



September 17, 2014

Hon. Kathleen H. Burgess
Secretary to the Commission
New York State Public Service Commission
Agency Building 3
Albany, NY 12223-1350
Phone: (518) 474-6530
Fax: (518) 486-6081
E-mail: secretary@dps.ny.gov

Re: Petition to Clarify the Process for Utilities to Seek Relief from Net Metering Caps (Case No: _____)

Dear Secretary Burgess,

Please find attached the petition respectfully submitted by the Solar Energy Industries Association (SEIA), Alliance for Clean Energy New York (ACENY), the Vote Solar Initiative, the National Resources Defense Council (NRDC), and The Alliance for Solar Choice (TASC) to clarify the process for utilities to seek relief from net metering caps.

Regards,

Katie Bolcar Rever
Director, State Affairs
Solar Energy Industries Association
phone: 202-841-7599
email: krever@seia.org

PETITION OF

THE SOLAR ENERGY INDUSTRIES ASSOCIATION, ALLIANCE FOR CLEAN ENERGY NEW YORK, VOTE SOLAR INITIATIVE, NATIONAL RESOURCES DEFENCE COUNCIL, AND THE ALLIANCE FOR SOLAR CHOICE TO CLARIFY THE PROCESS FOR UTILITIES TO SEEK RELIEF FROM NET METERING CAPS

The Solar Energy Industries Association (SEIA), Alliance for Clean Energy New York (ACENY), the Vote Solar Initiative, the National Resources Defense Council (NRDC), and The Alliance for Solar Choice (TASC) (collectively ‘the Petitioners’)¹ respectfully petition the New York State Public Service Commission (Commission) to clarify its directive to utilities to seek modifications as necessary to increase their net metering caps above 3% of peak load.² Specifically, the Commission should direct the utilities to seek relief from the current cap once the reserved capacity of net metered systems reaches 90% of the cap within their respective service territories. Further, the Commission should give utilities general guidance on the magnitude of any net metering cap increase, to the effect that sufficient headroom be established to allow net metering eligibility for any project satisfying the conditions to reserve incentive payments under NY-SUN up to the expected date of implementation of utility-specific REV plans.

BACKGROUND

There are currently more than 415 solar companies at work throughout the value chain in New York employing approximately 5000 people. In 2013, New York installed 69 megawatts (MW) of solar electric capacity, ranking it the ninth strongest solar market in the United States. New York currently boast 271 MW of installed solar capacity with the goal of installing approximately 3 gigawatts (GW) of solar capacity by 2023 and creating a self-sustaining solar market.³ In 2014, Governor Cuomo announced a renewed commitment to New York’s NY-SUN program, pledging \$1 billion to build a resilient and self-sustaining solar market in New York.⁴

Net metering, a simple billing mechanism that nets energy consumption and production, has been instrumental to the growth of New York’s solar market. Under Public Service Law (PSL) §66-j, net metering is available to customer-generators installing a residential PV system sized at not more than 25 kilowatts (kW), a farm-based PV system to not more than 100 kW, and non-residential systems sized at

¹ The comments expressed herein are the comments of the Petitioners and not any individual member company.

² Case 03-E-0188, Order Authorizing Funding and Implementation of the Solar Photovoltaic MW Block Program, issued and effective April 24, 2014 at 22

³ <http://ny-sun.ny.gov/faq>

⁴ *Id.*

not more than 2,000 kW. System-wide caps limit net metered system capacity within any utility service territory. Specifically, the statutory limit for net metering is 1% of the individual utility's 2005 peak demand. Importantly, Public Service Law §66-j(3)(b) gives the Commission authority to increase the percentage cap on net metering if it determines that such an increase is in the public interest. On July 20, 2012 the Commission received a petition from Hudson Valley Clean Energy stating that Central Hudson Power Corporation (Central Hudson) had reached its 1% net metering cap and requesting an increase in the cap.⁵ On October 22, 2012, pursuant to its authority under PSL 66-j(3)(b), the Commission issued its Order increasing the Central Hudson's net metering cap from 1% to 3% of 2005 peak load.⁶ Subsequently, the Commission issued a Notice of Proposed Rulemaking in response to a petition on the issue of net metering caps for all utilities under its jurisdiction. After extensive public comment recommending an increase in the net metering cap, the Commission issued an Order authorizing an increase of the caps for all utilities in its jurisdiction from 1% to 3% of 2005 peak load. The Commission ordered utilities to file to amend their tariffs to increase their caps pursuant to the Order as the utilities deemed necessary.⁷

