STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Case 24-E-____

Petition of BQ Energy, LLC, Steel Sun 2 LLC and Canisius University for a Declaratory Ruling Interpreting National Grid's Remote Net Metering Tariff in Conjunction with Public Service Law Section 66-j.

Respectfully submitted,

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"[E]ven the best designed clean energy programs will not succeed in their essential purposes if the regulatory regime and market design within which they operate inhibit rather than promote their success."[1]

This Petition is submitted by BQ Energy, LLC, Steel Sun 2 LLC (an affiliate of BQ Energy, LLC) and Canisius University ("Canisius") (collectively, "Petitioners").

INTRODUCTION AND RELIEF REQUESTED

Pursuant to Section 8.1 of the New York Public Service Commission's ("Commission") rules of practice and procedure, 16 NYCRR § 8.1, Petitioners respectfully request the Commission issue a declaratory ruling regarding the proper interpretation and application of the monetary remote net metering ("RNM") provisions in § 36.7 of the Niagara Mohawk Power Corporation, d/b/a National Grid ("National Grid") P.S.C. No. 220 Schedule for Electric Service ("Tariff").[2] This Petition is intended to address a problem under National Grid's current interpretation and application of its Tariff provisions governing monetary RNM in conjunction with the governing statute, Public Service Law ("PSL") § 66-j, which has resulted in Petitioner Canisius having approximately $385,000 in monetary credits from its solar photovoltaic RNM project that are "stranded" on two

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[1] *See* Case 07-M-0548 - *Proceeding on Motion of the Commission Regarding an Energy Efficiency Portfolio Standard,* Order Approving EEPS Program Changes (issued Dec. 26, 2013), at 20.

satellite meters where they will likely never be used. As a result, those credits are effectively forfeited without cause (the "Stranded Credits"). Petitioners seek a declaratory ruling interpreting the Tariff in conjunction with PSL § 66-j in a manner that prevents such Stranded Credits and permits Canisius to make economic use of its earned and paid-for RNM credits consistent with the energy and other values supplied to the electric system from its project.

In addition, Petitioners respectfully request that the Commission expedite its review of the Petition and issue a declaratory ruling in this proceeding at its earliest opportunity in order to establish the rights of the parties as soon as possible, and to prevent further unjust and unreasonable hardship incurred by Petitioners.

DESCRIPTION OF PETITIONERS

A. BQ Energy, LLC

BQ Energy, LLC ("BQ Energy") is the world leader in renewable energy on brownfields and landfills. It develops, finances, builds, owns and operates facilities in conjunction with its customers, who are large electricity users. BQ Energy was originally best known for its "Steel Winds" project on the former Bethlehem Steel site in Lackawanna, New York. Since 2008, BQ Energy has focused on solar photovoltaic projects sited on municipal landfills and on brownfields. BQ's Energy project designs allow for the integrity of these sites (which typically involve highly engineered caps) to be maintained consistent with strict environmental engineering controls, while allowing the properties to return to productive reuse for the benefit of the community. Successful projects have been located throughout New York, as well as Massachusetts, Connecticut and Maryland. One such project is the Steel Sun 2 project in Lackawanna, New York, which includes solar

[2] Issued in Compliance with Order in Case 20-E-0380, issued January 20, 2022 ("Tariff").

photovoltaic facilities totaling 9 MW (DC) located on a portion of the former Bethlehem Steel site, which was remediated under the NYSDEC Brownfield Cleanup Program.

B. Canisius University

Canisius is a private Jesuit university located in Buffalo, New York, which was founded in 1870. With approximately 2,500 students, the University offers more than 100 majors, minors and special programs. As part of its commitment to sustainability, in 2019, Canisius partnered with BQ Energy and Steel Sun 2 LLC for development of the Steel Sun 2 project that would provide 9 MW (DC) of renewable energy for the school's facilities.

BACKGROUND

A. Remote Net Metering

The Commission's remote net metering policies and orders implementing Public Service Law (PSL) §66-j, as amended,[3] are designed to encourage non-residential electric customers to install solar electric generating equipment (and certain other distributed generation) facilities at optimal locations where customers otherwise might not have access to clean energy, allowing such "customer-generators" to net meter for the benefit of multiple sites from a single RNM facility.[4] An eligible RNM customer-generator may allocate the excess energy credits generated by the interconnected RNM generation facility meter, referred to as the "host account," to one or more meters located at property owned or leased

[3] 35 N.Y. Cons. Laws, Public Service Law §66-j (effective June 1, 2011).
[4] Sponsor's Mem., Bill Jacket, L. 2011, ch. 35 at 8 (explaining that the law is designed to allow customers to obtain net metering credits where "it is not practical or possible to utilize electricity on the immediate site where it is produced").

by the same customer-generator, correspondingly referred to as the "satellite account,"[5] subject to satisfaction of other criteria.[6] The satellite account is credited with the excess generation in the form of monetary (or volumetric) credits, which are applied against the satellite account's utility bill. Under monetary crediting, the value of credits is calculated by converting the kilowatt-hours ("kWh") of excess generation at the project site to monetary credits based on the per kWh charges applicable to the host account, which depend on its location and service class. The bill for the satellite account is then reduced by that monetary amount. Any unutilized or unapplied credits are then carried over each month until such time as they can be applied or used.[7]

National Grid implemented the RNM program at Section 36.7 of its Tariff. The host account must designate satellite accounts and the respective portion of credits which will be allocated to these accounts upon the initial RNM application. Thereafter, the host account *may only change the designation of satellite accounts and credits allocated thereto once a year on January 1*.[8]

