

**STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION**

IN RE: BLOCK ISLAND UTILITY DISTRICT	:	
TARIFF ADVICE FILING TO ADD	:	
NEW NET METERING TARIFF	:	
	:	DOCKET NO. 5192
IN RE: BLOCK ISLAND UTILITY DISTRICT	:	
TARIFF ADVICE FILING TO AMEND LEGACY	:	
NET METERING TARIFF	:	

REPORT AND ORDER

I. Background

In 2017, the General Assembly enacted the Block Island Utility District Act of 2017 (Act), “to establish the Block Island utility district and to authorize and enable the utility district to provide utility products and services as may be authorized, from time to time, by the utility district’s board of utility commissioners.” Following passage of the Act, the Block Island Utility District (BIUD) and Block Island Power Company, an investor-owned electric utility entered into an Asset Purchase Agreement, the closing on which occurred on March 25, 2019.¹

BIUD adopted the existing tariffs and policies prior to filing its first rate case. One of those policies was a Net Metering Policy dated January 1, 2018 (2018 Policy). The net metering policy reflected a cap on installations pursuant to the state law at the time. Prior to 2021, R.I. Gen. Laws § 39-26.4-3(a)(1)(i) limited the aggregate amount of net metering in the BIUD service territory (Block Island) at 3% of BIUD’s peak load.² Net metering installations on Block Island hit the cap in October 2020. In 2021, the General Assembly changed the language to allow BIUD to set a maximum percentage of peak load for net metering installation based on the utility’s operational characteristics, subject to Public Utility Commission (PUC) approval.³

¹ BIUD Informational Filing (Apr. 3, 2019).

² R.I. Gen. Laws § 39-26.4-3 (Reenactment of 2020).

³ R.I. Gen. Laws § 39-26.4-3 (2021 P.L. 315 and 2021 P.L. 316).

II. Block Island's Net Metering Tariff Filing

On October 26, 2021, BIUD submitted a new net metering tariff (Net Metering Tariff) to be applicable to net metering systems installed after December 31, 2020.⁴ All pre-existing net metering installations would continue to be governed by the 2018 Policy unless they upgrade their facility in a manner that increases the size of their facility or until they replace the facility.⁵ On December 10, 2021, BIUD submitted testimony of Jeffrey Wright, President of BIUD in support of the filing. Under the Net Metering Tariff, BIUD raised the net metering cap from 3% of peak to 10% of peak, thus allowing for new installations of solar PV systems, and prohibited the size (kW) of any individual project interconnected under the new Tariff from exceeding 10% of the total remaining net metering capacity at the time of the application.

To participate in the Net Metering Tariff, customers would be required to install two meters. One of the meters would be connected directly to the solar PV system (production meter) and the second would be separately connected to the building to measure the usage (load meter). At the end of each monthly billing cycle, the customer “will pay the applicable rate for all energy they consume. They will then be credited for all energy produced and delivered to BIUD” at the avoided cost rate. The avoided cost rate is calculated as the sum of $[\text{Power Supply Service} + \text{Transmission} - (\text{Direct Assignment Facilities Charges} + \text{Block Island Transmission Charges} + \text{BIUD Amortization Expenses})]$. If, after the customer has been charged for their energy consumption and credited for their energy generation, there remains a balance of credits on the customer's monthly bill, that credit balance will carry over to the following month's bill. Credits

⁴ The original filing included a date of December 31, 2019. BIUD clarified at the hearing that it should be December 31, 2020. Hr'g. Tr. at 33 (Jan. 27, 2022).

