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STATE OF NEW HAMPSHIRE
PUBLIC UTILITIES COMMISSION

NHPUC 11FEB'20 08:45

January 28, 2020 - 10:10 a.m.
Concord, New Hampshire

RE: **DRM 19-158**
RULEMAKING:
New Hampshire Code of Administrative
Rules Chapter Puc 900 Net Metering
for Customer-Owned Renewable Energy
Generation Resources of 1,000
Kilowatts or Less.
(Hearing to receive public comment)

PRESENT: Chairwoman Dianne Martin, Presiding
Cmsr. Kathryn M. Bailey
Cmsr. Michael S. Giaimo

Doreen Borden, Clerk

APPEARANCES: *(No appearances taken)*

Court Reporter: Steven E. Patnaude, LCR No. 52

CERTIFIED
ORIGINAL TRANSCRIPT

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I N D E X

PAGE NO.

SUMMARY BY MR. WIESNER (NHPUC)

3

PUBLIC COMMENT BY:

Matthew Fossum

7

Christopher Heine

15

Madeleine Mineau

20

Christa Shute

23

QUESTIONS BY:

Cmsr. Bailey

12, 22

Cmsr. Giaimo

14, 22

P R O C E E D I N G

1
2 CHAIRWOMAN MARTIN: Okay. Good
3 morning, everyone. We're here this morning for
4 a hearing to take public comment in Docket DE
5 19-158, which is the rulemaking docket for the
6 Puc 900 rules for net metering for
7 customer-owned renewable energy generation
8 resources of 1,000 kilowatts or less. At the
9 end of this hearing, we will leave the record
10 open, so that we can take written public
11 comment until February 5th.

12 I'm going to turn it over to Attorney
13 Wiesner, to give us some background and let us
14 know how we're proceeding today.

15 MR. WIESNER: Thank you, Madam Chair.
16 I'll try to keep this brief.

17 So, this is an opportunity for
18 stakeholders to speak to the Draft Final
19 Proposal, which we circulated earlier this
20 month. Essentially, there were a number of
21 changes to be made to these rules, both to
22 update them and to reflect recent legislation.

23 The Initial Proposal that was adopted
24 in September focused on the first priority,

1 which is updating these rules to reflect the
2 Alternative Net Metering tariff proceeding, and
3 the Commission's order from 2017 and following.

4 And, then, the Draft Final Proposal
5 that you have before you today is intended to
6 do three things, primarily. One of which is to
7 reflect and address comments that were made by
8 stakeholders on the Initial Proposal, which you
9 heard about at the last public comment hearing
10 on these rules. Secondly, to include
11 provisions that are driven by Senate Bill 165,
12 which does two things, really. It provides an
13 option for on-bill crediting, as opposed to
14 payment to group net metering hosts and
15 members. And it also provides an additional
16 incentive, in the form of a monetary credit,
17 originally -- initially 3 cents, and then
18 declined to two and a half cents, for projects
19 which qualify as low-moderate income community
20 solar projects.

21 So, a lot of the changes that appear
22 in part 909 of these rules are driven by that
23 legislation, and reflect our attempt to
24 implement that legislation through these rules.

1 We've had an extensive series of
2 stakeholder meetings and conference calls to
3 vet the various approaches. And the Draft
4 Final Proposal was our attempt to put in
5 writing, in rules language, what that proposed
6 implementation would look like, subject to the
7 comments that you'll hear today and the written
8 comments that we look forward to receiving next
9 week.

10 I've left out my third point, which
11 is, we have also included in the Draft Final
12 Proposal a specific provision, 903.03, which
13 addresses the situation where there are
14 multiple projects in close proximity, either on
15 the same parcel of land or adjacent parcels of
16 land. That is an attempt to draw some bright
17 lines in these rules, where the existing rules
18 merely refer by reference to the utility's
19 normal course of business. There was general
20 consensus among the stakeholders that it would
21 be an improvement to have clearer rules
22 language addressing that point, and not just
23 leave it to the utilities. Although, I can't
24 tell you that everyone here today is happy with

1 the bright lines that we chose to draw in the
2 Draft Final Proposal. And I'm sure you'll hear
3 about that.