Subsequent to the initial legislative and Commission establishment of RNM, the Commission changed its policies to prevent so-called "uneconomic arbitrage" whereby RNM was thought to be preferred over on-site net metering because the monetary crediting applied to such projects under then-applicable utility tariffs was more attractive to project developers, thus (under the Commission's reasoning) skewing market forces toward large

[5] Case 11-E-0318, et al. - *Central Hudson Gas & Electric, et al*., Order Modifying and Authorizing Remote Net Metering Tariffs, Modifying Standardized Interconnection Requirements, and Requiring Micro-Hydroelectric and Fuel Cell Tariff Filings (issued Nov. 1, 2011).
[6] These criteria include that: (a) the satellite account meter is located on property owned or leased by the host account holder, (b) the accounts are in the same customer name, (c) the host and satellite accounts are served by the same electric utility and (d) the host and satellite accounts are in the same load zone. The facility must also meet certain size and interconnection requirements. *Id.*
[7] N.Y. PSL § 66-j-3(e).
[8] Tariff § 36.7.1.

centralized projects instead of smaller on-site facilities distributed throughout the utility network.[9] A Transition Plan was adopted whereby various criteria were applied to determine the grandfathering status of RNM projects for monetary crediting.[10] The Commission was careful not to upset good-faith plans of developers seeking to bring RNM facilities online. In the VDER Transition Order, the Commission explained that once a project's eligibility for a particular compensation methodology has been established and payment for 25% of interconnection costs for that project made, or a Standard Interconnection Contract executed where no payment required, monetary RNM eligibility would not be lost or changed based on changes in ownership. This principle was *specifically* applied to monetary RNM crediting in Case 16-E-0133, *Petition of SunEdison, Inc.,* holding that such projects would be entitled to monetary crediting for 25 years regardless of ownership transfers, so long as such projects met the standards in the Transition Plan.[11] It is *undisputed* that the Steel Sun 2 project is such a grandfathered project entitled to receive monetary RNM credits regardless of ownership changes.

B. Steel Sun 2 Project

In 2019, BQ Energy and its affiliate Steel Sun 2 LLC (collectively "BQ") developed three solar arrays known collectively as Steel Sun 2, and individually as Steel Sun

[9] 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 Corporation,* Order Raising Net Metering Minimum Caps, Requiring Tariff Revisions, Making Other Findings and Establishing Further Process (issued Dec. 15, 2014) ("Cap Order"); *Id.*, Order Granting Rehearing in Part, Establishing Transition Plan, and Making Other Findings (issued Apr. 17, 2015) ("Transition Plan Order").

[10] *See generally* Transition Plan Order; Cap Order, at 27 (stating that "[n]et metering developers that have pursued installations of their facilities in good faith should not find their financial expectations disrupted by a change in policy. . . . Consequently, this substitution of volumetric crediting for monetary crediting will take effect prospectively.")

2-2, Steel Sun 2-4, and Steel Sun 2-9 with the intention of selling all of the monetary net metering credits generated by all three arrays to Canisius per the terms of a Remote Net Metering Credit Agreement. Canisius and National Grid entered into Standard Interconnection Agreements for each of the projects on February 1, 2018. The arrays all received permission to operate from National Grid in the summer of 2018, at which time they began generating monetary RNM credits for the benefit of Canisius. Importantly, all of the Steel Sun 2-2, 2-4 and 2-9 facilities had the same account owner and the same list of satellite accounts at all relevant times.

C. Transfer of Steel Sun 2-4 to Kaleida Health & Corresponding Transfer of Banked Credits Per National Grid Direction

In 2020, it became apparent that Canisius was not using as all of its credits such that a bank of surplus credits was building up. This circumstance resulted from a decline in electricity usage by Canisius due to a combination of the effects of COVID-19 as well as electricity efficiency programs at the University. Additional satellite accounts could not be added and the accumulating bank of credits was closely watched. Upon review, Canisius and BQ eventually determined that the school would *never* be able to use the credits if they continued receiving credits from all three Steel Sun 2 arrays.

Therefore, in 2022, Canisius and Kaleida Health Center ("Kaleida"), in agreement with National Grid, assigned (transferred) the owner/operator status of the Steel Sun 2-4 facility to Kaleida. As part of this process, National Grid advised that the existing host account for Steel Sun 2-4 needed to be zeroed out so that a new host account could be

[11] Case 16-E-0133 - *Petition of SunEdison, Inc. for a Declaratory Ruling Regarding Orange & Rockland Utilities, Inc.'s Remote Net Metering Tariff*, Declaratory Ruling Regarding Grandfathering of Remote Net Metered Projects (issued July 14, 2017).

created for the new customer-generator. Thus, the remaining banked but unused credits associated with previously generated and delivered electricity (the "Banked Credits") had to be transferred to another account.

To effectuate the transfer, Canisius requested that the Banked Credits (from Steel Sun 2-4) be transferred to the host account for Steel Sun 2-9. This would accomplish resolution of the Banked Credits from 2-4 in a straightforward manner because it would zero out the Steel Sun 2-4 account in preparation for its assignment to Kaleida, and operationally all of the satellites for Steel Sun 2-9 were the same as those for 2-4, such that no billing would need to change and the credits would be allocated to the respective satellites in due course.[12]

In response, National Grid advised that a transfer of the Banked Credits from the Steel Sun 2-4 host account to the Steel Sun 2-9 host account did "not meet tariff regulations." National Grid reasoned that "[a] transfer of credits from one account to another account is basically the definition of a remote net metered relationship." It further reasoned that "Rule 36.7.2(4) states that a satellite account cannot be a host account."[13] Thus, National Grid interpreted a transfer of previously-earned banked credits on a customer-generator's host account, to another host account owned by that same customer-generator (and in the same name), to be an allocation of credits from a host to a satellite. In other words, simply by the moving of credits, what had previously been a host account was summarily transformed into a satellite.

