

MEMC[®]



Hon. Kathleen H. Burgess
Secretary to the Commission
New York State Public Service Commission
Empire State Plaza, Agency Building 3
Albany, NY 12223-1350

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.

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.

Dear Secretary Burgess,

SunEdison LLC¹ respectfully submits these comments in support of the above-referenced petitions seeking greater clarity around the availability of net metering as a mechanism to equitably compensate qualifying renewable system owners and beneficiaries for the value of their output. SunEdison wholly endorses the petition filed by the Solar Energy Industries Association (SEIA) and other parties requesting the adoption by the Commission of a specific threshold toward the existing 3% of historic peak load aggregate net metering cap that would trigger the requirement that an individual distribution utility petition for relief. SEIA Petition at 2. Absent a clear numeric threshold, SunEdison is

¹ SunEdison, LLC, is North America's leading solar energy services provider and has a significant interest in the outcome of this matter. Founded in 2003, SunEdison currently has over 1,600 MW of solar capacity under management, including several commercial-scale systems planned for or already under construction in New York State.

concerned that utilities are afforded too much discretion as to when, and indeed whether, it must seek net metering cap relief. Our overarching concern is that, given the 1-2 year development cycle for larger scale solar PV projects, the lack of assurance around future “headroom” under the service territory-wide net metering limits will create untenable regulatory risk and chill project development well ahead of the caps actually being hit. This will pose a negative, and entirely unnecessary, drag on future solar development and jeopardize the timely and cost-effective achievement of the NY-SUN goals.

Beyond the relief sought in the above-referenced petitions, the Commission should take this opportunity to resolve other regulatory gray areas as pertains to net metering. First and foremost, the Commission should send a clear message to the market that, notwithstanding Reforming Energy Vision (REV) outcomes, the Commission will respect investment decisions made today on the basis of the customer’s eligibility to net meter. While we recognize that no customer has an inherent right to the maintenance of a particular rate design, the potential for REV to establish an entirely new construct for valuation of the benefits provided by distributed solar, introduces significant risk to the customer, project developers, and investors, that the economic basis for their long-term investment could be radically altered through future regulatory action. This risk creates financial inefficiencies that will be priced into future projects and undercuts the Commission’s efforts to establish a self-sustaining solar market. Whatever the ultimate fate of net metering in New York State in a post-REV regulatory landscape, the Commission should send an unequivocal message that qualified net metering projects will be grandfathered notwithstanding the phase-in of alternative REV pricing paradigms.

Revenues from the generation of electricity from a qualifying net metered facility to serve on-site load, or as in the case of remote net metering the sale of net metering credits to serve satellite load, is one of the two main revenue streams supporting the economic viability of distributed solar projects. The other major value stream over which the PSC has jurisdiction is the incentives delivered under the newly reconstituted NY-SUN initiative. Historically, the availability of retail value for electricity delivered under net metering in New York has been fairly stable and certain, while the episodic nature of the state’s incentive delivery was the major market constraint. This situation is now flipped on its head. The Commission’s landmark NY-SUN decision has offered the incentive runway that the industry has long advocated. Unfortunately, the predictability and certainty of future revenue levels from the sale or offset of electricity via net metering is now subject to greater uncertainty. The Commission should rectify this.

Further, without delaying the relief sought by the petitioners, SunEdison would urge the Commission to timely resolve other emerging regulatory uncertainties surrounding remote net metering (RNM). The market is clearly driving towards remote net metering as an innovative new development model, as evidenced by the nearly 80% of projects awarded incentives in the most recent NYSERDA CompetitivePV solicitation configured as RNM.² To those involved in solar development the attractiveness of remote net metering comes as no surprise. RNM allows for least cost solar development, and concomitantly, the lowest required incentive, given greater economies of scale in development. Further, RNM addresses other technical or institutional barriers that may otherwise prevent customers from deploying solar, including structural loading limitations of rooftop systems, shading, or lack of landlord consent to name a few. Additionally, RNM allows the utilization of unproductive land to meet public policy objectives, such as reuse of landfills and brownfields to support decentralized generation. In short, if regulatory issues are resolved, a vibrant RNM regime will be a critical vehicle for achieving the state's ambitious solar deployment targets at lowest ratepayer cost.

One area that would benefit greatly from proactive Commission guidance is an affirmation of the ability to co-locate multiple remote net metered systems on a single contiguous parcel. SunEdison respectfully contends that the Public Service Law reveals no specific limitations on the number of qualifying solar facilities that can be built on a single contiguous parcel as long as the other criteria for remote net metering enumerated in the statute are met.³ Notably, the generic Electric Tariff governing remote net metering does not impose any limitation on the amount of solar generation capacity that can be built on a single contiguous parcel of land.⁴ However, we are concerned that there may not be a consistent policy or practice among the state's distribution utilities on this issue and the potential for an interpretation contrary to the plain language of the statute creates undue project risk that the Commission can and should easily mitigate.

² See, CleanPower Stakeholder Presentation, NYSERDA MW Block Design Stakeholder Meeting, October 8, 2014 available at <http://ny-sun.ny.gov/About/Stakeholder-Meetings.aspx>.

³ There are three distinct requirements for a customer seeking to utilize remote net metering: (1) the generating equipment must be "located and used" at the customer's premises; (2) the property where the host and satellite accounts are located must be "owned or leased" by the customer; and (3) the customer's solar facility cannot have a rated capacity greater than 2 MW. Public Service Law, §66-j

⁴ See, e.g., Consolidated Edison Schedule for Electric Tariff at Leaf 244; *see also* PSL §§ 66-j(a)(iii), (d)(i)(C). If the Project qualifies for remote net metering, the Electric Tariff imposes limitations on which accounts can utilize the remote net metering credits generated by the Project. See Electric Tariff at Leaf 249.1.

For all the foregoing reasons, the Commission should grant the petition filed by SEIA et. al., and establish a threshold level of applications for net metering service that would trigger a request for cap relief. Further, the Commission should consider addressing in this context other sources of ambiguity or regulatory risk that has a negative bearing on the least cost development of solar generation in New York State, including but not limited to the grandfathering of existing net metering facilities within REV and the ability to co-locate multiple remotely net metered systems on a single contiguous property.

Respectfully submitted,



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On Behalf of SUNEDISON LLC

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