

STATE OF NEW HAMPSHIRE
BEFORE THE
PUBLIC UTILITIES COMMISSION



Electric Distribution Utilities

Development of New Alternative Net Metering Tariffs and/or
Other Regulatory Mechanisms or Tariffs for Customer-Generators

Docket No. DE 16-576

Statement of the Office of the Consumer Advocate
in Support of Partial Settlement Agreement

Pursuant to the Commission's secretarial letter of March 2, 2017, the Office of the Consumer Advocate submits the following statement in support of the Partial Settlement Agreement filed today on behalf of the OCA, the state's three electric distribution utilities, the New England Ratepayers Association, Standard Power of America and the Consumer Energy Alliance.

The Commission opened this docket at the express command of the New Hampshire General Court as communicated via House Bill 1116, enacted last year as 2016 N.H. Laws ch. 31. In HB 1116, the Legislature provided the Commission with a list of issues to consider. From the standpoint of the OCA, as the statutorily designated representative of all residential utility customers (i.e., those who are customer-generators and those who are not), the most important item on the list is "an avoidance of unjust and unreasonable cost shifting." The terms set forth in the Partial Settlement Agreement accomplish this objective.

Early in this proceeding, the OCA set forth a list of five principles that would guide its approach to this docket. They are:

1. Separate compensation for distributed generation from traditional retail rates.
2. Compensation should decrease as the price of technology decreases.
3. Create programs that can scale sustainably as the solar industry matures, and ultimately increase the savings delivered to all ratepayers.
4. Offer a reasonable amount of certainty to participating customers, industry, and all ratepayers.
5. Provide opportunities for all customers to participate in distributed generation.

To advance these principles, the OCA in its prefiled direct testimony offered two specific tariff proposals and a package of initiatives related to group net metering. To the extent these proposals are reflected in the outcome proposed via the Partial Settlement Agreement, this occurs largely through the task force we and our fellow signatories ask the Commission to convene for the purpose of implementing a series of pilot programs and initiatives. Like any party, we would have preferred that our initial proposals form the basis of the outcome ultimately adopted by the Commission; our adoption of the Partial Settlement Agreement reflects the view that where residential customers are concerned the perfect should not become the enemy of the good.

It is the firmly held opinion of the Office of the Consumer Advocate that net metering as it arose across the U.S. in piecemeal fashion in the last quarter of the 20th Century, typified by spinning analog meters backwards and providing full retail credit for net exports, is not a just and reasonable approach to distributed generation as we move deeply into the 21st Century. The ineluctable reality is that the cost of deploying distributed generation – particularly photovoltaic panels – is steadily decreasing as deployment is increasing. In these circumstances, given that utilities always succeed in recovering their costs from customers, full retail credit means those without distributed generation pay too much to those with, or those financing, distributed generation.

In the prefiled rebuttal testimony submitted by the Staff of the Commission, witness Stan Faryniarz of Daymark Energy Advisors points out that “[t]he parties that argue cost-shifting is currently unjust and unreasonable provide little support for this conclusion.”¹ In contrast, Mr. Faryniarz notes that parties such as The Alliance for Solar Choice, the Energy Freedom Coalition of America, the New Hampshire Sustainable Energy Association and the Conservation Law Foundation “assert that [there is] no cost-shift or only a deminimis one, relying primarily on a robust, but incomplete and inexact, assessment, assessment of DG benefits net of relevant costs.”²

This asks, and then answers, the wrong question.

Deployment of distributed generation in New Hampshire is in a relatively nascent state and the effects of distributed generation are difficult to assess at this time given the lack of advanced metering technology and the resulting dearth of data. It is thus hardly surprising that no party has been able to produce an abundance of evidence indicating a present-day unjust and unreasonable cost shift. But the question the Legislature has effectively directed the Commission to answer is: What kind of net metering tariff will avoid unjust and unreasonable cost shifting *in the future*, such that unfair subsidy of the DG “haves” by the DG “have-nots” does not become the norm?

The Partial Settlement agreement to which the OCA is signatory assures that working people, who struggle to pay their electric bills each month, will not overcompensate those who

¹ Prefiled rebuttal testimony of Stan Faryniarz (December 21, 2016) at 76, lines 1-3.

² *Id.* at 75, lines 12-14.

have the wealth, sophistication and logistical circumstances to deploy distributed generation at their homes and businesses. At the same time, crediting exports at the default service rate plus applicable transmission charges will allow residential customers (who presumably fall into the “small” customer class for purposes of net metering) to continue to realize the benefits of a compelling value proposition – particularly if they avail themselves of the meaningful opportunity to make use of their Renewable Energy Certificates as facilitated and secured to them at no additional cost under the terms of the Partial Settlement Agreement. Moreover, the Partial Settlement Agreement retains the distribution credit on a large portion of production a customer receives from a solar PV system. If an adopting customer aligns load to PV system production, the financial effects of curtailing distribution credits solely on exports will be greatly muted.