Further, National Grid directed that the Banked Credits be allocated to a satellite account(s). As a result of these determinations, the Banked Credits (amounting to

[12] Letter from Canisius to National Grid (Oct. 7, 2022) (Exhibit A).
[13] Email from National Grid to Canisius (dated Oct. 14, 2022) (Exhibit B).

approximately $350,000) were applied to two of Canisius' largest satellite accounts (the "Receiving Satellites"), so that they could be used as quickly as possible. The allocation of Banked Credits far exceeded the monthly energy and supply charges of those satellites which range monthly from approximately $35,000 to $75,000 (in total for both Receiving Satellites).

D. National Grid's Tariff Interpretation Effectively Forfeits Earned and Paid-for Credits for Energy Canisius Delivered to National Grid's System

After the transfer occurred, National Grid continued to transfer new credits into the Receiving Satellite accounts from Steel Sun 2-2 and 2-9 instead of using the Banked Credits. Since monthly allocations for the Receiving Satellites were ongoing, any such satellites would *always* have credits in excess of that account's electricity delivery and supply for the billing period.[14] This resulted in the Receiving Satellites carrying a significant negative balance each billing period. Specifically, as of October 2022 when 2-4 was assigned to Kaleida, the Receiving Satellites carried a balance of $385,642.95. *See* Exhibit C.

Because the Banked Credits were improperly transferred to the Receiving Satellites pursuant to National Grid's interpretation of the Tariff (which is erroneous), and placed on satellite accounts that were not intended to carry over a balance of credits under the design of the program (and Tariff), the Banked Credits will remain stranded and unused. Specifically, *because new credit allocations to the Receiving Satellites continue to occur each month, the Receiving Satellites are unable to use the Banked Credits,* instead carrying them forward each

[14] Unless a catastrophic event resulted in no or minimal generation for the billing period—an eventuality that solar developers carefully design their systems to avoid to the maximum extent practicable.

billing period in perpetuity making them truly stranded credits ("Stranded Credits"). Therefore, absent relief from the Commission, Canisius will be unable to obtain the benefit of its earned and paid-for monetary credits notwithstanding that the corresponding energy was delivered to National Grid's system. The Stranded Credits are effectively forfeited.

DISCUSSION

The Commission can issue a declaratory ruling "with respect to . . . the applicability to any person, property, or state of facts of any rule or statute enforceable by the Commission or the validity of any such rule."[15] It may also issue a declaratory ruling whenever it determines that doing so "is warranted by the public interest."[16]

POINT I

DECLARATORY RULING

A. National Grid Should be Directed to Apply the Plain Language of the Tariff

In this instance, National Grid's determinations regarding handling of the Banked Credits was an incorrect interpretation and application of its Tariff and PSL § 66-j, for at least three reasons. First, PSL § 66-j(3)(e) states that "[a]ny excess credits shall be *carried over* to the following month." (Emphasis added). It does *not* say that they should be carried over on the satellite account. To the contrary, § 66-j only contemplates credits *flowing from the host to designated satellites*, suggesting that any "carried over" credits are necessarily held in the host account.

[15] 16 NYCRR § 8.1(a)(1).
[16] *Id.*, § 8.1(b).

Indeed, this appears to be National Grid's interpretation as implemented in its Tariff, which provides:

> If a monetary credit still remains at the end of the current month's billing cycle after all eligible designated satellite accounts have been credited, the remaining credit will be *carried forward on the host account* to the next billing period at which time it will be applied to all eligible designated accounts. The above process will be repeated in each subsequent month until any remaining monetary credit on the host account that is to be applied to eligible designated satellite accounts has been fully allocated.[17]

Thus, the Tariff is clear—in the event of excess credits, either allocated to satellites or otherwise held—which cannot be utilized by the designated satellite(s) for a given billing period, such credits are to be carried forward on the host account to be reallocated in the future. This is the clear intent of the statute and the Tariff. No other intent for banking of credits can reasonably be implied.

Second, National Grid's interpretation is based on its reasoning that "[a] transfer of credits from one account to another account is basically the definition of a remote net metered relationship" and it further reasoned that "Rule 36.7.2(4) states that a satellite account cannot be a host account."[18] Essentially, according to National Grid, by transferring credits from a host account to another host account (even owned by the same party), the receiving host becomes a satellite in what is "basically the definition of a remote net metered relationship."

However, National Grid's interpretation of 36.7.2(4) was incorrect as it applies to the instant matter. The Tariff defines "customer-generator" in pertinent part as

[17] Tariff, § 36.7.4.2.2 (emphasis added).
[18] *See* n.13 *supra* (Exh. B).

"(3) a non-residential customer who owns or operates Solar or Wind Electric Generating Equipment located and used at its premises."[19] Furthermore, § 36.7 specifically states that:

> For purposes of this Rule 36.7, the account where the generator is connected will be defined as the host account and those eligible accounts that are designated by the host account to receive excess net metering credits will be defined as satellite accounts.

