STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on May 16, 2013

COMMISSIONERS PRESENT:

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

CASE 13-E-0150 - Cornell University - Petition for a Declaratory Ruling Concerning New York State Electric & Gas Corporation's Remote Net Metering Tariff.

DECLARATORY RULING ON MINIMUM LOAD REQUIREMENTS FOR REMOTE NET METERING

(Issued and Effective May 16, 2013)

BY THE COMMISSION:

BACKGROUND

In a petition filed on March 28, 2013, Cornell University (Cornell) requests issuance of a Declaratory Ruling deciding that it may remote net meter an approximately 1.9 MW photovoltaic (PV) solar generation facility at an existing meter billed by New York State Electric & Gas Corporation (NYSEG) under its Service Classification (S.C.) 6. Through remote net metering,[1] a customer may use net metering credits earned at a host site to offset bills it incurs at satellite meters in its

[1] See Case 11-E-0318, et al., Central Hudson Gas & Electric Corporation, et al., Order Modifying and Authorizing Remote Net Metering Tariffs, Modifying Standardized Interconnection Requirements, and Requiring Micro-Hydroelectric and Fuel Cell Tariff Filings (issued November 21, 2011)(Remote Net Metering Order).

name located at other sites. According to Cornell, NYSEG has informed it that the existing load at its meter is insufficient to justify remote net metering of a facility of the size Cornell proposes.

Pursuant to a Notice Establishing Comment Procedures issued April 5, 2013 in this proceeding, the 21-day period prescribed under the Rules of Procedure, 16 NYCRR §8.2(c), for responding to a petition for a declaratory ruling, was extended to April 23, 2013. Moreover, because of the significance of the issue Cornell raises, the Notice was served to a broader audience. Comments in response to the Notice were received from NYSEG, Alliance For Clean Energy New York, Inc. (ACE), Black Oak Wind Farm LLC (Black Oak), BQ Energy LLC (BQE), the Distributed Wind Energy Association (DWEA), Environmental Advocates of New York (EANY), Hudson Solar LLC (Hudson), Sustainable Energy Developments, Inc. (SED), Sun Edison LLC (Sun) and the Vote Solar Initiative, the Solar Energy Industries Association and the PACE Energy and Climate Center (VSEIA). Besides the submissions of these commentators, a number of informal comments in support of the petition were received via e-mail.

POSITIONS OF THE PARTIES

Cornell's Petition

According to Cornell, under Public Service Law (PSL) §66-j(3)(e) and NYSEG's tariff provisions establishing the requirements for remote net metering, a customer need not demonstrate a minimum level of load exists at a meter in order to designate that meter as the host meter in a remote net metering arrangement. Cornell also asserts that remote net metering credits at such a meter must be calculated in accordance with NYSEG's existing service classification there, which, in this case, is S.C. 6.

Detailing the history of demand and usage at its meter, which is located on approximately 7 acres of property it owns adjacent to Snyder Road in Lansing, New York, Cornell states that NYSEG first installed the meter approximately 8 years ago. At that time, it measured electricity consumed by contractors' trailers brought to the Snyder Road location to facilitate Cornell's construction of a radiation disposal site (RDS) there.

During construction of the RDS, Cornell elaborates, usage at the Snyder Road meter averaged approximately 328 kWh per month. Once construction ceased, Cornell reports, little or no electricity was used at the site for several years, albeit it continued to pay the basic service charge needed to maintain service at the meter in anticipation of future needs.

In March 2013, Cornell relates, it installed a security lighting fixture at the Snyder Road meter in order to prepare for resuming work at the site. Cornell adds that it plans to connect to the meter an electrically-driven pump that will replace an existing pneumatically-driven pump at a groundwater monitoring well located on the RDS site. Together, it anticipates these two loads will total about .36 kW, and consume about .6 kWh per month. In addition, if it were to proceed with installation of the solar facility, Cornell estimates it would draw a demand of no more than .5 kW at night, when the facility does not operate.

Cornell complains that, if it cannot designate the Snyder Road meter as the host remote net meter for its proposed PV facility, with credits developed at the S.C. 6 rate, the facility will not be economically viable. The nearest meter billed to it other than the Snyder Road meter, Cornell explains, is located 2,500 feet away and is billed at a rate that would generate fewer credits than S.C. 6. Cornell claims that the

added cost of interconnecting at that meter over that distance, and the loss of revenue because of the lesser credit, do not permit it to economically develop the proposed PV facility site using the other meter.

According to Cornell, neither PSL §66-j(3)(e) nor NYSEG's tariffs authorize the utility to insist upon a minimum level of electricity demand or usage at a meter before a customer may designate that meter as a host meter for remote net metering purposes. Paragraph 3(e) of §66-j, Cornell emphasizes, allows remote net metering at any net energy meter located on property owned or leased by a customer, without imposing any minimum load requirement.