Finally, in its Order approving the MW Block Program [hereinafter "MW Block Program Order"], the Commission recognized that "the current three percent (3%) cap most recently set by the Commission will not be sufficient to support the significantly expanded energy capacity goals of NY-Sun."⁸ At the same time, the Commission took note of its ongoing Reforming Energy Vision (REV) proceeding to rely to a greater degree on distributed energy resources, including solar PV, in distribution system planning and operations, and that monetization of the value such resources provide is a core part of that investigation.⁹ Longer-term, the Commission signaled a need to harmonize net metering with the REV paradigm. In the meantime, however, the Commission took care to ensure that the REV investigation would not impede realization of the NY-SUN goals and directed the distribution utilities to petition the Commission for relief from the net metering caps if it appears the existing 3% cap would become a binding constraint prior to resolution of the REV docket. As the Commission stated,

⁵ Case 12-E-0343, Petition of Hudson Valley Clean Energy, Inc. to Increase Central Hudson Gas and Electric Corporation's Net Metering Limit issued July 20, 2012

⁶ Case 12-E-0343, Order Raising Net Metering Limit issued October 22, 2012

⁷ Case 12-E-0485, Order Raising Net Metering Limits issued June 13, 2013

⁸ Case 03-E-0188, Order Authorizing Funding and Implementation of the Solar Photovoltaic MW Block Program, issued and effective April 24, 2014 at 22.

⁹ Case 14-M-0101, Reforming the Energy Vision

[W]e do not wish to undermine the goals and long-term stability of the NY-Sun program. Therefore, in the interim, if any utility is at risk of exceeding their 3% net metered limit prior to a decision, we expect them to seek modifications of caps as necessary so they can continue accepting applications for eligible customer-sited generation and processing interconnection agreements until such time that further decisions are made on the matter.¹⁰

DISCUSSION

Public Service Law §66-j requires utilities to allow net metering for customer-generators installing a residential PV system sized at not more than 25 kW, a farm-based PV system sized at not more than 100 kW, and a non-residential PV system sized at not more than 2,000 kW. Further, PSL §66-j(3)(b) grants the Commission authority to increase the net metering cap if it determines that doing so would be in the public interest. Currently, the authorized net metering cap for all utilities under the Commission's jurisdiction is 3% of 2005 peak load.¹¹ Utilities have been directed by the Commission to seek modifications to increase their caps above 3% as necessary.¹²

New York has a stated goal of achieving 3 gigawatts (GW) of installed solar capacity by 2023 and establishing a self-sustaining solar market in the process. Currently, New York has 271 MW of installed solar capacity with 69 MW of capacity installed in 2013 alone. New York's market surged in Q2 2014. The state installed 11.9 MW in Q2 2014, up 31% over Q1 2014 and up 133% over Q2 2013.¹³ Significant growth is projected under the NY-SUN initiative. The recently approved amendments to the Customer-Sited Tier Operating Plan envision continued year-over-year growth to reach the terminal goal of 3 GW.¹⁴ Further, Governor Cuomo's recent \$1 billion pledge to the NY-SUN has made New York one of the Country's most attractive solar markets and put the state on track to reach its 2023 goal. In addition, the newly redesigned MW Block program is designed to provide certainty and transparency regarding incentive levels to the industry, regional market differences, and by providing a clear signal to industry that New York intends to eliminate cash incentives in a reasonable time frame.

Despite New York's positive market momentum and efforts to create a stable regulatory framework, the current net metering caps create significant uncertainty for developers that threatens to slow project

¹⁰ *Id.*, Order at 23.

¹¹ Case 12-E-0485, Order Raising Net Metering Limits issued June 13, 2013

¹² Case 03-E-0188, Order Authorizing Funding and Implementation of the Solar Photovoltaic MW Block Program, issued and effective April 24, 2014 at 22; Order Issued June 13, 2013 (Case 12-E-0485)

¹³ Solar Market Insight Report, Q2 2014

¹⁴ See Customer Sited Tier Operating Plan Addendum, filed by NYSERDA on August 2014.

development and jeopardize the state's public policy objectives. This uncertainty arises from the following issues.

First, the Commission's directive to the utilities in its MW Block Program Order is overly vague. As it is currently stated, the directive leaves it to the utilities' discretion when to file to increase their caps. This provides developers very little insight into whether the utilities are approaching the net metering caps and whether or when the caps will be increased. Because the project development cycle can be anywhere from several months to several years, prior to investing capital in a project developers need to know whether they will qualify for net metering, or whether the caps will be reached before they complete the development cycle. Uncertainty surrounding net metering status of a project could have devastating effects on its financial viability and will increase investor exposure.