Thus, a customer-generator host account requires that the account is: (1) a non-residential customer who owns or operates solar or wind electric generating equipment located and used at its premises; and (2) provides RNM credits to designated satellite accounts to be used by the same to offset their electric bill.

In this case, Cansius' requested transfer of the Banked Credits from the 2-4 host account to another Canisius-owned host account would not make the latter a "satellite account" under the tariff. This is because a host account is *always* an account where the customer-generator installs generating equipment "located and used at [the] premises." A satellite cannot be a host account because that account does not have such equipment.

By contrast, what § 36.7.2(4) actually prohibits is the allocation of credits from a customer-generator to another, different, customer-generator, to be used to offset the latter's electricity bills. The Tariff and the PSL should not be read so rigidly as to wholly prohibit the transfer of earned and paid-for RNM credits in conjunction with a transfer of ownership.

Thirdly, the Tariff expressly limits the allocation of monetary credits to any satellite account in a manner which clearly prohibits National Grid's interpretation. Rule 36.7.4.2.1 states that "[t]he monetary credit supplied to each satellite account shall not

[19] Tariff § 1.92; *see also* PSL § 66-j(1)(a)(iii) ("Customer-generator means: . . . (iii) a non-residential customer of an electric corporation which owns or operates solar electric generating equipment located and used at its

exceed the satellite account's electricity delivery and electricity supply charges for that billing period."[20] This means that the amount of monetary credits a satellite can receive in a given month is capped at the sum total of its electric supply and delivery charges (the "Bill Cap Provision"). As a result of the Bill Cap Provision, with ongoing allocations to the Receiving Satellites every month, transfer of the Banked Credits far in excess of such monthly combined charges, well beyond the Bill Cap was incorrect and inconsistent with the Tariff. But, separately, it also created a situation where such credits will be stranded on those satellites indefinitely and, essentially, forfeited.

Because National Grid's interpretations are not in accordance with the plain language of the §66-j or the Tariff and can result in a bank of unusable credits in perpetuity, Petitioners request that the Commission issue a declaratory ruling, pursuant to 16 NYCRR § 8.1, as follows:

A. In the event of a transfer of an RNM facility,[21] excess banked credits may be transferred to another host account, either of the same customer-generator in the same name (or, to the new owner/operator of the host facility itself).[22] In this case, Canisius should be allowed to request the credits be transferred to a designated host account(s) (in the same customer name as Steel Sun 2-4) in the proportion/allocation of their choice to be "carried over" and re-allocated in future billing cycles, as expressly contemplated in PSL § 66-j and the Tariff;[23] and

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premises.").
[20] Tariff § 36.7.4.2.1
[21] Such transfers are expressly contemplated for the life of monetary RNM projects pursuant to the Commission's orders. *See supra* at 5 & n.11.
[22] See *infra* Point I.B (discussing *ESNY-205* case).
[23] *See* Exhibit D (spreadsheet demonstrating that such relief would permit Canisius to utilize the balance of the Stranded Credits on or before 2033).

B. In the event that any satellite account has surplus banked credits for any reason, the customer-generator should be permitted to transfer such credits to the applicable host account(s) (in the same customer name) in the proportion/allocation of their choice to be "carried over" and re-allocated in future billing cycles, as expressly contemplated in PSL § 66-j and the Tariff.[24]

B. The Requested Relief is Necessary to Ensure the Success of RNM Policies and to Avoid Forfeited Credits Earned by Customer-Generators and Consistent with Precedent

The Commission has stated that the primary purpose of the RNM policy is to "open opportunities for participation in solar and other forms of clean distributed generation to utility customers that would not otherwise be able to access that generation directly."[25] In keeping with its goals, the Commission has determined it will apply its policies flexibly to avoid imposing unnecessary and unduly burdensome requirements upon customers pursuing remote net metering.[26]

While the Stranded Credit situation in this case appears to be novel and limited in scope, there is Commission precedent that is applicable and instructive. Indeed, the question of how excess credits may be transferred and allocated following a change in

[24] Upon information and belief, other similarly situated RNM customer-generators have experienced the same "stranded credit" problem and would benefit by the requested Declaratory Ruling.
[25] 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 Generation Program and Making Other Findings at 3 (July 17, 2015).
[26] *See, e.g.,* Case 15-E-0757 - *Petition to Modify Central Hudson's Remote Net Metering Qualification Requirements and Application Process for Farms under Public Service Law 66-j*, Order Directing Modifications to Remote Net Metering Tariff (issued Apr. 20, 2016), at 5; *see also* Case 16-E-0604 - *Petition of Sunlight Beacon LLC and BQ Energy, LLC for A Declaratory Ruling That Street Lighting and Area Lighting Accounts Are Eligible for Designation As Satellite Accounts in Conjunction with Remote Net Metering Under Pub. Serv. Law Section 66-J.*, Order Providing for Eligibility of Non-Metered Accounts for Remote Net Metering (issued Aug. 2, 2017), at 2 (approving petitioner's request providing "flexibility to meet their local energy needs, while supporting State goals and mitigating utility concerns regarding potential cost shifts and billing complications.").

ownership of a monetary RNM facility (also grandfathered) was previously considered in Case 19-E-0058 - *Petition of ESNY-205, LLC for Declaratory Ruling Regarding Transfer of Account Under Remote Net Metering Rules*.[27] In *ESNY-205*, the petitioner, an owner of a monetary RNM solar project, sought to transfer ownership of the project to a new purchaser after failure of the transaction with the original purchaser for whom the project was originally designed.[28] The petitioner sought, *inter alia*, an interpretation from the Commission that under PSL 66-j, the unused monetary credits accrued by the project prior to the sale could properly be transferred to the new owner.[29] The Joint Utilities[30] filed comments in *opposition*, arguing that the transfer of credits was inapposite of the Commission's phasing out of monetary crediting.[31]

