

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

In the Matter of the Commission's Review)
of Chapter 4901:1-10 of the Ohio) Case No. 12-2050-EL-ORD
Administrative Code.)

**COMMENTS
BY
THE OFFICE OF THE OHIO CONSUMERS' COUNSEL**

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I. INTRODUCTION

The Office of the Ohio Consumers’ Counsel (“OCC”) files these Comments on net metering rules under which consumers can install renewable energy generation on their property and are connected to a public-utility power grid, mainly to reduce the electricity needed from the utility. The net metering rules also allow customers who produce more electricity than they need to sell back to the utility the extra power. Net metering is critical to consumers in supporting Ohio’s renewable energy requirements and developing an advanced energy industry in the state, and an important tenet of Ohio’s State Energy Policy.¹

The Public Utilities Commission of Ohio (“PUCO” or “the Commission”) invited interested persons to file comments and reply comments concerning proposed changes to the net metering rules contained in Ohio Adm. Code 4901:1-10-28.²

¹ See R.C. 4928.02(k), “Encourage implementation of distributed generation across customer classes through regular review and updating of administrative rules governing critical issues such as, but not limited to, interconnection standards, standby charges, and net metering;”

² Entry at 10.

II. BACKGROUND

The PUCO previously considered the net-metering rule in this docket in its January 15, 2014 Finding and Order. This docket was initially established for the Commission to review Chapter 4901:1-10, of the Ohio Administrative Code. Ohio Adm. Code 4901:1-10 sets forth the rules that concern the minimum service and safety standards that the Ohio electric utilities are required to provide Ohio electric utility customers. The net metering rule is included in this set of rules.

Several parties challenged the PUCO's January 15, 2014 Finding and Order for various reasons – one being the PUCO's net metering rule. After the rehearing process was complete at the PUCO, AEP Ohio and FirstEnergy³ filed separate notices to appeal the PUCO's decisions for this case.⁴ Under the PUCO's previous decision, a customer-generator that produces more electricity than it uses during a monthly billing period was entitled to a monetary credit *from the electric utility* in the amount of the net excess generation. The generation credit was to be equal to the electric utility's standard service offer ("SSO") generation rate. Non-shopping and shopping customer-generators (customers whose supplier is a Competitive Retail Electric Supplier) were eligible for the credit under the PUCO's rules.

In its Notice of Appeal, AEP Ohio contended that was unlawful for the PUCO to adopt Ohio Adm. Code 4901:1-10-28(B)(9)(c), which required an electric distribution utility to issue a monetary credit for net excess generation to customer-generators that

³ "FirstEnergy" means The Ohio Edison Company, The Toledo Edison Company, and The Cleveland Electric Illuminating Company.

⁴ See Case No. 12-2050-EL-ORD, September 22, 2014, Notice of Appeal by FirstEnergy, and July 28, 2014, Notice of Appeal by AEP Ohio.

shop for competitive generation service.⁵ In addition, AEP Ohio argued that it was unlawful for the PUCO to incorporate not only energy charges into the calculation of the monetary credit but to also include non-energy generation charges.⁶ AEP argued that capacity should not be included as a price component in payments to net metering customers.⁷

FirstEnergy, in its notice of appeal, contended that the Commission acted unreasonably and unlawfully when it created a new rebuttable presumption that a customer-generator who generates up to 120% of its annual requirements for electricity intends primarily to offset part or all of its requirements for electricity.⁸ Like AEP Ohio, FirstEnergy argued that the Commission acted unreasonably and unlawfully and exceeded the scope of its authority in finding that the credit paid to customer generators for excess generation must include both energy and capacity components of an electric distribution utility's SSO generation price.⁹ FirstEnergy asserted that the Commission acted unreasonably and unlawfully to effect a taking of the Companies' property without just compensation when it failed to establish an explicit cost recovery mechanism associated with electric distribution utilities' mandated credits to customer generators for their excess generation.¹⁰

The appeals did not proceed at the Ohio Supreme Court because after issuing its Order and filing the rules with the Joint Committee on Agency Rule Review ("JCARR"),

⁵ Case No. 12-2050-EL-ORD, Ohio Power Company Notice of Appeal (July 28, 2014).

⁶ Id.

⁷ Id.

⁸ Case No. 12-2050-EL-ORD, First Energy notice of Appeal (September 22, 2014).

⁹ Id.

¹⁰ Id.

