STATE OF NEW YORK
PUBLIC SERVICE COMMISSION

At a session of the Public Service Commission held in the City of Albany on March 15, 2018

COMMISSIONERS PRESENT:

John B. Rhodes, Chair
Gregg C. Sayre
Diane X. Burman
James S. Alesi

CASE 18-E-0126 - Tariff Filing by the New York Municipal Power Agency to Implement a New Rider A - Rates and Charges for High Density Load Service.

ORDER APPROVING TARIFF AMENDMENTS WITH MODIFICATIONS

(Issued and Effective March 19, 2018)

BY THE COMMISSION:

INTRODUCTION

On February 15, 2018, the New York Municipal Power Agency (NYMPA),[1] filed proposed tariff amendments to implement a new Rider A – Rates and Charges for High Density Load Service - to its generic tariff schedule, P.S.C. No. 1 – Electricity. Rider A sets out the rates and conditions of service for high density load (HDL) customers. NYMPA requests that the Commission address its filing as an emergency action under the State Administrative Procedure Act (SAPA), and waive the requirements of Public Service Law (PSL) §66(12)(b) and 16 NYCRR

[1] NYMPA is an organization comprised of 36 municipal electric utilities located throughout New York State. These member municipal electric utilities and Green Island Power Authority, although not a NYMPA member, concur in and agree to abide by the rules and regulations set forth in the NYMPA generic tariff.

§720-8.1 regarding newspaper publication because NYMPA plans to individually notify all customers who qualify for Rider A of its terms.

By this order, the Commission finds that the requested action qualifies as an emergency under SAPA and authorizes NYMPA's Rider A, subject to modifications, to go into effect on March 23, 2018, waives the publication requirement, and requires NYMPA members to directly inform all customers that qualify for service under Rider A.

BACKGROUND

NYMPA was founded in 1996. Its members are all municipal, not-for-profit, electric utilities formed under General Municipal Law §360. Because the members need to supplement the hydropower they receive from the New York Power Authority (NYPA), they are under the Commission's jurisdiction. NYMPA aggregates its members' supplemental power needs to increase their market power and lower costs. NYMPA's members operate under the NYMPA Tariff,[2] coupled with individual concurrence tariffs, which provide system-specific provisions.

TARIFF FILING

In its tariff filing NYMPA states that generally its members' supply needs are met through NYPA, with intermittent supplemental power procured in the open market as needed. The cost of the supplemental power is recovered from all customers on a volumetric basis.

NYMPA states that providing retail service to HDL customers requires utilities to increase their supplemental energy purchases, which in turn increases energy costs for all

[2] Case 98-E-0490, New York Municipal Power Agency – Tariff, Untitled Order (issued November 25, 1998).

customers through the NYMPA tariff purchase power adjustment clause (PPAC). According to NYMPA, its members have seen a dramatic rise in applications for service from HDL customers. These customers, NYMPA claims, are generally involved in high-volume data processing for cryptocurrencies, and are attracted to municipal systems due to their low energy costs. These HDL customers, NYMPA states: move into existing commercial spaces and make little capital investment in the local community; employ very few people; and, are highly mobile, which increases the uncertainty in the utilities' supply needs and the ability to recover utility-funded infrastructure investments.

Because HDL customers impose unique costs, NYMPA seeks to serve HDL customers under the proposed Rider A, which would define HDL customer applicability, detail application requirements and conditions for HDL service, and provide specific rates, charges, and a PPAC methodology for HDL customers. Barring NYMPA's proposed modifications, the costs imposed by HDL customers would be paid for by all ratepayers within the municipality.

NYMPA provided the estimated impact that providing service to a prospective 5 MW HDL customer would have on the annual average power supply costs in the Village of Akron, indicating these costs would increase by approximately 54%.[3] The average residential customer would experience an estimated increase in their total bill of about 30 percent as a result. Two HDL customers with a combined demand of over 11 MW currently operating in the City of Plattsburgh caused energy costs to rise by over $200,000 in January; as a result, the average residential customer experienced an increase in their total bill of over 6% due to increased power costs.

[3] Tariff Filing at page 4.

Applicability

NYMPA's proposed Rider A applies to new and existing customers receiving service under any service classification that: (1) maintain load consuming equipment that exceeds 250 $kWh/ft^2/year$; (2) use or request a maximum demand exceeding 300 kW; and (3) do not qualify for the NYPA Municipal and Rural Cooperative Economic Development program. NYMPA proposes that this Rider be applicable to service to new buildings and premises as well as to increased service to existing buildings and premises.