The Commission, acknowledged that the issue was one of first impression, and declared broadly that:

> [a]ccrued credits do reflect actual benefit, in the form of energy and other values, provided to the utility system, such that any required forfeiture of credits would fail to adequately compensate the project owner.[32]

In granting the petition, the Commission found that nothing in PSL §66-j or the NYSEG tariff barred the use of accrued credits by the subsequent project owner, and a failure to permit such use "would result in harm to the Petitioner, who operated in good faith."[33]

While the transacting parties in *ESNY-205* elected that the new owner would receive

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[27] Case 19-E-0058 - *Petition of ESNY-205, LLC for Declaratory Ruling Regarding Transfer of Account Under Remote Net Metering Rules.*, Declaratory Ruling Regarding Transfer of Net Metering Project (issued Apr. 22, 2019) ("*ESNY-205*").
[28] *Id.* at 5.
[29] *Id.* at 6.
[30] Joint Utilities included: NYSEG, Rochester Gas and Electric Corporation, Central Hudson Gas and Electric Corporation, Consolidated Edison Company of New York, Inc., Orange and Rockland Utilities, Inc., and National Grid.
[31] *Id.* at 6-8.
[32] *Id.* at 11.

the banked credits, that decision should be up to the parties to a given monetary RNM facility transfer. The overriding policy not to forfeit earned and paid-for credits that represent actual value (energy and otherwise) provided to the receiving utility's system should apply regardless of who retains the credits. So long as there is either: (1) identity of the customer-generator in the transferee/target host account in the same name (as in Canisius' case); or (2) privity of the new host account's customer-generator with the facility that generated and banked the credits (as in the *ESNY-205* case), the transfer should be allowed as consistent with PSL 66-j and the Tariff.

C. Additional Allocations Will Not Adequately Remedy the Problem

As explained above, Tariff § 36.7.1 only permits an existing host to make credit designations to its satellites once per year. While Petitioners would agree that the Tariff generally should be amended to permit designations on a more regular basis, such change or limited waiver of § 36.7.1 would not adequately resolve the issues identified in this Petition.

If the Tariff were amended or a limited waiver was provided for this case only to permit satellite designations and/or allocations on-for example-a monthly basis, Canisius would be required to remove the current designations on the Receiving Satellites so that the Banked Credits could be utilized. Thereafter, Canisius could re-designate credits to the Receiving Satellites after the Banked Credits have been exhausted. However, it would be virtually impossible to time the re-designation of credits to the Receiving Satellites to achieve an adequate resolution. The Receiving Satellites would always either: (a) continue

[33] *Id.* at 12-13.

to carry a small portion of the Banked Credits forward; or (b) utilize all the banked credits before the re-designation could occur. The former would result in Canisius again being unable to be compensated for earned credits. The latter results in the Receiving Satellites, and Canisius by extension, being subject to the full cost of electricity for the interim time between when the Banked Credits run out and the re-designation occurs.

Either path results in Canisius being punished for its attempt to efficiently participate in RNM crediting in good faith. Such punishment is contrary to PSL 66-j, the Tariff, and the State's renewable energy goals and should be avoided.

D. The Requested Relief is Equitable and Would Rectify Unjust Hardship

In the event the Commission determines that any requested relief in this Petition requires a waiver of the Tariff instead of, or in addition to, a declaratory ruling, the Commission should grant the same to prevent the unjust and unreasonable financial burden due to Canisius' inability to use the Stranded Credits.

The Commission has established factors which must be weighed when considering whether to waive a tariff requirement. These include: "whether a waiver is needed to prevent an 'unjust and unreasonable financial burden,' whether the granting of a waiver will impose costs on other ratepayers, and whether granting the waiver will inappropriately discriminate between customers."[34]

Specifically regarding RNM, the Commission has elaborated that where a project owner "engaged in a good faith effort to comply with the tariff and the issue results from errors on the utility's part, the imposition of those financial impacts would be unjust

[34] Case 18-E-0543 - *Petition of AES Distributed Energy for a Declaratory Ruling Interpreting Public Service Law Section 66-j and Authorizing Remote Net Metering Transactions,* Order Granting Petitions Regarding Remote Net Metering Projects (issued Apr. 19, 2019), at 10.

and unreasonable."[35] In this case, the Petitioners, in good faith, relied on direction from National Grid to effectuate the transfer of Steel Sun 2-4 to Kaleida. Petitioners were not aware of, and not informed, that the allocation of the Banked Credits to the Receiving Satellites would result in the inability to use those credits in perpetuity. Requiring Canisius to essentially forfeit the Stranded Credits under circumstances where these credits have real value and represent energy and other value provided to the utility system, is the paragon of "unjust and unreasonable."

With regards to impacts from the requested relief on other customers, there will be none. The requested relief will not impose costs on ratepayers, as such circumstances will be rare, and the full utilization of said credits is already expected. Furthermore, such relief would not inappropriately discriminate between customers as Canisius would not be receiving a benefit not available to others, but rather would be protected from receiving worse treatment than others.[36] With regard to Canisius specifically, all requested relief would benefit only satellite accounts of the same customer-generator and in the same name as Steel Sun 2-2 & 2-9. The requested relief amounts to correction of what can be characterized as an administrative error that no involved party contemplated. Therefore, because the relief requested prevents unjust financial hardship to Petitioners without detrimental effect to ratepayers or similarly situated monetary RNM projects, a waiver of the Tariff, if necessary, is appropriate.