4 Next steps: We will receive written
5 comments next week. I encourage the
6 stakeholders to be as specific as possible in
7 any proposed changes that they would advocate
8 for. It's always helpful to us on Staff, and
9 to the Commission as a whole, to have specific
10 language proposed, so we can see what it looks
11 like in rules speak, if you will. Following
12 that, we will put together a final proposal for
13 your consideration, adoption, and filing with
14 the Office of Legislative Services. We're
15 looking at a deadline in, I think, the third
16 week of February, unless we request a 30-day
17 extension. So, we will push forward to try to
18 meet that deadline, and only request the
19 extension if necessary.

20 I think you have a sign-up sheet that
21 indicates who is here and who wants to speak.
22 And I think our typical practice is to just go
23 in order of how people have signed up and hear
24 what they have to say.

1 CHAIRWOMAN MARTIN: Thank you. I do
2 have the list in front of me. And I have four
3 people who have signed up as wanting to speak:
4 Matthew Fossum, Christopher Heine, Madeleine
5 Mineau, and Christa Shute.

6 Is there anyone else who wanted to
7 speak and is not on the list?

8 *[No indication given.]*

9 CHAIRWOMAN MARTIN: Okay. Then, we
10 will just proceed in that order, starting with
11 Matthew Fossum.

12 MR. FOSSUM: Good morning,
13 Commissioners. This is, for the record, this
14 is Matthew Fossum, here on behalf of Public
15 Service Company of New Hampshire, doing
16 business as Eversource Energy.

17 Thank you for taking our comments
18 this morning. And we do intend to follow up
19 next week with additional comments. And we
20 will, as Mr. Wiesner has indicated, endeavor to
21 be as specific as we can at that time. And,
22 so, given that, I'll just highlight a few items
23 this morning that we wanted to bring some
24 measure of attention to.

1 And I'll start with, and make a note,
2 I'm looking at the Draft Final Proposal
3 document from January 9th. And, so, I'll make
4 reference to pages and items in there.

5 Oh, and before I do that, I will note
6 we made our comments -- we made some comments
7 on the earlier version of the Initial Proposal.
8 And, so, my comments today will be directed to
9 items that have been added or changed since
10 that time.

11 I'll begin with what's on Pages 14
12 and onto 15 in the proposed rule for 909 --
13 903.03. And that's the "single facility"
14 definition Mr. Wiesner referred to just a few
15 minutes ago. And all I'm going to say on that
16 is that Eversource generally supports the
17 language that's been included there. It
18 certainly seems intended to assure or to help
19 assure, to the degree that it can, that the
20 intended beneficiaries of net metering actually
21 receive the benefits of that program, and that
22 systems are right-sized for the customers.
23 And, so, we just want to express our general
24 support for what is there.

1 I'll turn now much farther in the
2 document over to Page 38, and in the draft rule
3 for 909.06, and with particular reference to
4 909.06(c)(2). There is a reference in there to
5 changes taking effect "five business days
6 following...notification". To us, that
7 timeframe seems fairly short and not practical
8 to implement, given the needs of the utility
9 having to process the changes that are defined
10 over on the next page, in Subsection (e). So,
11 we would advocate for extending that
12 requirement by some days.

13 We'd also request that any clock for
14 determining a deadline shouldn't actually start
15 until there's verified data received by the
16 utility. In case the utility receives an
17 incorrect account number or something like
18 that, the utility shouldn't be held to a
19 standard timeframe until that data has been
20 verified. And we would like to see something
21 in the rules that specifies that.

22 Staying with the same rule, but a
23 different issue, in Subpart (c)(4) and Subpart
24 (d), there are references to what happens or

1 should happen in the event of a group member's
2 moving or death. We would ask that that rule
3 actually be perhaps worded somewhat closer to
4 what's in Subpart (c)(5), that the rule specify
5 that a credit that would otherwise go to a
6 particular member be reallocated to the host.
7 Otherwise, to our reading, it's not entirely
8 clear what happens with the credit under
9 Subpart (c)(4) and Subpart (d). So, we are
10 just looking for some clarification on that.