Ohio Admin. Code 4901:1-10-28 (the net metering rule), was withdrawn from JCARR for further consideration of the matter.¹¹ On May 5, 2015, the PUCO Staff conducted a workshop to receive input on net metering. Numerous stakeholders, including the Office of the Ohio Consumers' Counsel ("OCC"), participated at the workshop.

On November 18, 2015, the PUCO issued an Entry that included a proposed net metering rule. The PUCO requested that stakeholders file comments by December 18, 2015, and reply comments on January 8, 2016. Additionally, the PUCO stated that it will hold a "public forum or en banc hearing to receive additional input from stakeholders in January or February 2016."¹²

Representing the interests of all Ohio residential electric consumers in the state, the OCC generally supports the proposed net metering rules and welcomes the opportunity to file these comments. The PUCO should adopt the recommendations in these comments, in order to protect consumers.¹³

A. 4901:1-10-28(B)(7)(a)

In Ohio Adm. Code 4901:1-10-28(B)(7)(a), the PUCO Staff proposes that, "[t]he electric utility shall calculate a customer-generator's requirements for electricity as the average amount of electricity supplied by the electric utility to the customer-generator annually over the previous three years." The proposed rule further states that, "[u]pon request from any customer, the electric utility shall provide to the customer the average annual electricity supplied to the premises over the previous three years, or provide a consumption estimate for the premises."

¹¹ Case No. 12-2050-EL-ORD, Entry at 6 (November 18, 2015).

¹² Case No. 12-2050-EL-ORD, Entry at 10 (November 18, 2015).

¹³ OCC's proposals for new language are indicated by ALL CAPS. All deletions proposed by OCC are indicated with ~~striethrough~~. The PUCO Staff's proposals for new language are indicated by underline.

OCC recommends that in addition to providing a net metering customer with the information detailed above upon request, that a utility should also provide all customer's rolling three year average consumption on an ongoing basis. The three year average consumption should be included as part of the customer's specific consumption information currently provided to a customer on the utility's website.¹⁴ In this way, customers interested in distributed generation and soliciting a net-metering tariff can more easily access the three year average consumption to assist them in distributive generation system sizing considerations.¹⁵ Providing the customer's rolling three year average consumption online on an automated basis is less administratively burdensome for the utility than fielding a call and using a separate non-automated procedure, and provides for a more efficient process.

OCC proposes the following additional language:

(a) The electric utility shall calculate a customer-generator's requirements for electricity as the average amount of electricity supplied by the electric utility to the customer-generator annually over the previous three years. In instances where the electric utility does not have the data or cannot calculate the average annual electricity supplied to the premises over the previous three years, such as instances of new construction, vacant properties, facility expansion, or other unique circumstances, the electric utility shall

¹⁴ For example, AEP Ohio's website specific customer consumption information can be viewed upon logging in. Customer specific consumption information is found on:

<https://www.aepohio.com/account/usage/>. The rolling three year average usage information should be added in this section.

¹⁵ "Sizing considerations" as used above means the size of net metering installations the customer should employ, that upon the finalization of these rules, will be 120% of their three year average consumption.

use any available consumption data or measures to establish an appropriate consumption estimate. Upon request from any customer, the electric utility shall provide to the customer the average annual electricity supplied to the premises over the previous three years, or provide a consumption estimate for the premises. THE ELECTRIC UTILITY SHALL ALSO CALCULATE A ROLLING THREE YEAR AVERAGE CONSUMPTION FOR EACH CUSTOMER ON A MONTHLY BASIS AND MAKE THE CALCULATION AVAILABLE TO THE CUSTOMER THROUGH THE ELECTRIC UTILITY'S WEBSITE. TO ACCESS THE CONSUMPTION INFORMATION, THE CUSTOMER WILL HAVE TO REGISTER AND LOG-IN TO A PASSWORD PROTECTED SECTION OF THE UTILITY WEBSITE CONTAINING THEIR CONSUMPTION INFORMATION.

B. 4901:1-10-28(B)(8)

In Ohio Adm. Code 4901:1-10-28(B)(8) addresses the type of meter through which net metering shall be accomplished. Specifically, the proposed rule requires that if the customer's existing electric meter is not capable of measuring the flow of electricity in each direction, the electric utility, upon written request from the customer, shall provide the customer with detailed cost estimates of installing a new meter capable of measuring the flow of electricity in each direction and of installing an advanced meter capable of measuring interval usage data on at least an hourly basis. With the signed consent of the customer, the electric utility shall install at the customer's reasonable

expense either a meter that is capable of measuring electricity flow in two directions (each direction) or an advanced meter capable of measuring interval usage data on at least an hourly basis.

