

THE STATE OF NEW HAMPSHIRE
before the
PUBLIC UTILITIES COMMISSION

ELECTRIC DISTRIBUTION UTILITIES

Examination of Electric Distribution Utility Interconnection and Queue Management Processes
for Net-Metered Customer-Generators

Docket No. DE 15-271

REPLY COMMENTS OF THE ELECTRIC DISTRIBUTION COMPANIES

On January 7, 2016, the New Hampshire Public Utilities Commission (“Commission”) held a public comment hearing in the instant proceeding. The purpose of that hearing was to hear comments on a proposed set of recommended procedures for managing the net metering applicant queues of New Hampshire’s electric distribution companies (“EDCs”). During the public hearing essentially all parties stated their support for the procedures subject to providing additional clarifying comments in line with the schedule set by the Commission. Consistent with the Commission’s schedule, Liberty Utilities (Granite State Electric) Corp. d/b/a Liberty Utilities, Unitil Energy Systems, Inc., and Public Service Company of New Hampshire d/b/a Eversource Energy (collectively, the “Electric Distribution Utilities” or “EDCs”), provided joint comments setting out their recommendations for minor clarifications to the proposed procedures. Written comments were also submitted by the Office of the Consumer Advocate (“OCA”), Borrego Solar Systems, Inc. (“Borrego”), The Alliance for Solar Choice (“TASC”), and NhSolarGarden.com, LLC (“NhSolarGarden”). On January 21, 2016, the Commission, noting that some of the comments received were “detailed and extensive in scope,” provided parties the opportunity to file responses to those comments by January 29, 2016. The EDCs provide their written reply comments herein.

Initially, and in general, the EDCs agree that many of the comments offered by Borrego, TASC, and NhSolarGarden are extensive and/or detailed in nature. At this point, while parties may have the right to file extensive comments, to do so at this stage of the docket may be counterproductive. As the Commission Staff noted in its December 3, 2015 recommendation, following a number of work sessions, the proposed procedures were circulated on October 2, 2015 and received “no significant comment or other response” for months. Also, at the Commission’s January 7, 2016 hearing, virtually no substantive disagreements with the draft procedures were raised. The current, draft procedures provide key, high-level requirements and milestones, but fall short of full administrative rules. The EDCs recommend that rather than further delay the issuance of the procedures in an attempt incorporate extensive changes, the Commission implement them essentially “as is,” so that parties may use them to guide activity going forward. To the extent certain details are not explicit in the current draft, and those details later prove to be a legitimate and repetitive concern to specific parties and/or projects, the EDCs and the affected parties can work together on resolution, and will request Commission guidance on an as-needed basis.

With respect to the specific comments of the various parties, TASC and Borrego both commented upon the requirement for Type C projects to provide “evidence of sufficient project-specific customer-members to satisfy the requirements to be issued a group host authorization number under Puc 909.” TASC supports this approach and believes that “an offtake agreement or power purchase agreement (“PPA”) should be required before a project is admitted to the queue.” Borrego, however, contends that the requirement to have a PPA “is overly burdensome and does not align with the development process for these types of projects.” The fact that these comments, both from advocates for solar project development New Hampshire, are in direct

opposition, indicates that the Commission must be cautious about making extensive revisions to the proposed procedures.

The EDCs offer the following perspective: The net metering statute, RSA 362-A:9, I, requires that net metering tariffs shall be made available on a “first-come, first-served basis.” At a high level, Docket No. DE 15-271 aims to develop Commission guidance regarding the interpretation of that language. Net metering is a tariff option for **customers**, and RSA 362-A:9 makes net metering available to an “eligible customer-generator,” which is defined, in relevant part, as:

an electric utility **customer** who owns, operates, or purchases power from an electrical generating facility either powered by renewable energy or which employs a heat led combined heat and power system, with a total peak generating capacity of up to and including one megawatt, that is located behind a retail meter on the customer's premises, is interconnected and operates in parallel with the electric grid, and is used to offset the customer’s own electricity requirements.

RSA 362-A:1-a, II-b (emphasis added).

The statute makes no reference to prospective customers or private developers who are not customers. In general, utility tariffs are made available to entities either seeking to initiate electric service in the immediate future, or to existing customers wishing to continue to receive service. Tariff options are not generally made available on a firm basis to customers that could, but may not, commence service at some point in the future. For example, a customer contemplating building a home with electric baseboard heating at some point in the future cannot be certain that the local utility will have an electric heating tariff option available at the time service is initiated. At one extreme, the Commission could interpret “first-come, first-served” to mean that customer-generators shall only be granted a firm spot in the limited net metering program upon successful initial operation of the generating source. At the other extreme, a potential net metering project would merely submit a completed application, or some other

expression of intent, in order to earn a firm reservation in the program. Neither option is ideal. The EDCs believe that by requiring evidence of sufficient project-specific customer-members to satisfy the requirements of Puc 909 the current draft procedures reach an adequate compromise.

Furthermore, Type C projects can fall into three general categories: (1) those being built on the rooftop or property of a single, specific customer to serve the needs of that customer; (2) those being built to operate as a Group Host project that will serve the energy needs of a specific and known set of customers that are actively engaged in the project solicitation and development process; or (3) those being built to operate as a Group Host project with the business intent of serving the energy needs of group members who have not yet been identified or secured. The current draft procedures tend to make it more difficult for projects in the third category to earn a spot in the program. The EDCs believe this is appropriate given the relatively speculative nature of such projects. While it is understandable that a developer of these types of projects would desire procedures that are more conducive to its development and financing processes, the best interest of specific customers wishing to utilize net metering should be the prime consideration.

Additionally, Borrego and TASC have each suggested a number of administrative and reporting requirements. In particular, Borrego recommends that: EDCs host “a simple online spreadsheet which is updated at minimum weekly similar to MA;” the Commission establish “acceptable terms for notification between the Company and Applicant;” each EDC be required to notify the applicant when its allocation is awarded, lost, and re-established; and the procedures be amended to “clearly address requests for extensions, system size changes and the impact on the NEM cap allocation if any, dispute resolution procedures, and administrator requirements.” For its part, TASC recommends, in Sections 2.II. and 2.III. of its comments, that there be increased transparency in queue reporting and the development of rules to address “the duties of

administrators towards the applicants.” Like Borrego, TASC supports the creation of “a simple online spreadsheet that is updated, at a minimum, weekly” for various categories of projects. TASC also suggests that the queue administrator process implemented in Massachusetts would be a good model for New Hampshire, and contends that because Eversource has a subsidiary in Massachusetts it should be able to implement such rules and standards relatively easily.

To this point, there has been no evidence provided in this proceeding that supports any argument that such comprehensive administrator rules and reporting requirements are needed, nor that the development of customer-sited sources of renewable power has been hindered by inefficient administration. The EDCs take very seriously the need for customers to be properly informed of their status in the net metering and interconnection queues, and provide effective communication via email and by making dedicated staff available to respond to questions.

Additionally, there has been no evidence presented that adopting the regulatory system in place in Massachusetts will improve administration in New Hampshire. Presently, the Massachusetts administrator duties are handled by a third party under contract and each applicant for space in the program is required to pay a fee to the administrator. If comprehensive administrative procedures are to be developed for New Hampshire, the EDCs suggest that a third party model also be considered along with potential funding sources for such third party administration. The EDCs note also that creating the regulatory scheme that TASC and Borrego appear to favor would require a formal rulemaking docket, and would result in substantial delays in implementing the procedures. To delay the implementation of these draft procedures, which have already sat dormant since October 2, 2015, seems counterproductive to the goal of this docket.