Further, the Commission has indicated it will be undergoing a review of net metering as part of the REV docket.¹⁵ However, it is unclear what actions the Commission plans to take regarding net metering in the REV docket and when these actions will be taken. This creates another layer of uncertainty for both project developers and utilities. SEIA respectfully submits that the Commission is in a better position than the utilities to determine the critical milestone date for full-scale REV implementation, and consequently how much additional net metering headroom should be created to maintain solar PV market momentum

Finally, the City University of New York's Net Metering Analysis and Tracker report shows that National Grid and Central Hudson Gas and Electric are nearing their caps at 86% and 72.3% of capacity used respectively. Further, New York State Electric and Gas and Orange and Rockland Utilities are both more than halfway to reaching their caps.¹⁶ Growth of net metered systems is happening at an increasing rate. Just three months ago, National Grid and Central Hudson Gas and Electric were at 56% and 62% of their caps, respectively. As utilities are connecting more net metered systems than ever before, their pipeline of proposed projects is growing. New York State Electric and Gas increased its net metered systems by more than 30% in Q2 of 2014 alone, and still experienced a 20% increase in its pipeline. Rochester Gas and Electric increased its connected systems by 25% in Q2, while its pipeline of proposed projects went from 640 kW to 5,288 kW, a 726% increase in a single quarter. At Orange and Rockland Utilities, this same trend exists with a 14% increase to its interconnection queue in a single quarter, bringing the utility

¹⁵ Case 14-M-0101, Reforming the Energy Vision Report at 20, July 24, 2014

¹⁶ <http://www.cuny.edu/about/resources/sustainability/nyssolar/NYSNetMeteringAnalysis.html>

within 59% of its cap. Thus, utilities are experiencing rapid expansion of net metered systems and interconnection requests.

To resolve the uncertainty created by the Commission's directive and the current reserved capacity in multiple utility territories, the Petitioners respectfully petition the Commission to direct the utilities to seek relief from the current cap once the reserved capacity reaches 90% of the cap within their respective territories. Further, the Petitioners request that the Commission provide additional guidance to the utilities on the magnitude of any petition for net metering cap relief. Specifically, in order to continue progress towards NY-SUN installed capacity goals and to create more liquid and robust DER markets supportive of REV, any cap increase should be sufficient to ensure net metering eligibility for any qualifying solar project up to the point at which utility-specific REV implementation plans are slated to go into effect.¹⁷ Qualification should be established for any project meeting the threshold requirements for reservation of incentive payments under the MW Block Program.¹⁸ This would resolve the current uncertainty by providing more guidance as to when the caps will be increased and will allow the Commission to act in a timely manner to prevent stalling out project development. Further, the relief sought will assure market participants that net metering will continue in its current form through formulation of implementation plans developed pursuant to the REV proceeding. Finally, this approach is aligned with the short-term "no regrets" approach put forth by Staff in the REV proceeding; namely, to continue steady growth of the distributed energy market while the goals of the REV docket are further developed and implemented.¹⁹

CONCLUSION

In order to maintain the current momentum in New York's solar market and stay on track to meet the state's goal of 3GW of installed solar capacity by 2023, and to ensure sufficient market penetration of solar PV consistent with the REV vision for vibrant DER markets, the Petitioners respectfully petition the Commission to grant the following relief as doing so would be in the public interest:

¹⁷ SEIA wishes to underscore that though the specific and limited relief requested here is that the Commission clarify the process and magnitude of additional net metering cap space through the point at which any REV-related policy affecting net metering is implemented, SEIA reserves its right to comment in the REV proceeding on the merits of any change in the existing net metering policies and its continuation in New York.

¹⁸ SEIA is aware that NYSERDA is currently considering the conditions for projects to reserve incentive payments in anticipation of its stakeholder engagement process for the design of the MW Block Program for projects above 200 kW. In-person Conversation with Karen Hamilton and Pet Savio, NYSERDA, August 26, 2014

¹⁹ Case 14-M-0101, Developing the REV Market in New York: DPS Staff Straw Proposal on Track One Issues at 3, August 22, 2014

1. The Commission should direct the utilities to seek relief from the current cap once the reserved capacity of net metered systems reaches 90% of the cap within their respective service territories.
2. Further, the Commission should give utilities general guidance on the magnitude of any net metering cap increase, to the effect that sufficient headroom be established to allow net metering eligibility for any project satisfying the conditions to reserve incentive payments under NY-SUN up to the expected date of implementation of utility-specific REV plans

/s/ Katie Bolcar Rever

Katie Bolcar Rever
Director, State Affairs
Solar Energy Industries Association
phone: 202-841-7599
email: krever@seia.org

/s/ Anne Reynolds

Anne Reynolds
Executive Director
Alliance for Clean Energy New York
phone: 518-432-1405
email: areynolds@aceny.org

/s/ Peter Olmsted

Peter Olmsted
Regional Director, East Coast
Vote Solar
phone: 717-305-0045
email: peter@votesolar.org

/s/ Jackson Morris

Jackson Morris
Director Eastern Energy
National Resources Defense Council
phone: 570.380.9474
email: jmorris@nrdc.org

/s/ Bryan Miller

Bryan Miller
President
The Alliance for Solar Choice
phone: 415-580-6854
email: bmiller@sunrun.com