

STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service
Commission held in the City of
Albany on January 8, 2015

COMMISSIONERS PRESENT:

Audrey Zibelman, Chair
Patricia L. Acampora
Garry A. Brown
Gregg C. Sayre
Diane X. Burman, abstained

CASE 14-E-0151 - Petition of Hudson Valley Clean Energy, Inc.
for an Increase to the Net Metering Minimum
Limitation at Central Hudson Gas & Electric
Corporation.

CASE 14-E-0422 - Petition of Solar Energy Industries
Association, Alliance for Clean Energy New
York, the Vote Solar Initiative, the National
Resources Defense Council and The Alliance for
Solar Choice to Clarify the Process for
Utilities to Seek Relief from Net Metering
Caps.

ORDER CLARIFYING PRIOR ORDER

(Issued and Effective January 9, 2015)

BY THE COMMISSION:

BACKGROUND

The Order Raising Net Metering Minimum Caps, Requiring
Tariff Revisions, Making Other Findings, and Establishing
Further Procedures (NEM Cap Order), issued December 15, 2014 in
these proceedings, addressed the requirements that developers of
solar PV and other generation projects must meet in order to
participate in net metering under the provisions of Public
Service Law (PSL) §66-j. It was decided that, for a net metered
project to comply with the 2 MW size limitation that is a

prerequisite to remote net metering under PSL §66-j(3)(e)-(g), each project, up to the 2 MW limit, must be separately metered and interconnected to the utility grid, each must be located on a separate site, and each must operate independently of others. To avoid disrupting the development of meritorious net metering projects, however, successful participants in the New York State Energy and Research Development Authority (NYSERDA) solicitations, and the Request for Proposals process conducted by New York City (NYC) for development of renewable facilities at the Freshkills landfill, were not required to meet all three criteria and instead may comply by showing they made a good faith effort to satisfy the 2 MW limit in designing their projects.

Moreover, the NEM Cap Order addressed a rate design currently in place for remote net metered customers that has resulted in an unanticipated opportunity for uneconomic arbitrage. Under existing utility rate designs, a non-residential customer pursuing remote net metering, at a site where a non-demand rate is in effect, obtains monetary credits for its exceedances of generation production over energy consumption at the remote site. Excess credits are then applied to bills at satellite sites, where volumetric rates are generally lower. If, however, such a customer were to locate generation eligible for net metering at one on-site location, it could only obtain a volumetric credit there, which could be applied only to the bill at that site. In addition, demand customers net metering on-site generally can only obtain credits at the comparatively lower volumetric rates accompanying their demand service classifications. As a result, remote net metering customers are advantaged over on-site net metering customers, encouraging customers to arbitrage by pursuing projects at remote instead of on-site locations. To remedy this

uneconomic preference, utilities were directed to revise their rate designs to provide for volumetric crediting instead of monetary crediting at remote net metered sites where non-demand rates are in effect.

Again, however, the NEM Cap Order noted that rate design changes should not disrupt the plans of net metering developers seeking to bring their projects on-line in good faith. As a result, several categories of projects were grandfathered against the substitution of volumetric crediting for monetary crediting. These categories are: existing net metered facilities; successful participants in the NYSERDA and New York City solicitations discussed above; and, customers entering into binding interconnection agreements for remote net metering that have been queued by utilities as of December 11, 2014.

Further clarification of the NEM Cap Order's 2 MW and volumetric crediting provisions could alleviate concerns among developers of solar PV and other net metered projects that their progress in bringing their projects to fruition might be disrupted. Appropriate clarifications are discussed below.

DISCUSSION AND CONCLUSION

The NEM Cap Order grandfathered the application of new requirements in two instances. The first is the new qualifications -- separate interconnection, parcel of land, and operations -- for establishing that the PSL §66-j 2 MW limit on net metered project size is met. The second is the prospective substitution of volumetric crediting for the monetary crediting currently in effect at remote net metered sites where non-demand rates are charged. The criteria, however, for obtaining grandfathering against application of the new 2 MW requirements

were different than those for grandfathering against the substitution of volumetric for monetary crediting.

As to the 2 MW qualifications, the NEM Cap Order grandfathered successful participants in the NYSERDA and NYC solicitations if they made good faith efforts to plan 2 MW projects even if the three new qualification criteria were not all specifically met. The successful participants in the NYSERDA and NYC programs are defined as those projects that have been awarded grants from NYSERDA through the Program Opportunity Notices (PON) described in the NEM Cap Order,¹ and from NYC through its Freshkills process, subject to compliance with the terms and conditions of those grants. As a result, any action permissible under the terms and conditions of a grant would also qualify for grandfathering.

As to the substitution of volumetric crediting for monetary crediting, the NEM Cap Order grandfathers into monetary crediting the three categories: existing projects already interconnected; successful participants in the NYSERDA and NYC solicitations; and, those queued by utilities as of the December 11, 2014 date. The categories are separate and inclusion in any one of the three is sufficient to obtain grandfathering.

Existing projects are readily defined as those net metering electricity through an interconnection with a utility operational as of December 11, 2014. Successful participation in the NYSERDA and NYC programs is discussed above. Emplacement within a utility queue as of December 11, 2014 shall be established by demonstrating that a completed preliminary

¹ The competitive solicitation PONs were more completely described in the Erratum Notice issued December 16, 2014 in these proceedings.

interconnection application had been submitted to the relevant utility as of that date.²

Finally, clarification of one of the three qualifications for showing a project is sized in compliance with the PSL §66-j limit is appropriate for the projects not already grandfathered as successful participants in the NYSERDA and NYC solicitations discussed above. The operational separation qualification will be met by showing that each project can start up, shut down, and run independently from any other project.

The Commission orders:

1. The Order Raising Net Metering Minimum Caps, Requiring Tariff Revisions, Making Other Findings, and Establishing Further Procedures, issued December 15, 2014 in these proceedings, is clarified to the extent discussed in the body of this Order.

2. These proceedings are continued.

By the Commission,

(SIGNED)

KATHLEEN H. BURGESS
Secretary

² In addition, grandfathering of participants in PON 2112, beyond that already achieved through utility queuing as of December 11, 2014, could be considered in these proceedings subsequent to this Order; that PON is not a competitive solicitation in that it provides for cash incentives supporting installation of PV systems of 25 kW or less for residential customers and 200 kW or less for non-residential customers.

CASES 14-E-0422 and 14-E-0151

Commissioner Diane X. Burman, abstained

As reflected in my comments made at the public session on January 8, 2015, I abstain as previously consistent with my voting on this and other related matters.