

**BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO**

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

**REPLY COMMENTS OF
THE OHIO MANUFACTURERS' ASSOCIATION ENERGY GROUP**

I. Introduction

On November 18, 2015, the Commission issued proposed net metering rules for stakeholder comment and reply comment.¹ The Ohio Manufacturers' Association Energy Group (OMAEG) appreciates the opportunity to file reply comments on the proposed rules. OMAEG, which has previously participated by filing comments in this proceeding,² is concerned that these newly-proposed rules do not guarantee compensation to customer-generators that shop for their generation services (shopping customer-generators) and deliver excess electricity back to the grid.

A similar concern was raised in the initial set of comments filed by the Environmental Law & Policy Center, Ohio Environmental Council, Natural Resources Defense Council, Environmental Defense Fund, and Vote Solar (collectively, the Environmental Advocates). In their initial comments, the Environmental Advocates expressed a concern about the potential "watering down" of net metering services in Ohio by competitive retail electric service (CRES) suppliers.³ This "watering down" scenario could arise where a CRES provider offers a net

¹ *In the Matter of the Commission's Review of Chapter 4901:1-10 of the Ohio Administrative Code*, Case No. 12-2050-EL-ORD, Entry at 3 (November 18, 2015).

² OMAEG Initial Comments (January 7, 2013) and OMAEG Reply Comments (February 6, 2013).

³ Environmental Advocates Initial Comments at 9 (December 18, 2015).

metering contract to a customer but does not offer “full compensation” for the electricity provided back to the grid by that customer.⁴ The Environmental Advocates submit that the Commission should not permit a CRES provider to label a contract as a net metering contract if it denies full compensation to the customer.⁵ Relatedly, one CRES provider that filed initial comments stated that it “does not object to suppliers providing compensation to customer generators.”⁶

To ensure a robust environment that promotes net metering systems, CRES suppliers should not be permitted to deny shopping customer-generators full compensation for the electricity they provide back to the grid. Indeed, there should be an affirmative commitment in CRES providers’ contracts to provide compensation to shopping customer-generators. To this end, OMAEG submits that net metering contracts offered by CRES customers should guarantee compensation to customer-generators. OMAEG offers the following rule revisions to carry out this suggestion.

II. Reply Comments

A. Proposed Ohio Adm. Code 4901:1-10-28(B)(1)

The Commission’s proposed rules provide that customer-generators that take service under the electric utility’s standard service offer (non-shopping customer-generators) shall receive a monetary credit at the electric utility’s standard service offer rate for the production of excess electricity that is delivered back to the grid. Unfortunately, the proposed rules do not similarly guarantee compensation to shopping customer-generators who likewise deliver excess

⁴ Id.

⁵ Id.

⁶ IGS Solar, LLC, IGS Generation, LLC, and Interstate Gas Supply, Inc. Initial Comments at 2 (December 18, 2015).

electricity back onto the grid. This is a departure from an earlier draft of the Commission's proposed rules, which contained a clause providing compensation to shopping customer-generators.⁷

The Commission should remedy the mismatch in compensation between what non-shopping and shopping customer-generators receive for their production of excess electricity. In either scenario, whether the excess electricity comes from a net metering system operated by a shopping or non-shopping customer-generator, the excess electricity delivered back to the grid reduces the customer-generator's demand which, in turn, reduces the amount of capacity that must be procured for the area.⁸ Shopping customer-generators, just like non-shopping customer-generators, should be compensated for producing this benefit. OMAEG recommends that the Commission harmonize the two compensation schemes to account for this benefit.

Harmonizing the compensation schemes will not only ensure that shopping customer-generators are appropriately compensated for the benefits they generate, but also promote the following state policies:

- Ensure the diversity of electricity supplies and suppliers, by giving consumers effective choice over the selection of those supplies and suppliers and by encouraging the development of distributed generation and small generation facilities;⁹
- Ensure that an electric utility's transmission and distribution systems are available to a customer-generator or owner of distributed generation, so that the customer-generator or owner can market and deliver the electricity it produces;¹⁰

⁷ See *In the Matter of the Commission's Review of Chapter 4901:1-10, Ohio Administrative Code, Regarding Electric Companies*, Case No. 12-2050-EL-ORD, Second Entry on Rehearing at 41 (May 28, 2014) (providing a monetary credit "regardless of whether the customer-generator is receiving generation from the electric utility or a [CRES] provider.").