[35] *Id.*
[36] *Id.* at 11.

POINT II

EXPEDITED REVIEW

Petitioners respectfully request that the Commission expedite its review of the Petition and issue a declaratory ruling in this proceeding at its earliest opportunity in order to establish the rights of the parties as soon as possible, and so as to prevent further unjust and unreasonable hardship incurred by the Petitioners.

CONCLUSION

WHEREFORE, Petitioners request that the Public Service Commission issue a declaratory ruling that under Public Service Law § 66-j and the Tariff:

A. In the event of a transfer of an RNM facility, excess banked credits may be transferred to another host account, either of the same customer-generator in the same name (or, to the new owner/operator of the host facility itself). In this case, Canisius should be allowed to request the credits be transferred to a designated host account(s) (in the same customer name as Steel Sun 2-4) in the proportion/allocation of their choice to be "carried over" and re-allocated in future billing cycles, as expressly contemplated in PSL § 66-j and the Tariff; and

B. In the event that any satellite account has surplus banked credits for any reason, the customer-generator should be permitted to transfer such credits to the applicable host account(s) (in the same customer name) in the proportion/allocation of their choice to be "carried over" and re-allocated in future billing cycles, as expressly contemplated in PSL § 66-j and the Tariff; and

C. Such other, further and different relief as will permit Canisius to make just and reasonable use of its monetary RNM credits without undue delay or forfeiture; and

D. Petitioners respectfully request that the Commission expedite its review of the Petition and issue a declaratory ruling in this proceeding at its earliest opportunity in order to establish the rights of the parties as soon as possible, and to prevent further unjust and unreasonable hardship incurred by Petitioners.

Dated: Albany, New York
April 4, 2024

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Petition of BQ Energy, LLC, Steel Sun 2 LLC and Canisius University for a Declaratory Ruling Interpreting National Grid's Remote Net Metering Tariff in Conjunction with Public Service Law Section 66-j.	Case 24-E-____

Verification

Timothy P. Balkin, being duly sworn, deposes and says that I am the Vice President for Business & Finance and authorized representative of Canisius University in the above-entitled proceeding, that I have read the foregoing Petition and know the contents thereof and that the same is true and accurate to the best of my knowledge as to Canisius University.

Timothy P. Balkin
Vice President for Business & Finance
Canisius University

Sworn to and subscribed before me
this 4 day of April, 2024

Notary Public

Dawn M. Rotterman
Notary Public, State Of New York
Registration # 01RO6227833
Qualified In Erie County
My commission expires Sept 7, 2026

Public/Redacted

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Petition of BQ Energy, LLC, Steel Sun 2 LLC and Canisius University for a Declaratory Ruling Interpreting National Grid's Remote Net Metering Tariff in Conjunction with Public Service Law Section 66-j.

Case 24-E-____

Verification

Paul Curran, PE, being duly sworn, deposes and says that I am the Managing Director and authorized representative of BQ Energy, LLC in the above-entitled proceeding, that I have read the foregoing Petition and know the contents thereof and that the same is true and accurate to the best of my knowledge as to BQ Energy, LLC.

Paul Curran, PE
Managing Director
BQ Energy, LLC

Sworn to and subscribed before me
this 10th day of April, 2024

Notary Public

ALYCIA T CATES
Notary Public - State of New York
NO. 01CA0008649
Qualified in Ulster County
My Commission Expires May 25, 2027

Public/Redacted

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

Petition of BQ Energy, LLC, Steel Sun 2 LLC and Canisius University for a Declaratory Ruling Interpreting National Grid's Remote Net Metering Tariff in Conjunction with Public Service Law Section 66-j.	Case 24-E-____

Verification

Paul Curran, PE, being duly sworn, deposes and says that I am the Managing Director and authorized representative of Steel Sun 2 LLC in the above-entitled proceeding, that I have read the foregoing Petition and know the contents thereof and that the same is true and accurate to the best of my knowledge as to Steel Sun 2 LLC.

Paul Curran, PE
Managing Director
Steel Sun 2 LLC

Sworn to and subscribed before me
this 12th day of April, 2024

Notary Public

KIMANI R CLARKE-GILZEAN
Notary Public - State of New York
NO. 01CL6401296
Qualified in Dutchess County
My Commission Expires Dec 9, 2027

Public/Redacted

Exhibit A

Public/Redacted

Office of the Vice President for Business & Finance
OM-102 | phone 716-888-2483 | f ax 716-888-3221 | email balkin4@canisius.edu

October 7, 2022

Robin McGuann
National Grid

Dear Robin,

[redacted]

Thank you,

Timothy Balkin

Timothy Balkin
Vice President of Business and Finance

Public/Redacted

Exhibit B

Public/Redacted

Alicia Scott

From: McGuann, Robin <Robin.McGaunn@nationalgrid.com>
Sent: Friday, October 14, 2022 6:03 PM
To: Balkin, Timothy P
Cc: Alicia Scott; Ciminelli, Thomas E
Subject: RE: [EXTERNAL] Meter assignment
Attachments: Canisius_NG-memo-10.7.22_Meter_Assignment.pdf

Hi Timothy,

[redacted]

Kind Regards,
Robin

Robin McGaunn
Billing Specialist
Customer Energy Integration
nationalgrid

Office: 781-907-4249
Robin.McGaunn@nationalgrid.com

40 Sylvan Road
Waltham, MA 02451
nationalgridus.com | Twitter | LinkedIn | Facebook

Please consider the environment before printing this email.

