

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on October 18, 2012

COMMISSIONERS PRESENT:

Garry A. Brown, Chairman
Patricia L. Acampora
Maureen F. Harris
James L. Larocca
Gregg C. Sayre

CASE 12-E-0343 - Petition of Hudson Valley Clean Energy, Inc. to
Increase Central Hudson Gas & Electric
Corporation's Net Metering Limit.

ORDER RAISING
NET METERING LIMIT

(Issued and Effective October 22, 2012)

BY THE COMMISSION:

INTRODUCTION

By petition filed July 20, 2012, Hudson Valley Clean Energy, Inc. (HVCE) requests that the minimum net metering limitation¹ for solar and other net-metered technologies be increased to 36 MW in Central Hudson Gas & Electric Corporation's (Central Hudson) service territory. According to the petition, Central Hudson had previously indicated that it

¹ The petitioner and many commenters refer to the statutory minimum net metering requirement for each relevant service territory (1% of peak the utility's electrical demand for 2005) as a limit or ceiling. To the extent a utility has included the 1% limit in their tariffs as a hard limit for net metering capacity, those terms are accurate. However, the statute establishes the 1% as a minimum capacity that must be offered net metering and provides both the utilities and the Public Service Commission discretion to exceed that minimum limitation. Therefore, for purposes of this order the limitation will be referred to as a "minimum" rather than a cap or ceiling.

would reach the minimum net-metering requirement contained in Public Service Law (PSL) §66-j (equivalent to 12 MW in Central Hudson's service territory) and would suspend acceptance of new net-metering applications.² In order to avoid the unnecessary suspension of net-metering, we will raise the minimum limitation in Central Hudson's service territory to 3% of peak electrical demand for 2005 (36 MW) pursuant to Public Service Law §66-j(3)(a)(iii).³ The increase will make available sufficient net metering to accommodate the anticipated contribution from Central Hudson's service territory toward the statewide solar photovoltaic (PV) installation goals of the NY-Sun Initiative, which are currently incorporated into the Commission's Renewable Portfolio Standard (RPS),⁴ as well as, the anticipated demand for net metering related to other eligible technologies.

Additionally, in order to ensure sufficient net metering availability to accommodate statewide NY-Sun and RPS program goals and other anticipated net metered installations, we will issue a notice in the near future that will call for a review of the net metering limitations of other major utilities to determine if adjustments are warranted and in the public

² On August 3, 2012, Central Hudson advised net metering developers operating in its service territory that all new net metering applications received prior to a decision in this proceeding would be evaluated in the same manner as it did before it gave notice that it was approaching its 1% minimum requirement.

³ PSL §66-j technologies include solar photovoltaic (PV), farm waste, micro-hydroelectric, micro-combined heat and power, and fuel cells, while PSL §66-l addresses wind generators. Currently, installed wind capacity eligible for net metering under PSL §66-l(3)(a)(iii) is significantly below the statutory minimum limitation and we will not address that limit at this time.

⁴ See 03-E-0188, supra, Order Authorizing the Expansion of the Solar Photovoltaic and Geographic Balance Programs From 2012 Through 2015 and the Reallocation of Main-Tier Unencumbered Funds, pp. 13-14.

interest.⁵ Lastly, we will require staff to provide recommendations for improving access to information to better inform the Commission and the public on the status of net metered facilities in each service territory. This will be accomplished as part of the upcoming revisions to our Standardized Interconnection Requirements in Case 12-E-0393, which is expected to be addressed in the next several months.⁶

BACKGROUND

Electric utility customers installing certain generation technologies rated at or below specified capacity limits may obtain net metering under Public Service Law (PSL) §66-j and PSL §66-l. The statutes require electric utilities to provide net metering until statutory minimums - based on the total rated generating capacity of net-metered customer generators - are met. The statutory minimums are 1% of the electric corporation's peak electric demand for the year 2005 under §66-j(3)(a)(iii) and 0.3% of 2005 peak demand under PSL §66-l(3)(a)(iii). The statutes allow for electric corporations to provide net metering to additional customer generators beyond the minimum required by the statute. Further, the Commission has the authority, after January 12, 2012, to increase the percent limits, if it determines such increases are in the public interest.

⁵ This notice will be issued pursuant to State Administrative Procedure Act (SAPA) and after consideration of timely comments submitted pursuant to such notice, we will determine a proper course of action.

⁶ See Case 12-E-0393 et al. Tariff filings to Effectuate Amendments to Public Service Law Section 66-j (Remote Net Energy Metering for Micro-Hydro Electric Generation systems) and Conforming and Reforming Changes to Standardized Interconnection Requirements.

HVCE's Petition

According to HVCE, on July 19, 2012, Central Hudson informed renewable energy developers/installers working in its service territory that it had reached its 1% net metering minimum under PSL §66-j (12 MW in Central Hudson's service territory) and was suspending new net metering applications. On July 20, 2012, HVCE filed its petition requesting that the Commission increase the net metering minimum to 36 MW. HVCE also requested that the Commission immediately instruct Central Hudson to end the program suspension and continue accepting and processing additional applications.

