STATE OF NEW HAMPSHIRE

Intra-Department Communication

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DATE: September 18, 2017
AT (OFFICE): NHPUC

FROM: Karen P. Cramton, Director, Sustainable Energy Division

SUBJECT: DE 15-271, Examination of Electric Distribution Utility Interconnection and Queue Management Processes for Net-Metered Customer-Generators
Modification of Non-Refundable Deposit Requirement for Type C Projects

TO: Martin Honigberg, Chairman
Kathryn M. Bailey, Commissioner
Michael S. Giaimo, Commissioner
Debra A. Howland, Executive Director

CC: David K. Wiesner, Staff Attorney

The Commission recently received a letter from SunPower, the developer of a "Type C" (i.e., greater than 100 kW but less than 1,000 kW in capacity) solar energy distributed generation (DG) project for a customer in Manchester, New Hampshire. SunPower's letter raises two questions regarding the Net Metering Program Capacity Allocation Procedures (Procedures) adopted and approved by the Commission in this docket:

> Question 1: Given that there is no longer a net metering queue, should we consider the requirements under DE 15-271 to be null and void as queue position is no longer applicable?
>
> Question 2: The System Impact Study identified only $500 of costs associated with [SunPower's] project. The non-refundable deposit identified in DE 15-271 is linked to future payment of utility system upgrades costs identified in the System Impact Study and Interconnection Agreement. For projects that that do not have utility system upgrades, or costs [that] fall below the minimum threshold ($20/kW), will the unused balance of this deposit be returned upon completion of the project, or treated as a fee instead of a deposit?

Commission Staff has reviewed and analyzed the two questions raised by SunPower and addresses those questions in this memorandum.

Question 1 – Current Status and Effect of Procedures

The first question relates to the continuing need for the Procedures, given that there is no longer a cap or other limit on eligible net metering capacity following the Commission's adoption of a new alternative net metering tariff, effective as of September 1, 2017, in Docket DE 16-576. *See* Order No. 26,029 (June 23, 2017). Staff believes that the Procedures remain relevant and should be retained in effect, for a number of reasons:

(1) the Procedures address the establishment and maintenance of queue positions that are relevant to determining grandfathered status under the original standard net metering tariff and the new alternative net metering tariff;

(2) the order and relative priority of queue positions may regain importance in future contexts, such as in transition to future net metering tariff modifications and/or if a net metering cap or limit is implemented as result of future action by the Commission or the legislature; and

(3) the order and sequencing of utility interconnections of net-metered DG projects may have significant technical and financial consequences for project developers; therefore, ensuring that queued projects maintain an appropriate maturity level by meeting applicable milestones remains a relevant concern.

Accordingly, Staff does not recommend that the Procedures be discontinued or modified at this time, other than as stated below in connection with the non-refundable deposit requirement for Type C projects.

<u>Question 2 – Non-Refundable Deposit Requirement for Type C Projects</u>

The second question relates to the following provisions of the Procedures that are applicable to Type C projects:

> In order to retain its allocation, a Type C Project shall comply with each and all of the following milestones:
>
> <u>Milestone #1</u>. Within 30 days, the Applicant shall have executed and delivered a signed Interconnection Service Agreement and paid a non-refundable deposit in an amount equal to the lesser of either (i) \$50 per kW of capacity, or (ii) 25% of the estimated utility upgrade costs, if any, but not less than \$20 per kW of capacity in any case.

In certain cases, the effect of this requirement is that a Type C DG project developer must pay to the interconnecting utility a deposit amount that exceeds its estimated system upgrade costs, and that developer will not receive a refund of or credit for the deposit payment, regardless of whether or not the project is completed.

Experience has shown that the non-refundable deposit requirement may have harsh consequences in such circumstances, and that result is hard to justify given that the current purpose of the Procedures is not to allocate a scarce resource (i.e., a share of capped eligibility for net energy metering and billing). Staff notes it has received other comments and inquiries on an informal basis regarding the non-refundable deposit requirement for Type C projects, generally echoing the concerns raised by SunPower.

Staff therefore recommends that the Commission modify the Procedures and relevant orders issued in this docket so that the deposit payable in connection with Type C Project Milestone #1 will not exceed the lesser of either (i) $50 per kW of capacity, or (ii) 25% of the estimated utility upgrade costs, if any, and the deposit amount will be fully refundable to the extent not used to cover utility upgrade costs, whether or not the project is constructed.

Staff further recommends that the modification be made effective for any Type C Project with a Milestone #1 compliance due date on or after September 1, 2017, the date upon which the new alternative net metering tariff became effective pursuant to Order No. 26,029 issued in Docket DE 16-576.

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