OCC recommends that this rule clarify that a net metering customer can obtain both an interval meter¹⁶ and a meter that measures electricity in each direction, or one meter that records both. In this regard, some solar photovoltaic¹⁷ customers will be interested in an interval meter and time of use¹⁸ rate designs because their solar panels tend to produce electricity during the higher cost hours of the day, and therefore customers stand to benefit as a result of the additional supply of generation at peak periods.

In this regard, OCC proposes the following additional language be added to this rule:

(8)...With the signed consent of the customer, the electric utility shall
install at the customer's REASONABLE expense either a meter that is
capable of measuring electricity flow in ~~two directions~~ each direction or
an advanced meter capable of measuring interval usage data on at least an
hourly basis OR BOTH METERS, OR ONE METER WITH BOTH
RECORDING CAPABILITIES.

¹⁶ An interval meter is a digital meter that is capable of recording your energy use on an hourly basis. This hourly interval data is necessary to calculate your electricity costs, as the electricity prices change hourly.

¹⁷ Solar photovoltaic panels convert sunlight into electricity in a chemical process and are a prevalent form of distributive generation that can be placed on customer rooftops or on their land.

¹⁸ Time of use rates provide different price signals that can vary seasonally, by day and by hour. Seasonal price differentials and time of day price differentials encourage customers to move load to less costly off-peak periods.

C. 4901:1-10-28(B)(8)(c)

In Ohio Adm. Code 4901:1-1028(B)(8)(c) requires the customer to pay a utility for meter reprogramming if needed to accommodate net metering. This cost requirement is not part of the current net metering tariff.¹⁹ Adding another customer cost to the net metering rules appears to be administratively burdensome and may present a barrier to potential distributed generation customers. OCC recommends that any reprogramming for basic net metering service should be part of the customer's interconnection agreement payment.²⁰ A net metering customer who wants to take advantage of a smart rate (dynamic or time-differentiated) should be treated the same as a non-net metering customer seeking service for the same smart rate.

OCC therefore proposes to delete 4901:1-1028(B)(8)(c) in its entirety.

~~If a customer's existing meter needs to be reprogrammed or set up for the customer to become a customer generator, or to accommodate net metering, then the electric utility shall provide the customer generator a detailed cost estimate for the reprogramming or setup of the existing meter. The cost of setting up the meter to accommodate net metering shall be at the customer's expense. If a customer generator has a meter that is capable of measuring the flow of electricity in each direction, is sufficient for net metering, and does not require setup or reprogramming, then the customer generator shall not be charged~~

¹⁹ For example, it is not part of AEP Ohio's OAD SCHEDULE NEMS (Open Access Distribution Net Energy Metering Service).

²⁰ The current AEP Ohio interconnection fee for small systems (<25kW) is \$50.

~~for a new meter, setup, or reprogramming to accommodate net metering.~~

D. 4901:1-10-28(B)(1)

The language proposed for 4901:1-10-28(B)(1) makes net metering offerings by Competitive Retail Electric Service Providers (“Marketers”) optional. In this regard, the proposed language states that

[a]n electric services company may offer a net metering contract to its customers, consistent with chapter 4901:1-21 of the Administrative Code. The electric services company and the customer shall define the terms of the contract, including the price, rate, credit, or refund for any excess production by a customer-generator. An electric services company is not required to enter into any net metering contract with any customer.

As a matter of policy, OCC is concerned that in the future, Marketers may be the only suppliers offering consumers dynamic and time-differentiated rates as electric distribution utilities stop offering smart rates. Therefore, OCC supports a requirement that a utility offer a time-differentiated Standard Service Offer (alongside an average Standard Service Offer) to allow net metering customers to realize the full benefit of their energy supply contribution, in instances where no Marketer time-differentiated net metering contracts are available in the marketplace.

III. CONCLUSION

OCC appreciates the opportunity to provide these initial comments regarding the proposed changes to the rule about net metering in Ohio Adm. Code Chapter 4901:1-10. Net metering is critical to consumers in supporting Ohio’s renewable energy requirements and developing an advanced energy industry in the state. OCC’s comments

are intended to protect consumers who choose to install net metering technology and should be adopted by the PUCO.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of the Comments have been served via electronic service upon the following parties of record this 18th day of December, 2015.

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