Moreover, Cornell cites to the legislative history underlying enactment of Paragraph 3(e) as stating that remote net metering is intended to encourage customers to develop renewable energy resources by allowing them to produce electricity at one location and use credits created at that host to offset bills at other meters in the customer's name located elsewhere.[2] The statute, Cornell continues, was specifically envisioned as permitting remote net metering where it was not practical or possible to use electricity at the host site. Cornell concludes that the size of the load present at a meter is not a determinant that could result in a bar to remote net metering.

Nor, Cornell asserts, does NYSEG's remote net metering tariff identify minimum load as such a bar. The tariff, Cornell asserts, merely establishes that a host account and satellite accounts must be designated, that the host and satellite accounts must be located on property owned or leased by the same customer in the same New York Independent System Operator load zone, and that the accounts for all of the involved meters must

[2] 2011 N.Y. Sess. Laws 1688 (McKinney).

be in the name of that customer. Cornell states it meets those requirements.

Cornell maintains that NYSEG's proposed minimum load prerequisite to qualifying for remote net metering would countermand New York's energy policies. It asserts that Governor Cuomo's New York Energy Highway Blueprint and NY-Sun Initiative propound goals of encouraging renewable energy development and increasing customer-sited solar PV capacity. The 2009 State Energy Plan, Cornell adds, also sets forth a policy of encouraging PV development, and advises that utilities should not be allowed to exercise their discretion in interpreting interconnection requirements for the purpose of discouraging deployment of PV facilities.[3]

Cornell also points to its goal of becoming a carbon neutral energy user by 2050. Developing facilities like its proposed PV system, Cornell claims, are crucial to achieving its goal.

Finally, Cornell asks that it be affirmed that remote net metering credits at the Snyder Road site must be calculated in accordance with the existing S.C. 6 rate in effect there. Cornell asserts the Remote Net Metering Order requires the use of the rate in effect at a host meter in developing the remote net metering credits.

NYSEG's Comment

NYSEG states that it is an active supporter of New York policies for promoting renewable energy project development, including PV facilities. According to NYSEG, it and its sister utility, Rochester Gas and Electric Corporation, have interconnected over 1,900 net metered customers.

Disputing Cornell's contention that it insisted upon the presence of a 2 kW load before it would permit remote net

[3] 2009 State Energy Plan, Vol. 1 at 52.

metering at the Snyder Road site, NYSEG explains that it merely opined such a load would be sufficient. NYSEG believes that, to remote net meter, a customer must show a load is present at the host meter site sufficient to demonstrate that generation can be netted against that load. According to NYSEG, it is questionable if a single light fixture, highly intermittent load, or a PV facility's native demand is adequate to establish that netting will occur.

NYSEG, however, agrees with Cornell that the question of the minimum load required to remote net meter should be answered in this proceeding. NYSEG asks that a bright line standard be established for the setting of the minimum load that would be adequate to justify remote net metering. NYSEG also asserts that, in developing such a standard, the costs imposed on other ratepayers, who are obligated to fund the net metering credits, should be balanced against the benefits achieved through promoting addition renewable generation development.

The burden other customers incur in funding remote net metering credits, NYSEG contends, would be exacerbated if a remote net metered customer could self-select the tariff rate applicable at its host meter. Such a policy, NYSEG objects, would encourage installation of remote net metered facilities at sites where there is presently no or very little load, and where a rate incorporating a comparatively large variable component could be obtained. The larger the variable component of the rate, NYSEG explains, the greater the net metering credits that result. In the event no standard for minimum quantifiable load is set, NYSEG argues, customers should be permitted to designate only existing meters as host meters in a remote net metering arrangement.

Comments in Support of the Petition

Other than NYSEG, the commentators support Cornell and ask that its petition be granted. ACE, DWEA, SED and VSEIA point out that no minimum load requirement can be found either in the PSL or NYSEG's tariffs. They protest that imputing such a requirement could discourage the development of PV facilities. VSEIA also joins in Cornell's argument that the legislative history attending enactment of PSL §66-j(3)(e) buttresses the conclusion that no minimum load is required. ACE lends its support to Cornell's contention that remote net metering credits must be calculated at the rate in effect at the host meter.

BQE and Sun protest that NYSEG's policy would impede development of remote net metered facility at sites where economic activity and power usage are currently limited. It is those sites, they say, that are most appropriate for installation of PV technologies that must occupy significantly-sized parcels of property. Sun maintains that sites like municipal landfills and brown fields, where electricity usage may be low, are particularly favorable sites for PV installations, but would not qualify as sites for host meters under NYSEG's test.