HVCE indicates that unless the minimum is raised sufficiently, the NY-Sun Initiative,⁷ established under Governor Cuomo and reflected in the Commission's Renewable Portfolio Standard,⁸ cannot be successful. HVCE states that without a reasonable level of regulatory certainty regarding the availability of net metering, private sector investment will be hampered and suggests that an increase to only 20 MW would provide insufficient certainty. HVCE also indicates that even a temporary interruption or slowdown of the regional solar PV installation market related to net-metering limitations would have a long-term negative effect and result in job losses.

NOTICE OF PROPOSED RULEMAKING

A Notice of Proposed Rulemaking (Notice) concerning HVCE's petition was published in the State Register on August

⁷ See The New NY Works for Green Jobs, "The NY-Sun Initiative" available at <http://ny-sun.ny.gov/>.

⁸ See Case 03-E-0188, Renewable Portfolio Standard, Order Authorizing the Expansion of the Solar Photovoltaic and Geographic Balance Programs From 2012 Through 2015 and the Reallocation of Main-Tier Unencumbered Funds (issued April 24, 2012).

15, 2012[12-E-0343SP1]. The minimum period for the receipt of public comments pursuant to the State Administrative Procedure Act (SAPA) regarding that Notice expired on October 1, 2012. Comments were received from 36 commenters who are listed individually in the attached Appendix. Their comments are summarized below.

SUMMARY OF PUBLIC COMMENTS

All of the commenters support HVCE's petition for an increase in the required minimum for net metering in Central Hudson's service territory. The commenters also agree that an interruption in the availability of net metering will have a significant negative impact on the markets for solar and other clean energy technology.

Individual commenters state that the incentive provided by net metering should be available to those willing to invest in clean energy systems. The commenters support their positions by pointing to the benefits provided by such generation to other utility customers in the form of reduced stress on the distribution system and to the general public in the form of reduced pollution. Many of the individual commenters, including Anthony and Gayle Robinson and Karl Schintone suggest increasing the minimum net-metering limit to at least 5%, the standard they indicate is employed in California. Some individual commenters, including Jodiah Jacobs, suggest eliminating any limitation on the availability of net metering. Further, some of the individual commenters cited the creation of jobs and other economic benefits as attributable to net metering.

The businesses and other organizations submitting comments agree that net metering provides economic development benefits and that an interruption in the market would have long

term negative consequences. Many also state that the Commission should review the net metering minimum limitations in all the electric utility service territories. Suggestions also include raising the minimum to 5% or eliminating any limitation to net metering availability.

Scenic Hudson suggests a Commission review of net metering as a whole. The Alliance for Clean Energy New York (ACENY) suggests a use for the New York State Energy Research and Development Authority (NYSERDA) as a source of information on the number of installations and total number of megawatts expected given the role of net metering in the customer-sited tier of the RPS.

NYSERDA agrees with other commenters that an increase to the net metering limit of 3% of 2005 peak load statewide will avoid unnecessary disruptions. Finally, NYSERDA notes its appreciation of Central Hudson's cooperation in limiting the disruption to the industry by resuming the acceptance of net metering applications pending a response to HVCE's petition.

United States Senator Charles Schumer states that if New York is to continue to lead in solar technology jobs and innovation, the minimum net metering limitation must be raised in Central Hudson's service territory and that the Commission should review the minimum limitations statewide. New York Senator George D. Maziarz (62nd District) states that the legislative intent of the net metering statutes and previous amendments was to increase net metering. Citing environmental and economic benefits related to net-metering, Senator Maziarz urges an increase to the net metering minimum in Central Hudson's service territory. New York Senator John Bonacic (42nd District) forwarded a constituent's email which indicated the constituent's plans to install a solar PV system were on hold due to Central Hudson's suspension announcement. Senator

Bonacic also makes his own request for a review of the net metering minimums.

DISCUSSION

Minimum Net Metering Limitations

As noted by many of the commenters, the incentive provided by net metering plays an important role in the State's policy of promoting renewable energy generation and the RPS Customer Sited Tier. Further, we recently expanded customer-sited solar PV through an additional \$216 million of funding for such programs.⁹ These increases were intended to support significant progress toward the State's achievement of the NY-Sun Initiative as announced by Governor Andrew Cuomo in his 2012 State of the State message.¹⁰ Preventing additional net metering in Central Hudson's service territory, by failing to raise the net metering minimum would frustrate the policies and public interest served by those programs.

Although net metering is an important tool in promoting State energy policy, it can add complexity and cost to maintaining and managing the utilities' distribution systems. These costs must be balanced appropriately against the benefits provided by net metering in terms of promoting renewable energy and the State's energy policies in general. A high-level analysis of tripling the minimum net metering limitation in Central Hudson's territory projects only extremely minor rate

⁹ See 03-E-0188, supra, Order Authorizing the Expansion of the Solar Photovoltaic and Geographic Balance Programs From 2012 Through 2015 and the Reallocation of Main-Tier Unencumbered Funds, pp. 13-14.