Application for Service and Conditions

Per NYMPA's proposal, a customer requesting to take service under Rider A will be responsible for contacting the utility, in writing, with details of its proposed load. The customer will be responsible for the reasonable costs of conducting a feasibility study to evaluate whether the requested load can be safely served by the utility, and identify any upgrades to the utility's system required to serve the customer. In the filing, NYMPA indicates that the customer will be responsible for a reasonable contribution to the cost of adding or enlarging the facilities whenever the customer is unable to give assurance that the taking of the increased service shall be of a sufficient duration to render the supply reasonably compensatory to the utility. Additionally, the customer shall provide financial security in an amount and form acceptable to the utility for the customer's payment of its cost contribution, rates and charges.

HDL Rates, Charges and PPAC methodology

NYMPA proposes that customers served under Rider A will pay the rates and charges applicable to their respective service classification, except for the PPAC. Instead Rider A customers would pay an HDL Purchased Power Adjustment (HDL PPA), which will recover the incremental purchased power cost incurred by the utility needed to serve such customers. The HDL PPA will be included in the HDL PPA Rate Statement. The HDL PPA will be calculated using monthly inputs for energy and demand costs incurred by the municipal utility for load served under Rider A, and will be recovered on a per kWh basis. NYMPA proposes that the HDL PPA statement be filed no less than three business days prior to the proposed effective date.

EMERGENCY ADOPTION

This Order is issued on an emergency basis pursuant to State Administrative Procedure Act (SAPA) §202(6) because the Commission finds that HDL customers may use an exorbitant amount of resources, which harms the public welfare by shifting costs to municipal ratepayers while providing no general benefit. It is contrary to the public interest to comply with the notification requirements of SAPA §202(1). This notice shall constitute notice of proposed rulemaking in accordance with SAPA §202(1). This notice does not constitute a notice for revised rulemaking for the purposes of SAPA §202(4)(a).

STATUTORY AUTHORITY

Under PSL §66(12)(b), the Commission may, for good cause shown, authorize changes in electric utilities' tariffs, other than major rate increases.

DISCUSSION AND CONCLUSION

NYMPA has identified a class of customers that impose unique costs on its members and their ratepayers, potentially without providing a corresponding benefit. Since it is a general principle of ratemaking that costs caused solely by a service class should be borne by that class, the proposed Rider A, as modified below, is a reasonable response to challenges caused by HDL customers. In addition, the Commission agrees that, due to the wide-spread geographic nature of NYMPA's members, newspaper publication would be unduly burdensome. Therefore, the Commission approves NYMPA's proposal to inform HDL customers directly of Rider A's terms.

Applicability

NYMPA's proposed HDL energy density threshold of 250 kWh/ft^2/year is generally well above the energy density of its members' existing customers. NYPMA indicated that while one of its members currently serves a customer with an energy density that is greater than 250 kWh/ft^2/year, that customer will be exempt from Rider A since it receives an economic development power allocation. The most energy dense customer served by a NYMPA member that does not qualify for an economic development power allocation is an industrial packaging company that has an energy density of approximately 150 kWh/ft^2/year. Given the existing customer base, NYMPA's proposed threshold is reasonable.

NYMPA members' systems range in size from 1.5 MW in the Village of Silver Springs to 122 MW in the City of Plattsburgh, with most systems falling in the lower end of that range. Most NYMPA members are not experiencing load growth, and thus do not plan for the magnitude of load growth associated with HDL customers. NYMPA's proposed minimum demand of 0.3 MW is a reasonable threshold considering the existing peak demands of the NYMPA members' systems.

Under the existing Municipal and Rural Cooperative Economic Development Program, existing customers must create at least 50 jobs per MW to qualify for a low-cost hydropower allocation.[4] Exempting customers that qualify for the NYPA Municipal and Rural Cooperative Economic Development Program from Rider A ensures that Rider A will not serve as a disincentive for economic development, and is therefore an important criterion.

Application for Service and Conditions

As proposed by NYMPA, Rider A customers will be responsible for the costs of conducting the feasibility study and, if necessary, a contribution to the cost of adding or enlarging the municipal utility's facilities. As indicated in the tariff:

> if the service request necessitates added or enlarged facilities, a reasonable contribution to the cost of adding or enlarging the facilities whenever the customer is unable to give assurance, satisfactory to the Utility, that the taking of the increased service shall be of sufficient duration to render the supply thereof reasonably compensatory to the Utility.

Additionally, per the tariff included in the Petition:

> The customer shall provide financial security in an amount and form acceptable to the utility for the customer's payment of its cost contribution, rates and charges.

NYMPA clarified its proposal indicating that the contribution required of Rider A customers would be set equal to the entire upgrade cost. NYMPA explained that due to the unique characteristics of Rider A customers, coupled with the limited resources of municipalities, it is appropriate to provide safeguards to protect municipal customers by requiring Rider A

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[4] The jobs per megawatt ratio for new businesses are considered on a case-by-case basis. Municipal and Rural Cooperative Economic Development Program Guidelines at page 4.

customers to fund the entire upgrade cost. In the event a contribution to the cost of adding or enlarging infrastructures is necessary, we concur that the contribution should be in the form of an upfront payment.