EANY is concerned that the limitations on remote net metering NYSEG proposes could cause confusion and deter investment in clean energy technologies. Conversely, according to Black Oak, granting Cornell's petition would immediately attract additional private investment to the development of more PV facilities. While Black Oak concedes that the revenues NYSEG can collect will be reduced when customers remote net meter, Black Oak argues that the benefits achieved through promoting renewable technologies more than offset the revenue loss.

According to Hudson Solar, a minimum load is not technically needed to ensure that a net meter will operate

properly. Consequently, utility electric distribution systems will not be adversely affected even if no load is drawn through a host net meter when a net metered facility is not generating.

Hudson Solar would not limit the scope of the relief granted Cornell to locations where there is an existing meter. Hudson believes that utilities could be required to install a new service and meter where previously there was no load, if necessary to site a host meter in a remote net metered arrangement. Hudson Solar also asks that the ruling on Cornell's petition be extended to all major electric utilities.

DISCUSSION AND CONCLUSION

Neither PSL §66-j(3)(e) nor NYSEG's tariff establishes a minimum load prerequisite to qualifying for remote net metering. While the statute does require that remote net metering take place only where a "net energy meter" is present, the meter at Cornell's Snyder Road site meets that requirement.

PSL §66-j(1)(b) defines a net energy meter as "a meter that measures the reverse flow of electricity," and so registers the difference between electricity consumed at a site and electricity produced by a net metered generation facility at the site. Since a net energy meter must measure usage at a site, a meter installed at a site where there is no load cannot be a net energy meter, and cannot qualify as a host meter in a remote net metering arrangement.

While PSL §66-j(3)(e) therefore requires that there be a load and usage to qualify for remote net metering, neither Paragraph 3(e) nor any other provision of the statute requires that there be a minimum load or usage. Nor does NYSEG's tariff identify any such requirement, and none is mentioned in the Remote Net Metering Order. As a result, a load creating usage that would be sufficient to justify installation of a meter

under a utility's general tariff provisions, as if there were no generation output at a location, is adequate to support net metering there, because that meter will meet the statutory requirement that a net meter is one that measures usage.[4] Cornell has demonstrated that usage has already commenced at the Snyder Road meter, following its installation of a lighting fixture there. Demand and usage at that fixture is sufficient to support a meter and is therefore sufficient to support remote net metering.

Moreover, Cornell believes it can demonstrate that, when its solar facility will not operate during nighttime hours, it will nevertheless draw a demand that is sufficient to justify installation of a meter. While, given the lighting facility already installed at the site, Cornell need not demonstrate more, where a claim can be substantiated that demand will result in usage at a location sufficient to justify installation of a meter there when generation output is unavailable, that location is eligible for remote net metering and that meter may serve as the host meter.[5] A demand is not disqualified as representing an eligible usage because that usage is drawn for the purpose of station use or otherwise supporting generation facility operations while the facility is not generating.

Nor is it necessary for a remote net metered customer to establish that a load has historically been present at a site

[4] A similar conclusion has been reached regarding an analogous net metering statute in Massachusetts. Implementation of Net Metering, D.P.U. 08-75-A (Massachusetts Department of Telecommunications and Energy, June 26, 2009).

[5] Where it appears a meter is dormant because usage has not occurred over a long period of time, such as occurred at the Snyder Road site, utilities may require a demonstration that usage does occur sufficient to justify the continued designation of the meter at the site as a net meter that measures usage, notwithstanding that the usage may be entirely offset by net metered generation.

where it desires to install a host meter. The customer need merely show that it has concrete plans to create at the site a load resulting in usage sufficient to justify installation of the net meter that would become the host meter. The load and usage need only be present by the time the generation facility commences operation.

Moreover, Cornell is correct that the rate used to calculate remote net metering credits at a host meter is the rate set in the service classification in effect at that meter. Once a utility installs a meter to measure usage in accordance with one of its standard service classifications, the rate for that classification is the rate that PSL §66-j and the Remote Net Metering Order require be used to calculate remote net metering credits. Since Cornell has established that NYSEG has designated S.C. 6 as the classification in effect at the Snyder Road meter, that classification shall be used to calculate remote net metering credits there.

This interpretation of PSL §66-j, the remote net metering provisions of PSL §66-l(3)(e) applicable to wind generation facilities, and the Remote Net Metering Order extends to all major electric utilities because they are subject to those statutes and that Order to the same extent as NYSEG. The interpretation should encourage the remote net metering of eligible PV and other renewable generation facilities in accordance with the intent of those statutes and New York's energy policies.

The Commission finds and declares:

1. The petition of Cornell University is granted to the extent discussed in the body of this Ruling, and Public Service Law §66-j(3)(e), §66-l(3)(e), prior Orders, and the tariffs of

New York State Electric & Gas Corporation and other major electric utilities shall be interpreted in accordance with the discussion in the body of this Order.

2. This proceeding is closed.

By the Commission,

(SIGNED) JEFFREY C. COHEN
Acting Secretary