From: McGuann, Robin
Sent: Friday, October 14, 2022 8:57 AM
To: Balkin, Timothy P <balkin4@canisius.edu>
Cc: Alicia Scott <alicia.scott@bqenergy.com>; Ciminelli, Thomas E <ciminel1@canisius.edu>
Subject: RE: [EXTERNAL] Meter assignment

Hi Timothy,

Thank you for your letter. It has been submitted to our legal department for review as well as the final "Consent to Assignment" paperwork that was returned to National Grid.

I hope to hear back within the next week or so.

Kind Regards,
Robin

Robin McGaunn
Billing Specialist
Customer Energy Integration
nationalgrid

Office: 781-907-4249
Robin.McGaunn@nationalgrid.com

40 Sylvan Road
Waltham, MA 02451
nationalgridus.com | Twitter | LinkedIn | Facebook

Please consider the environment before printing this email.

From: Balkin, Timothy P <balkin4@canisius.edu>
Sent: Friday, October 7, 2022 11:21 AM
To: McGuann, Robin <Robin.McGaunn@nationalgrid.com>
Cc: Alicia Scott <alicia.scott@bqenergy.com>; Ciminelli, Thomas E <ciminel1@canisius.edu>
Subject: [EXTERNAL] Meter assignment

CAUTION: This email originated from outside of the organisation. Do not click links or open attachments unless you recognise the sender and know the content is safe. If you suspect this email is malicious, please use the 'Report Phish' button.

Hi Robin,

Attached is our letter to National Grid on handling the Sun Steel related meter assignment.

Thanks,

Tim

Timothy P. Balkin
Vice President for Business and Finance
Canisius College
2001 Main St.
Old Main 102
Buffalo, New York 14208
balkin4@canisius.edu
(716) 888-2483 (o)
(716) 444-8924 (m)

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You may report the matter by contacting us via our UK Contacts Page or our US Contacts Page (accessed by clicking on the appropriate link)

Please ensure you have adequate virus protection before you open or detach any documents from this transmission. National Grid plc and its affiliates do not accept any liability for viruses. An e-mail reply to this address may be subject to monitoring for operational reasons or lawful business practices.

For the registered information on the UK operating companies within the National Grid group please use the attached link: https://www.nationalgrid.com/group/about-us/corporate-registrations

Public/Redacted

Exhibit C

nationalgrid

SERVICE FOR
CANISIUS COLLEGE
2303 HAMBURG TPKE, SOLAR 4
LACKAWANNA NY 14218

BILLING PERIOD
Oct 17, 2022 to Oct 17, 2022

Public/Redacted

ACCOUNT NUMBER [redacted]

PLEASE PAY BY [redacted]

AMOUNT DUE [redacted]

[redacted]

AUTOALL FOR AADC 140
CANISIUS COLLEGE
2001 MAIN ST
BUFFALO NY 14208-1035

056638

Please do not mail payment
You have a credit balance on your account.

000000000 263775001540000000000327

www.nationalgridus.com

New York State Department of Public Service

Fuel Sources and Air Emission to Generate Your Electricity

Period Shown:
January 1, 2020- December 31, 2020
for

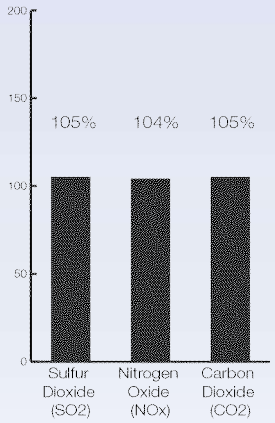
NATIONAL GRID

Fuel Sources	
Biomass	<1 %
Coal	2 %
Hydroelectric	15 %
Natural Gas	44 %
Nuclear	33 %
Oil	<1 %
Renewable Biogas	<1 %
Solar	<1 %
Solid Waste	2 %
Wind	2 %
Total	100%

(Actual Total may vary slightly from 100% due to rounding)

Air Emissions Relative to the New York State Average

NYS Average



Note: *Sulfur dioxide and nitrogen oxides are key pollutants that contribute to acid rain and smog, and carbon dioxide, contributes to global climate change. Depending on fuel source, size, and location, the generation of electricity may also result in other public health, environmental and socio-economic impacts not disclosed above.*

nationalgrid

Public/Redacted

For Your Information

We want you to easily understand your bill, the terms we use and the charges that appear. Following is a brief explanation of items that appear on your bill, as well as payment programs and billing services we offer. If you have questions or want more detailed explanations, please visit our website at www.nationalgrid.com or call 1-800-642-4272.

Paying Your Bill/ Payment Options

• **DirectPay:** If you choose, National Grid will automatically withdraw your monthly bill payment from your checking or savings account. You will avoid the inconvenience of check writing, stamps, mailing and due dates. Your service bill will indicate your energy usage and the date of your next automatic withdrawal.

• **By Mail:** Send us your payment in the envelope provided with your bill. For your protection, please do not send cash. Put your 10-digit account number on your check or money order and include your bill stub. Please do not staple or paper clip your check to the stub.

• **In Person:** Pay at an authorized payment location by cash or check. Please bring your bill with you. Most locations charge a fee for providing this service. For the payment locations nearest you, visit our website or contact us.