⁵ BIUD Filing, Wright Test. at 4-5. All filings in this matter can be accessed at the Commission's offices at 89 Jefferson Blvd., Warwick, Rhode Island or on the Commission's website at: <https://ripuc.ri.gov/eventsactions/docket/5192page.html>.

carried over for more than two years will expire.⁶ The avoided cost rate would be recalculated each year with the annual reconciliation of last resort service (power supply service) and transmission expenses.⁷

Addressing both the percentage increase in net metering and the requirement for two meters, Mr. Wright explained that BIUD can operate the distribution system reliably when uncontrolled solar PV penetration on the island is capped at 3%, regardless of whether BIUD is running on energy supplied by the transmission line between Block Island and the mainland or if it is running on its diesel backup generation. However, when penetration from uncontrolled solar PV resources exceeds 3%, BIUD cannot guarantee that it can maintain system reliability, particularly when the diesel generators are running. In his testimony, Mr. Wright explained that installing a second meter at new solar PV systems will allow BIUD to maintain reliability when the island is running on the backup diesel generators by remotely disconnecting the new solar PV systems. Mr. Wright explained that even now, during periods of high solar PV generation and low electric usage, BIUD has been advised to shut off its own rooftop solar PV system when on diesel generation to avoid system instability.⁸

Additionally, BIUD must ensure that local generation from solar PV systems never exceeds the usage on the island because BIUD is prohibited from sending energy onto the transmission line back to the mainland.⁹ Requiring a separate meter for new solar PV systems allows BIUD to remotely disconnect those systems to avoid instability issues on the distribution system. This is what allows BIUD to increase the solar PV penetration to 10% of BIUD's peak load. He testified that raising the cap from 3% to 10% would support approximately 500 kW of new net metering

⁶ Wright Test. at 5; Proposed Tariff at 3-4.

⁷ Wright Test. at 9-10.

⁸ Wright Test. at 6-7.

⁹ *Id.* at 7.

capacity to be interconnected. Because the cap is a percentage of load, the available remaining capacity (kW) number will change as the peak changes.¹⁰

To help offset the cost of the additional meter, BIUD proposed to provide a \$1,000 allowance against the cost. The \$1,000 would be paid for from BIUD's existing operating revenues. While these revenues are paid for through rates, BIUD stated that it would not seek future rate recovery of these costs.¹¹

On January 24, 2023, Commission Staff conducted a discovery meeting to better understand the technical requirements of the proposal along with the transfer of credits. Part of that was understanding BIUD's assertion that it needs new net metering customers to separately meter generation and load for visibility or control purposes. Staff also sought to understand the difference in crediting between the two net metering constructs.¹²

On January 25, 2022, after reviewing BIUD's filing and discovery responses, the Division of Public Utilities and Carriers (Division) submitted a memorandum from Al Contente. Mr. Contente summarized the filing, noting that BIUD's proposal changes the calculation and application of the generation credit for new net metering customers compared to those under the 2018 net metering policy. He did note that BIUD was proposing to apply the same calculation of avoided cost to all net metering customers, regardless of their installation date.¹³ The Division found the proposed calculation of the generation credit to be reasonable.¹⁴ The Division also found the proposal to require two meters to be reasonable because it would compensate net metering customers for the costs BIUD will avoid while not requiring a cost subsidization from non-net

¹⁰ *Id.* at 9.

¹¹ BIUD's Response to PUC 1-16.

¹² Discovery Tr. (Jan. 24, 2022).

¹³ Contente Mem. at 2 (Jan. 25, 2022).

¹⁴ *Id.*

metering customers. Furthermore, it was reasonable for BIUD to require the two meters for disconnection during operating emergencies.¹⁵ The Division found the 10% net metering cap to be reasonable and consistent with R.I. Gen. Law § 39-26.4-3. The Division found that BIUD's proposal had been well-vetted by the BIUD's Board and its customers. Therefore, the Division recommended approval of the net metering tariff.¹⁶

III. January 27, 2022 Public Hearing

On January 27, 2022, the Commission conducted a public hearing at the Commission's offices at 89 Jefferson Boulevard, Warwick, Rhode Island. While the Commission members and its staff were present in the hearing room, all other participants appeared via Zoom. At the start of the hearing, members of the public were provided the opportunity to comment. Two members of the public provided comment on the proposal. The first commenter was Christopher Warfel, an island resident and solar developer. Mr. Warfel's comments touched on many issues including several not subject to the Commission's jurisdiction. Those relevant to the Commission's review of the proposed tariff include transparency of the percentage cap calculations; whether the second meter is needed; and whether the proposal is net metering.¹⁷ David Lewis, another Block Island resident, described his participation as a customer of the utility following the evolution of the net metering tariff development. He explained that he did not have a net metering installation but supported net metering on the island. After participating in public meetings, observing the Board's deliberations, and reading the documentation, he supported the net metering proposal as a fair

¹⁵ *Id.* at 2-3.