11 Turning over to Pages 41 and onto 42,
12 in Rule 909.08(n), under that rule, there's a
13 requirement for the utility to make certain
14 information available to the host on each
15 billing cycle. One thing that's not entirely
16 clear to us is what the term "make available"
17 means. Is it something mailed to them?
18 Available on the website? Is it meant to be
19 unclear on purpose? We just weren't certain.

20 But, regardless of how that
21 particular phrase might be interpreted, one of
22 our concerns is that making this information
23 available on each billing cycle is going to
24 require some fairly significant manual work,

1 particularly when there are group changes
2 multiple times a year. So, we would advocate
3 for potentially loosening the requirement
4 that's in that rule.

5 Somewhat relatedly, and this is more
6 generally, there's implementation, in
7 particular, the on-bill crediting requirements,
8 is going to require incremental work for
9 Eversource, and very likely incremental staff
10 to do that work, given the manual nature of
11 what is in there, at least for the foreseeable
12 future. And that has some fairly serious cost
13 implications for us. And we don't see anything
14 in the rules that speaks to timely cost
15 recovery by the utility for the cost of
16 implementing these requirements. And we
17 perhaps would appreciate seeing that, I think
18 more than "perhaps", I think we would
19 appreciate seeing that.

20 As the Commissioners are aware,
21 Eversource has an ongoing rate case right now.
22 And we've had some opposition in that case to
23 proposals, such as our Distribution Rate
24 Adjustment Mechanism, a mechanism that was

1 intended to recover certain things like
2 regulatory costs that come from incremental
3 cost creation like these, well, what the rules
4 and the underlying law require.

5 So, we are still sort of, we would --
6 we don't know how that case is going to turn
7 out. But, given that opposition, we would like
8 to see something that provides a reasonable
9 means to assure cost recovery for these newly
10 required obligations.

11 Thank you. And those are my comments
12 this morning.

13 CHAIRWOMAN MARTIN: Thank you. Any
14 questions?

15 Okay. Commissioner Giaimo -- I mean,
16 Commissioner Bailey, sorry.

17 CMSR. BAILEY: There was one rule
18 that you said didn't give you enough time to
19 process the changes. And I think the rule said
20 "at least five days". How many days do you
21 think you need?

22 MR. FOSSUM: Yes. That's a concern
23 of our Billing Department and their ability to
24 make those changes. I don't know that, as I

1 sit here this morning, I have a specific. I
2 think moving that to something more like ten
3 days is probably helpful. I will check back
4 with them and endeavor to be as specific as I
5 can when we make written comments next week.

6 CMSR. BAILEY: Okay. And this is a
7 rulemaking, and you want us to put in a rule
8 that you can recover the cost of additional
9 time required to implement these rules because
10 of the manual work? How -- I don't really
11 understand what you're asking for there?

12 MR. FOSSUM: I don't know of anything
13 that prevents a rule from specifying that a
14 utility is entitled to timely recovery of the
15 cost of implementing whatever the rule
16 requires. And perhaps it may be that -- that
17 you won't see fit to add a rule that says that.
18 I wanted to bring it to your attention this
19 morning just to highlight that there will be
20 significant manual efforts to implement what
21 is -- what's required by these rules, and that
22 there will be cost implications for us that are
23 going to extend beyond the time periods
24 contemplated in our present rate case.

1 CMSR. BAILEY: Do you have any idea
2 of how many of these sites you think there will
3 be?

4 MR. FOSSUM: I don't know that we
5 have any estimation of how many there could be.
6 My understanding is that, at least for on-bill
7 crediting, that is potentially available to any
8 group host, regardless of new or old. So,
9 presumably, you know, that the potential pool
10 is at least as large as the pool of group host
11 customers.

12 CMSR. BAILEY: Okay. Thank you.

13 CHAIRWOMAN MARTIN: Commissioner
14 Giaimo.

15 CMSR. GIAIMO: So, you said
16 "significant costs". Do you have an order of
17 magnitude of what "significant costs" could
18 look like? And will it be additional
19 employees, full-time, part-time? Any thoughts
20 on that?

21 MR. FOSSUM: My understanding, from
22 the people in our Billing Department, is that
23 right now they're looking at at least one or
24 two full-time persons to handle this, for given

1 what is here.