• **Online:** Enroll online to receive and pay your bill online. The online function will begin with the next billing cycle following your enrollment.

• **Late Payment Charge:** To avoid Late Payment Charges, your payment must be received by the date shown on the front of the bill.

Billing Credits

Paperless Billing Credit: A credit provided to Customers who elect to receive their bills electronically through the Company`s Online Bill-Pay Program.

Outage Credit : A credit issued by the company in case of a prolonged electric service outage.

Charges

Charges for electric or gas service are based on rates or prices approved by the New York State Public Service Commission (PSC). When changes in prices are approved by the PSC, information will be included with your bill. Complete price schedules are available on our website or by contacting us. National Grid reserves the right to upwardly adjust a previously issued bill or back bill.

Basic Service: A charge to cover costs for meter reading, billing, equipment and maintenance. This charge is the same regardless of how much energy is used during the billing period.

Tariff Surcharge: New York State and many local municipalities impose taxes on National Grid's revenue. These operating costs are recovered through a tariff surcharge applied to all rates and charges and may vary among taxing municipalities within the National Grid system area.

Sales Tax: In some areas National Grid is required to collect state and local sales taxes. Some school districts also impose taxes.

Merchant Function Charge: A charge for the Company's cost to procure gas or electricity supply. The Company will not bill you this charge if you choose an alternate supplier.

Energy Measurement Terms

kWh: The unit of electricity usage measured by your meter. One kilowatt-hour(kWh) is 1000 watts-hours, and will light a 100-watt bulb for 10 hours. The number of kWhs is used to determine the electricity charges on your bill.

Meter Multiplier: Due to their design, some meters record a fraction of the total usage. The multiplier is used to convert the recorded meter reading on these types of meters to total actual consumption.

CCF: The unit of gas volume (100 cubic feet) as measured by your meter.

Therm: A unit of heat content equal to 100,000 British Thermal Units (BTU). A BTU represents the amount of heat required to raise the temperature of one pound of water by one degree Fahrenheit. The number of CCFs is multiplied by a conversion factor to determine the therms used. The number of therms is used to determine the gas charges on your bill.

Electric Service

Delivery: National Grid's charges for bringing electricity from your supplier to your premise, regardless of supplier. Included, when applicable, are the following surcharges: Earnings Adjustment Mechanism, Dynamic Load Management, Non-Wires Alternative, Clean Energy Standard Delivery, Value of Delivery Energy Resources and Reliability Services Surcharge.

Legacy Transition Charge (LTC): All delivery service customers are billed the cost or benefit of electricity supply contracts the Company entered prior to June 1, 2001. Residential customers also receive the benefit of low cost hydropower and a discount payment from the New York Power Authority

Capacity Tag: Your adjusted electricity demand at the hour of the New York Control Area peak load in the most recent 12 month period ending May 1.

Customer Benefit Contribution (CBC): Monthly $/kW DC installed-capacity charge assessed to customers that install eligible generation assets after January 1, 2022 intended to collect certain public benefit program costs from these customers.

SBC: These charges reflect costs associated with mandated public policy programs, such as Clean Energy Fund.

Revenue Decoupling Mechanism ("RDM"): Reconciles actual billed delivery service revenues to annual target revenues. Delivery service revenues above target are refunded to customers. Target revenues above actual delivery service revenues are collected from customers.

Transmission Revenue Adjustment: Reconciles wholesale transmission service revenue to the forecasted transmission service revenue embedded in electric delivery rates. Transmission service revenues above those forecasted are credited to customers. Forecast revenues above actual revenues are collected from customers.

Electricity Supply: The price of electricity supply used during the billing period. If you choose an alternate supplier, the price will be what you agree upon with that supplier.

Electricity Supply Reconciliation Mechanism (ESRM): Reconciles National Grid's electricity supply service revenues to the cost of Company purchased electricity, including Clean Energy Standard costs. Costs above revenues are recovered from customers. Revenues above costs are credited to customers.

SBC Exemption: A credit provided to Customers who are not subject to the SBC.

Gas Service

National Grid Gas Delivery Service Charge: National Grid's charges for transporting gas across its distribution system to your premise, regardless of supplier.

Adjustment for changes from normal weather: A mechanism that adjusts customers' gas bills due to variations from normal weather during the heating months, October through May.

Gas Supply: A charge to reflect the Company's actual cost to purchase gas from suppliers and transporting the gas to the Company's distribution system. If you choose an alternate supplier, the price will be what you agree upon with that supplier.

Delivery Service Adjustment: A collection of surcharges and credits consisting of Net Revenue Sharing Adjustment, Research & Development Surcharge, Revenue Decoupling Mechanism, Gas Safety & Reliability Surcharge, Earnings Adjustment Mechanism, Net Utility Plant & Depreciation Expense Reconciliation, Incremental Energy Efficiency Surcharge, Non-Pipe Alternatives Cost Recovery, Late Payment Charge & Other Waived Fees and Arrears Management Program.

Estimating Your Usage

When we are unable to obtain a reading, we estimate your usage based on your past usage, taking current weather conditions into account. Because our meters keep a continuous record of usage, any difference between estimated and actual usage is reconciled with the next meter reading. To avoid estimated readings, you can take your own reading on or just before the scheduled date shown on your bill and call it in at 1-888-932-0301.

For more information, visit us at: www.nationalgrid.com or call 1-800-642-4272. Customers with problems paying their National Grid bill should call 1-800-443-1837.

Public/Redacted

Exhibit D

