FILE

BEFORE
THE PUBLIC UTILITIES COMMISSION OF OHIO

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

MEMORANDUM CONTRA OF IGS SOLAR, LLC, IGS GENERATION, LLC, AND IGS INTERSTATE GAS SUPPLY, INC.

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I. BACKGROUND

On November 8, 2017, the Public Utilities Commission of Ohio ("Commission") issued a Finding and Order ("Order") amending the net metering rules. On December 8, 2017 the Office of Ohio Consumers' Counsel ("OCC") and Ohio Edison Company, Toledo Edison Company, and the Cleveland Electric Illuminating Company (collectively "FirstEnergy") filed applications for rehearing.

In its application for rehearing, OCC raises two assignments of error. Specifically, OCC alleges that the Commission should have increased consumer protections for customers served by competitive retail electric service providers ("CRES" or Suppliers") (OCC Assignment of Error 5). OCC further alleges the Commission should have required the electric distribution utilities ("EDUs") to update their supplier tariffs to increase the costs billed to Suppliers for purposes of invoicing customers using the bill ready function (OCC Assignment of Error 6).

FirstEnergy's application for rehearing asserts arguments, which, if successful, would reduce opportunities for distributed generation resources to receive net metering compensation. FirstEnergy argues that the Order impermissibly authorized net metering facilities to be sized up to 120% of customer usage requirements (FirstEnergy

Assignment of Error 1). FirstEnergy also challenges the Order's determination that facilities up to 2 megawatts may qualify as net metering systems (FirstEnergy Assignment of Error 3). Because each of these assignments of error lack merit, IGS Solar, LLC, IGS Generation, LLC, and Interstate Gas Supply, Inc. ("IGS") recommend that the Commission deny the applications for rehearing as discussed herein.

II. ARGUMENT

A. OCC's request for additional consumer safeguards is neither justified nor ripe

The Order provided that a CRES provider may offer a net metering contract consistent with OAC 4901:1-21.[1] OCC alleges that section is generally "structured to address requirements for contracts between marketers and customers for supplying retail electric service"[2] and such protections are not sufficient here. This argument is misplaced.

OCC's argument ignores existing rules that already address its concern. Indeed, OAC 4901:1-21-13, titled "Net Metering Contracts", sets forth requirements that a Supplier must follow to the extent it offers a customer a net metering contract. It is unclear what else OCC is seeking. Because OCC's Application for Rehearing does not clearly identify what it is seeking in this proceeding and obligations already exist that OCC does not claim are insufficient, the Commission should reject OCC's application for rehearing in this respect.

Moreover, OCC's request that the Commission address its concern in Case No. 17-1843 is simply a recommendation to predetermine another proceeding before it has

[1] Order, Attachment A at 2 of 10.

[2] OCC Application for Rehearing at 8.

run its course. Therefore, the Commission, at this time, should reject Assignment of Error 5, which seeks an outcome that is outside the scope of this proceeding.

B. OCC's proposal to impose additional costs on Suppliers and their customers lacks merit

The Order determined that net metered customers served by a Supplier should automatically be transferred to bill ready billing, unless the customers is issued a separate bill by Supplier.[3] OCC takes issue with this portion of the Order, claiming that the Commission should also have required the electric distribution utilities to file updates to their supplier tariff to reflect the costs for providing this service."[4] OCC's assignment of error lacks merit.

As a practical matter, a Supplier entering into a net metering contract with a customer is likely to use bill ready to invoice the customer from the outset. Therefore, OCC is concerned with a situation that is not likely to be a common occurrence. Regardless, each of the four EDUs already have bill ready capability to the extent there is a need to transfer a customer from rate ready billing to bill ready billing.

Moreover, there are no fees to switch from rate ready billing to bill ready billing. Thus, OCC's request to impose fees here is a collateral attack on the existing billing arrangements between EDUs and Suppliers regarding billing functionality that existed prior to the Order. Therefore, Assignment of Error 6 lacks merit and should be rejected.

[3] Order at 9, 19.

[4] OCC Application for Rehearing at 9.

C. Net metering facilities should be permitted to be sized up to 120% of usage requirements

The Order determined that net metering systems may produce up to 120% of a customer's usage requirements. The Order established this limit because "there may be annual fluctuations in electricity usage, and the Commission has provided flexibility to the electric utilities in providing consumption estimates to customers . . . ."[5] FirstEnergy argues that the Commission should have limited facilities to producing 100% of their total energy usage.[6] FirstEnergy's argument lacks merit.

As the Order acknowledges, customer usage and estimates of usage requirements may vary.[7] Moreover, many distributed generation resources, such as solar, produce varying levels of generation output depending on weather conditions. Because both usage and distributed generation resource production may not be certain, it may be appropriate to construct a distributed generation resource that is larger than a customer's total usage requirements to ensure it satisfies its intended purpose of offsetting customer usage. Thus, establishing a threshold level of 120% is reasonable and consistent with the requirement that the facility be "intended primarily to offset part or all of the customer-generator's requirements for electricity."[8]

D. The Commission should not reduce the size of a microturbine eligible for net metering

[5] Order at 14.

[6] FirstEnergy Application for Rehearing at 4-6.

[7] Order at 14.

[8] R.C. 4928.01(A)(31)(d).

The Order concluded that "the size limit for microturbines should be set at 2 MW."[9] FirstEnergy challenges this determination, arguing that the Commission should have set the threshold size at 500 kilowatts or smaller.[10] FirstEnergy alleges that the Commission has ignored the industry standard in defining the size of a microturbine and the Commission placed too much significance on a customer's intent to displace their usage requirements. FirstEnergy further argues that the Commission should not have relied upon its interconnection rules to support its size limitation. As discussed below, FirstEnergy's arguments lack merit.

Although FirstEnergy would rather the Commission establish a 500 kilowatt threshold, the statute does specifically define microturbine. Indeed, it is referenced only once in the entire Ohio Revised Code (R.C. 4928.01(A)(31). Given that the General Assembly did not specifically codify the definition of microturbine, the Commission has wide latitude to rely upon its own expertise, judgment, and state policy to define it. Because state policy favors the use of net metering systems to facilitate the development of distributed generation resources, it is reasonable and appropriate to adopt an expansive definition of microturbine. That is exactly what the Commission did, finding that "we note that pursuant to R.C. 4928.02(K), it is the policy of this state to encourage implementation of distributed generation across customer classes through regular review and updating of administrative rules governing critical issues such as interconnection standards and net metering."[11]

[9] Order at 6.

[10] FirstEnergy Assignment of Error 2.

[11] Order at 6.

CERTIFICATE OF SERVICE

I hereby certify that I served a true copy of the foregoing Application for Rehearing of IGS *Solar, LLC, IGS Generation, LLC, and Interstate Gas Supply, Inc.* upon the following parties via electric transmission, this 18th day of December 2017.

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