2 Longer term, if there's, you know,
3 sort of more of these, and a need to automate,
4 we would certainly look to do that, and there
5 would be costs associated with that. I think,
6 in the short-term, that is not our intention.
7 But my understanding is there would one or two
8 full-time people who would be required to
9 process all of the on-bill credits.

10 CMSR. GIAIMO: Thank you.

11 CHAIRWOMAN MARTIN: Okay. Moving on
12 to Christopher Heine. I hope I'm saying that
13 right.

14 MR. HEINE: Good morning,
15 Commissioners. Thank you for accepting these
16 public comments.

17 My name is Christopher Heine. And I
18 am an advanced student clinician at Vermont Law
19 School's Energy Clinic.

20 The Energy Clinic's mission is to
21 promote the adoption of renewable energy in
22 Vermont, New Hampshire, and beyond. The Energy
23 Clinic works with low-moderate income
24 communities to identify renewable energy

1 opportunities, and provides *pro bono* legal and
2 technical assistance to help those communities
3 through all stages of project development.

4 These are communities that, without additional
5 financial and technical assistance, would not
6 be in a position to take advantage of renewable
7 energy programs, such as net metering.

8 In New Hampshire, we have helped a
9 number of Resident Owned Communities, also
10 known as "ROCs", which are generally
11 low-moderate income communities, cooperatively
12 owned and pursue community solar projects,
13 providing these ROCs -- those ROC communities
14 with financial, environmental benefits of solar
15 energy. These projects have been a
16 collaborative effort between many of the
17 stakeholders, such as ROC-New Hampshire, the
18 New Hampshire Community Loan Fund, Clean Energy
19 New Hampshire, solar installers, and the PUC.

20 Today, we would like to express our
21 general support for the current draft Rule 900,
22 particularly as it relates to the Low-Moderate
23 Income Adder mandated by Senate Bill 165, the
24 Low-Income Community Solar Act of 2019. The

1 PUC Staff have drafted a rule that strikes a
2 balance between maximizing the financial
3 benefits to low-moderate income customers in a
4 commercially feasible and administratively
5 workable way.

6 We would like to call your attention
7 to three particular important parts of the
8 rule. First, it is very important that the
9 rules implement 165 in a way that prevents a
10 community member from potentially losing energy
11 assistance for which they may be eligible,
12 ensuring that this program is not regressive in
13 any way. For this reason, we support Section
14 909.12(f)(3), which applies that -- which
15 applies the on-bill credits after other
16 applicable charges and credits.

17 Second, the rules need to provide
18 sufficient flexibility in the on-bill crediting
19 arrangement to allow the host, whether it be
20 the low income community itself that owns the
21 facility or a third party investor, to access
22 sufficient cash flow to pay for the system's
23 ongoing operating expenses or financial costs,
24 or, in the case of affordable housing projects,

1 to allocate direct benefits to the community in
2 a way that makes the best financial sense for
3 that community, for example, through lot
4 reductions. 909.13(c) provides that
5 flexibility by permitting the host to cash out
6 their on-bill credits on a monthly basis.

7 Third, low-moderate income projects
8 supported by the LMI Adder should benefit
9 low-moderate income customers in a meaningful
10 way. We support including a minimum allocation
11 that must be distributed to the project's
12 low-moderate income customers. We also support
13 the minimum allocation being based on the
14 combined net metering rate and the LMI Adder.
15 This is both administratively simpler for the
16 utility billing purposes and also ensures LMI
17 customers get to benefit from a net metering
18 rate that generally increases over time as
19 rates do, instead of rising electricity bills
20 offset by a fixed adder only.

21 We support allocating as much of the
22 revenue from LMI projects to low-moderate
23 income customers as is commercially viable.
24 The minimum LMI allocation of 12 percent as set

1 out in 909.13, Part (h), of the draft rule
2 distributes approximately half of the LMI Adder
3 value to LMI members. We understand from the
4 stakeholder process that this is the
5 approximate amount third party investors will
6 require to offset administrative costs
7 associated with finding LMI customers and
8 ongoing program compliance.

