evaluating DER benefits with rate design and valuation mechanisms, which process is expected, but not required, to conclude by December 31, 2016. Thus, the Commission has effectively established an indefinite interim period. The lack of a defined interim period further underscores that there is no reasonable basis for determining the potential impact of raising the cap during an interim period on non-net-metered customers.⁵⁵ While the Joint Utilities agree with the Commission’s support of clean energy goals, as noted above, the Commission has recognized that the cost-shifting impact of net metering is a critical issue.⁵⁶ The revenue impacts of the Order could be significant, because the number of new customers that will be drawn to this window, and the economic impact thereof, are unknown. Similar to the spike in net-metering applications in the wake of the grandfathering rules for remote net metered customers and the anticipated increased in applications as a result of the new Community DG program, the Order will likely have the effect of encouraging a rush and heightened demand of net metering applications by customers anxious to secure benefits during this new window. Accordingly, the Commission cannot reasonably ignore its own acknowledgment of the importance of the potential cost impact by its action to “float the cap” for an indefinite interim period without any analysis of what must be expected to be a surge in net metering.

This cost impact is further exacerbated by the Commission’s silence with respect to any grandfathered status for these customers. Thus, the Joint Utilities respectfully request that the

⁵⁵ Whenever that period ends, the Order appears to envision another, “long-term” period during which an approach based on the Value of D will be fully implemented.

⁵⁶ June 2013 Order, at p.6. *See also* REV Proceeding, Order Adopting Regulatory Policy Framework and Implementation Plan (issued February 26, 2015), at p.128.

Commission clarify that the rate available to net-metered generation during this “interim” period, whatever that may be as a result of this rehearing, will not constitute a *minimum compensation rate* for net-metered customers following the conclusion of the interim period, when new DER valuation rates are in effect.

The requested clarification regarding the post-interim period is particularly critical in light of both the Order’s silence on this issue and the colloquy during public consideration of this matter among the commissioners that may be reasonably interpreted to indicate that net-metered customers covered by the Order could rely on current net metering pricing as a “permanent” floor rate. While there is customarily an expectation that rates and tariffs are subject to change prospectively, the Commission’s public discussion and adoption of expansive grandfathering protections for remote net-metered customers in a different proceeding⁵⁷ heightens concern over the long-term impact of this Order, for which there is no analysis whatsoever.⁵⁸

For these reasons, the Companies seek rehearing of the Order on the grounds that the Joint Utilities were improperly denied the opportunity or ability to comment upon the Commission’s elimination of the cap. The Commission should therefore grant rehearing of the Order, establish the pre-existing cap, and properly re-notice its proposed action to provide an effective opportunity for interested parties to submit comments on the proposed action, whether the proposed change to the cap, the period of time during which the new cap would apply, the pricing or pricing “rules” that would govern net metering during the interim period and thereafter, and the basis or bases upon which the Commission believes such action is in the public interest.

⁵⁷ See note 18, *supra*.

⁵⁸ For example, should net metering continue to increase at its current rate in O&R’s service territory, any subsequent action to establish new rates that do not apply to existing net-metered customers will be too late to address the undue and excessive cost-shift borne by O&R’s non-net-metered customers, and, considering the generic nature of the Order, the non-net-metered customers of the Joint Utilities.

IV. CONCLUSION

For the reasons stated above, the Joint Utilities respectfully request that the Commission grant rehearing and clarification of the decision to eliminate the net metering cap and implement the relief requested herein.

Dated: November 16, 2015

**ORANGE AND ROCKLAND UTILITIES, INC.
and CONSOLIDATED EDISON COMPANY
OF NEW YORK, INC.**

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