¹⁰ [Http://www.governor.ny.gov/assets/documents/Building-a-New-New-York-Book.pdf](http://www.governor.ny.gov/assets/documents/Building-a-New-New-York-Book.pdf), at pp. 13-14. The goals of NY-Sun are to install in 2012 twice the customer-sited solar capacity that was installed during 2011, and to quadruple the number of 2011 installations by 2013.

impacts (between 0.08% to 0.16%). Given the limited expected impact to rates and the benefits discussed above, we conclude that an increase in the minimum net metering limitation in Central Hudson's territory is in the public interest.

Although the rate impacts are expected to be small, they will not be zero. Further, as net metering increases as a percentage of total load, the potential for unexpected costs and complexity will increase. Therefore, rather than remove all limitations on net metering as suggested by some commenters, we will increase the minimum in Central Hudson's service territory to 3% of 2005 peak load.

This increase will serve the public interest by ensuring sufficient availability to accommodate the projected increase in solar PV installation related to the NY-Sun Initiative and the RPS Customer Sited Tier, in addition to the projected installation of other eligible net metered technologies in Central Hudson's service territory. Moreover, the increase is not expected to have a significant impact on rates and should also sufficiently reassure the clean energy renewable market.

As mentioned above, we will also issue a notice in the near future to examine the minimum limitations in other utility service territories. In that regard, we will assess whether or not there is adequate net metering availability, in each respective service territory, to accommodate expected NY-Sun and RPS program goals and other anticipated net metering eligible capacity installations.¹¹

¹¹ The notice will be issued pursuant to State Administrative Procedure Act (SAPA) and after consideration of timely comments submitted pursuant to such notice, we will determine a proper course of action regarding other net-metering limitations.

Reporting Available Net-Metering Capacity

Many commenters suggested various reporting requirements for better informing the Commission and the public concerning available net-metering capacity. Generally speaking, an increase in the amount and accessibility of information could improve planning, market stability and policy implementation and we support the concept.

Currently, we require the utilities to file information on current interconnections every six months. However, as highlighted by the numerous comments requesting additional information, more can be done. We therefore direct staff to provide recommendations, in consultation with NYSERDA, the utilities, and distributed generation stakeholders, for improving access to information to better inform the Commission and the public on the status of net metered facilities in each service territory. This will be accomplished as part of the upcoming revisions to our Standard Interconnection Requirements in Case 12-E-0393, et al, which is expected to be addressed in the next several months.¹²

The Commission orders:

1. The petition of Hudson Valley Clean Energy, Inc, is granted to the extent discussed in the body of this Order.
2. Central Hudson Gas and Electric Corporation is directed to file under this case number, on not less than 3 days notice to take effect no later than November 1, 2012, such

¹² Case 12-E-0393, et al. Tariff filings to Effectuate Amendments to Public Service Law Section 66-j (Remote Net Energy Metering for Micro-Hydro Electric Generating Systems) and Conforming and Reforming Changes to Standardized Interconnection Requirements.

tariff amendments as are necessary to increase to 3% of 2005 peak load, the minimum limitation for the net metering under Public Service Law §66-j as described in the body of this Order. The requirement of Public Service Law §66(129b) as to newspaper publication of the tariff amendment is waived.

3. Staff shall submit its recommendations, in consultation with NYSERDA, the utilities and distributed generation stakeholders, for improving access to information to better inform the Commission and the public on the status of net metered facilities in each service territory as part of the proceeding to update the Standardized Interconnection Requirements as noted above.

4. The Secretary may extend the deadlines set forth in this order.

5. Upon compliance with Ordering Clause 2, this case is closed.

By the Commission,

(SIGNED)

JACLYN A. BRILLING
Secretary

LIST OF COMMENTERS

Bob Mecoy
Anthony Robinson
Gayle Robinson
Thomas Wanning
Jodiah Jacobs
Peter McMahon
Lee Hoyt
Elise Pattison
Heinz and Klara Sauer
Joseph Vendetti
Karl Schintone
Mazzman429@hotmail.com
Christopher Quimby
The Alliance for Clean Energy
New York Solar Energy Society
The Vote Solar Initiative
Renewable Rochester
Solar Energy Industries Association
Environmental Advocates of New York
Mountaintop Greene Clean Energy
N.Y. State Senator George D. Maziarz, 62nd District, Chairman,
Committee on Energy and Telecommunications
Lifebridge Foundation
GreenLogic Energy
Lotus Energy
SOLARgeneration, Inc.
Vanguard Energy
U.S. Senator Charles E. Schumer
Cary Institute Of Ecosystem Studies
Terry Gipson, Candidate for New York Senate, 41st District
SunPower
N.Y. State Senator Stephen Saland, 41st District, Assistant
Minority Whip
Town of Woodstock (Woodstock)
N.Y. State Senator John Bonacic, 42nd District, Chairman,
Committees on Judiciary and Racing, Gaming and Wagering
UTC Power
NYSERDA
Scenic Hudson