9 We feel strongly that the adder
10 should be a tool that provides the financial
11 incentive to promote the construction of solar
12 projects that may not have been built without
13 it. We are optimistic that the allocation will
14 sufficiently strike a balance between serving
15 as a tangible improvement to the lifestyle of
16 low-to-moderate income residents of New
17 Hampshire, while also giving the additional
18 value to developers and their investors to
19 build and finance projects that without the
20 adder may have been considered financially
21 risky. We hope to see many projects that
22 present less financial risk and administrative
23 burden, for example, ROC projects, allocating a
24 much higher percentage to its LMI participants

1 than the minimum.

2 Finally, we would like to thank the
3 Public Utilities Commission staff and the
4 Commissioners for allowing the Energy Clinic to
5 participate throughout the rulemaking process
6 to help shape a policy that further provides
7 fairer access to renewable energy opportunities
8 in New Hampshire.

9 Thank you.

10 CHAIRWOMAN MARTIN: Thank you. Any
11 questions?

12 *[No verbal response.]*

13 CHAIRWOMAN MARTIN: Okay. I think
14 we're moving on to Madeleine Mineau.

15 MS. MINEAU: Thank you, Commissioner.
16 I'm Madeleine Mineau representing Clean Energy
17 New Hampshire.

18 We generally support the rules as
19 drafted. And we want to thank Staff for the
20 considerable time and effort that they put into
21 drafting these, as well as the multiple
22 opportunities to comment during the process.
23 However, there's two sections where we
24 preferred an earlier version of the draft

1 rules.

2 Specifically, on Page 14, Rule
3 903.03, regarding "Where Multiple Projects Are
4 Deemed a Single Facility." We very much
5 support clarifying the rules in this
6 determination, rather than leaving it to
7 utility discretion, which was the previous
8 practice. However, these rules as drafted are
9 now considerably more restrictive than what
10 would be currently allowed by any of our
11 utilities. We think there should be allowances
12 for projects located on adjoining parcels, when
13 those parcels are in separate ownership and
14 have been for a certain period of time.

15 We also think it would be wise to
16 consider allowing projects on adjoining parcels
17 for specific types of projects that we may want
18 to encourage, such as the low-income community
19 solar projects or projects on brownfields, for
20 example. Several other states have rules that
21 mirror that practice.

22 The other section is on Page 48, Rule
23 909.12(h), regarding the requirement that
24 12 percent of the total credit for low income

1 projects be allocated to the low income group
2 members. There's considerable concern from the
3 developer community about being able to finance
4 these low-income projects, because there's no
5 grandfathering for an in-service date of the
6 low-income adder. The adder steps down. There
7 is concern that the adder may go away or step
8 down further. So, we supported a previous
9 version, again, the December 12th version of
10 the rules, that stated that half of the adder
11 would have to go to the low-income participants
12 in the net metering group.

13 Those are my comments. Thank you.

14 CHAIRWOMAN MARTIN: Thank you. Any
15 questions?

16 Commissioner Bailey.

17 CMSR. BAILEY: Ms. Mineau, are you
18 going to provide alternative language for us to
19 consider?

20 MS. MINEAU: Sure. I can do that in
21 writing as a follow-up.

22 CMSR. BAILEY: All right. Thank you.

23 CMSR. GIAIMO: Within that, will you
24 clarify the amount of time you think there

1 needs to be separate ownership?

2 MS. MINEAU: Sure. In the previous
3 rules, the December 12th of the rules that I
4 mentioned, it was three years.

5 CMSR. GIAIMO: You'd be comfortable
6 with that -- I'm sorry. You're comfortable
7 with that amount?

8 MS. MINEAU: Yes.

9 CMSR. GIAIMO: Thanks.

10 CHAIRWOMAN MARTIN: Okay. Christa
11 Shute.

12 MS. SHUTE: Thank you, Commissioners,
13 Chairwoman Martin.

14 I would like to start by commending
15 the Staff of the PUC, and specifically the
16 Sustainable Energy Division, both for their
17 management of the process and their
18 incorporation of suggestions from multiple
19 stakeholders.

20 Particularly, I would identify that
21 the language from SB 165, for the on-bill
22 crediting in low-moderate income, it was and is
23 challenging. I think the result that we have
24 before us today is a coherent and

1 understandable set of rules representing the
2 intent of the legislation.