⁸ Id. at 21.

⁹ R.C. 4928.02(C).

¹⁰ R.C. 4928.02(F).

- 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.¹¹

By failing to guarantee that shopping customer-generators are entitled to compensation for excess production, the Commission's proposed rule could chill development and implementation of distributed generation projects. Without the appropriate incentives in place, some distributed generation projects may not get built, or, the projects may not get built to optimal size. To avoid this adverse outcome, the Commission should adopt OMAEG's proposed revisions to ensure a robust environment for distributed generation that adequately compensates shopping customer-generators that operate net metering systems. Doing this will encourage development and implementation of distributed generation in accordance with state policies.

To carry out the intent of the foregoing discussion, OMAEG recommends the following revisions to the proposed rule. The suggested revisions are consistent with the compensation scheme applicable to non-shopping customer-generators as set forth in proposed Ohio Adm. Code 4901:1-10-28(B)(9)(b):

An electric services company ~~may that~~ offers 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 so that any excess production by a customer-generator shall be converted to a monetary credit at the electric service company's contract rate in effect during the billing period in which the excess production was delivered back to the electric utility. The monetary credit shall be carried forward to the customer-generator's future bills for the contract's duration, including any renewals. The electric services company shall not be required to pay the monetary credit, other than having it credited to future bills, and the monetary credit may be lost if the customer-generator does not use the credit within the contract's duration, including any renewals. The electric services company~~

¹¹ R.C. 4928.02(K).

shall apply the monetary credit to customer bills on a first-in, first-out basis after calculating the customer-generator's bill for each month. An electric services company is not required to enter into any net metering contract with any customer. Only customers who have signed an interconnection agreement with the electric utility may engage in net metering with an electric services company.

B. Proposed Ohio Adm. Code 4901:1-10-28(B)(9)(c)

This proposed rule also does not guarantee compensation to shopping customer-generators that deliver excess production to the grid. For all the reasons stated above, the Commission should remedy this mismatch and align the compensation schemes that apply to non-shopping and shopping customer-generators. This will ensure that shopping customer-generators receive adequate compensation for the benefits they deliver to the grid, create appropriate incentives for the construction of distributed generation projects, and fulfill the state's policy goals.

In terms of substance, the proposed language for this proposed rule merely reaffirms the meaning from the Commission's proposal for Ohio Adm. Code 4901:1-10-28(B)(1) above. Therefore, because the proposed language adds nothing new substantively, OMAEG recommends that the Commission simply strike this provision in its entirety:

~~An electric services company may offer a net metering contract at any price, rate, or manner of credit for excess generation.~~

C. Additional Responses

In its initial comments, Duke Energy Ohio (Duke) requests to be given the same regulatory treatment that proposed Ohio Adm. Code 4901:1-10-28(B)(9)(c) would give to CRES providers.¹² Treating Duke in this way would violate R.C. 4928.67 in at least two ways.

¹² Duke Initial Comments at 5 (December 18, 2015).

First, R.C. 4928.67(A)(1) provides that an “electric utility shall develop a standard contract or tariff providing for net metering.” Given this mandatory language, a Commission rule *permitting* rather than *requiring* Duke to offer a net metering contract would run afoul of the statute’s unambiguous directive that an electric utility “shall” offer a net metering contract.

Second, R.C. 4928.67(B)(3)(b) provides that “[i]f electricity is provided to the utility [by a customer-generator], the credits shall appear in the next billing cycle.” This language means that the electric utility must provide credits to the customer-generator. Proposed Ohio Adm. Code 4901:1-10-28(B)(9)(c) on the other hand, provides that CRES providers can contract for the provision of credits in “any” way that they want. OMAEG understands this broad grant of discretion to CRES providers to mean that they may outright refuse to grant credits to customer-generators if they so chose. Treating Duke in this way would violate R.C. 4928.67(B)(3)(b)’s requirement that credits “shall” be given to customer-generators.

Put simply, Duke’s request to be treated like a CRES provider is incompatible with the controlling net metering statute.

III. Conclusion

OMAEG appreciates the opportunity to present its views on the proposed net metering rules and respectfully requests that the revisions set forth above be considered for adoption by the Commission.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a true and accurate copy of the foregoing was served upon the following parties via electronic mail on January 8, 2016.

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Summary: Reply Comments Of The Ohio Manufacturers' Association Energy Group
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