Contributions in aid of construction are traditionally calculated by subtracting incremental net revenues over an appropriate time period from the project cost. Rider A customers should be treated similarly, and their future revenues should be recognized in the form of an annual refund for a period of ten years. The refund shall be made at the end of each full year of service and, will be set equal to the lesser of the annual non-supply related revenues or one-tenth of the contribution cost.

NYMPA explained further that it would require revenue assurance for current billed and unbilled amounts from Rider A customers. This assurance would be in the form of an upfront deposit or a Letter of Credit, at the customers option. NYMPA explains that Rider A customers are highly mobile and can relocate easily, which may result in a large uncollectable amount. The deposit/Letter of Credit is intended to protect other customers in the event a Rider A customer does not pay its final bill. Since Rider A customers can relocate easily and their energy bills can be such a significant portion of the municipalities total supply cost, it is appropriate to provide safeguards to municipal customers by requiring Rider A customers to provide a deposit/Letter of Credit. To provide security for unbilled and current billed revenues, the deposit/Letter of Credit required of Rider A customers shall be set equal to two times the estimated total monthly bill of the Rider A customer.

HDL Rates, Charges and PPAC methodology

Under Rider A, HDL customers will pay the rates and charges applicable to their respective service classification, except for the PPAC. Instead Rider A customers would pay an HDL PPA. The addition of HDL customers could significantly increase the amount of supplemental power needed by NYMPA members' systems. Since supplemental power is generally more expensive for customers than the NYMPA members' allocation of low cost hydro-power from the NYPA Niagara Project, HDL customers will increase power supply costs to existing customers through the current PPAC. NYMPA's proposed HDL PPA prevents these additional costs from being imposed on current customers, and is therefore reasonable.

Since HDL customers will pay the NYMPA members' base rates under the new Rider A, the potential exists for affected municipal utilities to receive significant non-supply related revenues that were not included in the revenue forecast used to develop existing rates. Therefore, NYMPA members are required to defer any incremental non-supply related revenues, net of any required refunds associated with HDL customer contributions in aid of construction, discussed supra, received from customers served under Rider A for future disposition by the Commission for the benefit of ratepayers. If the incremental revenues are offset by incremental costs, the NYMPA member can make a filing to the Commission requesting relief from this requirement.

Emergency Action

The Commission determines that following the normal SAPA notice and comment procedure in this case would jeopardize the public's general welfare because current HDL customers shift the capital infrastructure costs needed to provide service to NYMPA's member utilities, and resulting excess supply costs to all other ratepayers, without providing the former with a reasonable assurance of a long-term customer, and the latter with any significant investment in, or benefit to, the local community. Such cost-shifting burdens the municipal utilities, which are generally small systems with limited resources, and the resulting higher costs discourage potential new customers from investing in the utilities' territory.

Given the cost of a single HDL customer to both the utilities and ratepayers, it is contrary to the public welfare to delay implementation of Rider A for the SAPA comment period.

The Commission orders:

1. The tariff amendments listed in the Appendix are authorized to become effective on March 23, 2018, provided that the New York Municipal Power Agency files further revisions consistent with the discussion in the body of this order on not less than one day's notice to become effective on a temporary basis on March 23, 2018. The tariff amendments listed in the Appendix and the further revisions will not be permanent until approved by the Commission.

2. Any incremental non-supply related revenues associated with customers served under Rider A will be deferred for future disposition by the Commission for the benefit of ratepayers as described in the body of this Order. If the incremental revenues are offset by costs, the NYMPA member utility can make a filing to the Commission requesting relief from this requirement.

3. New York Municipal Power Agency shall within ten days of the issuance of this Order notify all current customers and applicants that qualify for service under Rider A of the new terms of service.

4. New York Municipal Power Agency shall within 20 days of the issuance of this Order, file a copy of the customer notice sent to all HDL customers and applicants and confirm that the notice has been sent.

5. The requirements of Public Service Law §66(12)(b) and 16 NYCRR §720-8.1 as to newspaper publication of the proposed tariff amendments listed in the Appendix and the further revisions in Clause 1 are waived.

6. This Order is adopted on an emergency basis under §202 (6) of the State Administrative Procedure Act.

7. In the Secretary's sole discretion, the deadlines set forth in this order may be extended. Any request for an extension must be in writing, must include a justification for the extension, and must be filed at least one day prior to the affected deadline.

8. This proceeding is continued.

By the Commission,

(SIGNED) KATHLEEN H. BURGESS
Secretary

SUBJECT: Filing by NEW YORK MUNICIPAL POWER AGENCY

Amendments to Schedule P.S.C. No. 1 – Electricity

Original Leaves Nos. 95, 96, 97
Second Revised Leaf No. 8

Issued: February 15, 2018 Effective: March 19, 2018
Postponed to March 23, 2018.

NEWSPAPER PUBLICATION: Waived