3 I have one substantive comment, and
4 then I'd like to comment on some of the
5 comments that have come to the fore.

6 We believe that the current structure
7 for determining interconnection costs is a
8 barrier for small customer generators, and
9 particularly for low-moderate income projects.
10 The rules require, under 904.02,
11 Interconnection Applications, that finalized
12 information for all aspects of the project, and
13 in order -- and it's this process that then
14 triggers a study from the utility to determine
15 costs.

16 The issue is that there are a number
17 of low-income projects that are trying to use
18 grant funding through the PUC's RFP process
19 from the Renewable Energy Fund, to confirm that
20 they can even finance a project like this.
21 And, so, they're not necessarily in a position
22 to be able to answer all of the questions that
23 are required under the interconnection
24 application in order to find out how much the

1 interconnection is going to cost them.

2 Projects that have occurred in the
3 past have come in many times over budget. And
4 that becomes a significant issue when you apply
5 for grant funding or you're getting financing,
6 and now all of sudden you need 20 percent more
7 than you thought you were going to need. So,
8 these have significant impacts on these small
9 customer generator projects, and particularly
10 the ones that are difficult to finance.

11 So, we do believe that utilities --
12 some of the utilities are willing to work with
13 this and receive the minimum number of --
14 amount of information required to be able to do
15 the analysis. We would identify that, at a 100
16 kilowatt project, is not, you know, it's a
17 small project. So, the impact that it has is
18 not necessarily as significant as, say, a 1
19 megawatt project would be.

20 So, we would advocate for providing
21 the opportunity to submit an interconnection
22 application with less information, where the
23 utility is still required to provide an
24 estimate of the interconnection cost. That

1 estimate could be modified if, upon final
2 submission of the interconnection application,
3 anything of substance changed the outcome.

4 I would like to support the comments
5 that Vermont Law School has made. I also
6 support the first comment that Ms. Mineau made
7 regarding adjacent properties. I do think that
8 it's an unnecessary restriction not to allow
9 independent retail consumers the ability to
10 participate in net metering projects, just
11 because their neighbors are participating in
12 net metering projects. And this can have the
13 unwanted effect of discouraging those types of
14 participation.

15 I do, however, feel that the
16 presentation of 12 percent of the overall net
17 metering credit, rather than 50 percent of the
18 adder, is a fair and just application in the
19 rules. And part of that -- most of that was
20 identified by the law school for why that's
21 important. But I will also highlight that, if
22 the adder goes away, and the low income
23 participant is only receiving a portion of the
24 adder, then the low-income participant will no

1 longer be receiving anything. And some people
2 have said, or have been overheard to say, that
3 that could mean that they actually just are no
4 longer part of the project, and it's no longer
5 a low-moderate income project, because there's
6 no longer a Low-Moderate Income Adder. And,
7 so, I don't feel that that appropriately
8 protects those low-moderate income
9 participants.

10 The second reason to use the
11 12 percent of the entire credit, rather than
12 the 50 percent of the low-income adder, is
13 because, as utility prices rise, which they
14 have a tendency to do, the low-moderate people
15 will also benefit from the rise in those
16 utility costs, just as they are paying for the
17 rise in those utility costs on their bills. If
18 they were only receiving credits based on the
19 Low-Moderate Income Adder, they would not
20 receive the benefit that would accrue to other
21 participants that were receiving money directly
22 from the overall credit.

23 So, I hope I've been able to say that
24 in a manner that's coherent and understandable.

1 And I appreciate your considering these
2 options. And, as I said before, I support
3 these rules and the manner in which they have
4 been developed.

5 Thank you.

6 CHAIRWOMAN MARTIN: Thank you. Any
7 questions?

8 *[No verbal response.]*

9 CHAIRWOMAN MARTIN: Okay. Anyone
10 else decided that they want to speak?

11 *[No indication given.]*

12 CHAIRWOMAN MARTIN: Otherwise, thank
13 you, everyone, for coming today. We appreciate
14 your comments. And we will be adjourned.

15 ***(Whereupon the hearing was***
16 ***adjourned at 10:41 a.m.)***

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