Among the most the most critical terms of the Partial Settlement are those reflected in Section 13, which contemplates a series of pilot projects whose purpose is to define the future of distributed generation in New Hampshire and, from the standpoint of the OCA, ensure that residential utility customers fairly and equitably maximize their use of the grid in light of emerging and evolving technologies. “Residential utility customers” in this context emphatically means *all* such customers. We are particularly concerned about the potential that some people could be left behind, particularly people whose physical living situations or personal circumstances do not allow them to become vigilant and sophisticated users of grid service with distributed generation facilities on their roofs or in their backyards. Meaningful opportunities to participate in community solar projects are vital to these customers.

At the same time, we are convinced that ratepayer advocates should overcome their historical aversion to time-varying rates and be willing to work with utilities on exploring the use of such innovative rates as a means of maximizing the benefits of distributed generation to both customer-generators and the grid generally. Time-of-use pricing figured prominently in the initial proposals made in this docket by the OCA; should the Partial Settlement gain approval the parties can expect us to use the task force process to assure that time-of-use rates get a fair and creative trial in the Granite State.

On behalf of the state’s residential utility customers, the OCA signed onto the Partial Settlement in the spirit of compromise. The Commission should keep in mind that in agreeing to the terms set forth in the Partial Settlement the utilities moved significantly from their initial positions – some of which the OCA regarded with deepest concern. Drastic increases in customer charges are an unsuitably blunt instrument with which to address the cost-shifting challenge. Incorrectly designed demand charges for residential customers send troubling price signals and punish the good behavior of customers who invest in energy efficiency and distributed generation. We commend the utilities for their willingness to negotiate in good faith.

The OCA is aware that the major representatives of the solar industry in this docket, along with nonprofit organizations that consider the promotion of renewable energy to be part of

their missions, have banded together under the banner of “Energy Future Coalition” for the purpose of filing a competing settlement proposal. We commend these parties for taking this step inasmuch as these parties, like the utilities, have compromised at least to some extent from initial positions the OCA regarded as too extreme. Although the submission of this statement is not the occasion for rebutting or critiquing the Coalition proposal – presumably, the upcoming hearing will provide such opportunities – it is appropriate to stress two things here.

First, the two proposals are more alike than they are different. This is a laudable reflection of the good faith in which all parties to this very complicated docket have proceeded – and of the consensus that HB 1116 requires new approaches.

Second, it is apparent that the question of so-called “instantaneous netting” is a major point of contrast between the Partial Settlement we have signed and the proposal of the Coalition. Under the old-fashioned version of net metering we have inherited from the analog era, a customer’s energy exports are netted against imports each month and the results (including any kilowatt-hours of credit to be carried forward) are reflected in the customer’s electric bill. Instantaneous netting is more correctly understood as *no* netting. In other words, under the terms of the Partial Settlement customers simply pay the full retail rate (including nonbypassable charges) for their imports from the grid and receive credit (at a rate that would now be somewhat less than full retail) for their exports to the grid.

Admittedly, given the lack of netting in the terms reflected in the Partial Settlement Agreement the term “net metering” may be in the process of becoming a misnomer. But this should not obscure the fact that the transition to monetary crediting and a system of compensating customer-generators for their actual exports at a reasonable rate is straightforward and rational. Instantaneous netting simply accounts for each electron that is **actually exported** on to the grid. Others want to take that electron, store it virtually (i.e., through accounting, net it) and only look at excess electrons left over at the end of the month as those that were exported. This is not a future-looking policy. It is a policy that cannot adapt to future rate changes and it distorts the economics while discouraging new technologies like load management and energy storage.

We appreciate that a transition to no netting will likely require companies that sell or lease solar panels and other distributed generation technologies to recalibrate and reformulate their marketing efforts. We are confident that the solar companies, including the national ones represented in the Coalition, can rise to this challenge because, elsewhere, they have implicitly agreed they can. Instantaneous netting underpins the recent and high-profile Arizona Public Service Company settlement to which they are also signatory.

In conclusion, the terms of the Partial Settlement comport fully with the expectations of the Legislature in adopting HB 1116. We refer not just to an end to full retail credit for exports but to the creation of a pathway to the future that will give customer-generators (and the entrepreneurs helping those customers deploy distributed generation) the certainty they

now lack. For these reasons, we respectfully recommend approval of the Partial Settlement Agreement.

Sincerely,

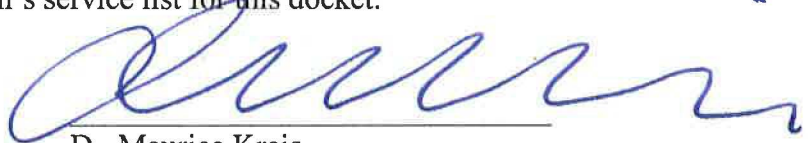


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March 10, 2017

Certificate of Service

I hereby certify that a copy of this Statement was provided via electronic mail to the individuals included on the Commission's service list for this docket.



D. Maurice Kreis