¹⁶ *Id.* at 3.

¹⁷ Hr'g. Tr. at 9-26. Mr. Warfel also provided two versions of his written public comment. Many of Mr. Warfel's concerns are subject to local authority such as zoning and permitting or related to installer qualifications that fall outside of the Commission's jurisdiction. Still other recommendations were based on incorrect information such as his contention that the PUC had been awarded money from the Department of Energy to conduct a study.

balance to enable net metering and protect the utility's financial soundness. He thus urged the Commission to approve the proposal.¹⁸

Following public comment, BIUD presented Mr. Wright and David Bebyn, CPA, its ratemaking consultant. The first part of the hearing focused on clarifying certain aspects of the proposed tariff. There were also questions about the 2018 Policy, particularly with respect to clarification of terms and conditions.¹⁹ Responding to questions about enforcement of tariff eligibility for existing net metering customers served under the 2018 Policy, Mr. Wright conceded that BIUD lacks staff to inspect every facility to ensure it is sized correctly or has not been replaced or upgraded in a manner that would require service under the proposed Net Metering tariff.²⁰ With respect to the two-year limitation of the carryover of the net metering credits, Mr. Bebyn testified that the billing system would allow for tracking of those credits.²¹

BIUD's 10% net metering cap also includes a limitation on project size for new systems based on the calculation of available remaining capacity. For example, if 350 kW is available to interconnect before hitting the 10% cap, the first project can be no larger than 35 kW, thus reducing the available capacity for interconnection to 315 kW. The next project would be limited in size to 31.5 kW and so on. In response to questions about managing the queue up to the 10% cap and those individual sizing restrictions, Mr. Wright ultimately responded that BIUD would be monitoring the queue to ensure speculative projects not impede applications for more mature projects, particularly where each subsequent project would be subject to a decreasing size limit.

¹⁸ Hr'g. Tr. at 27-29.

¹⁹ Hr'g. Tr. at 132-40.

²⁰ Hr'g. Tr. at

²¹ *Id.* at 85-86.

Mr. Wright indicated that BIUD had not struggled with a waiting list for interconnection requests, but he agreed to consider providing additional transparency into BIUD's interconnection queue.²²

Responding to questions about the proposed Net Metering tariff's requirement for installation of a second meter, Mr. Wright reiterated that the primary purpose of the two meters is for reliability of the distribution system with a secondary purpose of avoiding further cost shifts from net metering customers to non-net metering customers.²³ The compensation methodology included in the proposed tariff will pay customers at the utility's avoided cost rate for the electrical energy they generate. This compensation methodology is different from the manner in which net metering customers are compensated under the 2018 Policy. Under the 2018 Policy, a net metering customer will net their usage against their load in real time behind a single meter. At the end of the monthly billing cycle, that single net meter will record a single net reading.²⁴ If positive net usage is recorded, the customer will be charged at their applicable energy rate; if negative net usage is recorded, the customer will be credited at the avoided cost rate. According to Mr. Wright, the new proposal appropriately compensates a customer for the energy they are providing to the system, thus avoiding other customers overpaying for that energy. Mr. Wright explained that the Board chose to allow existing net metering customers to continue to be served under the 2018 Policy to avoid the disruptions that would be required to reconfigure existing net metering systems to install a new meter. He also suggested that customers should receive the benefit of the tariff under which they entered the program.²⁵

Addressing the proposal that net metering customers be compensated up to \$1,000 for the second meter instead of including it as an interconnection cost, Mr. Wright conceded that it could

²² *Id.* at 88-98.

²³ *Id.* at 153-59.

²⁴ BIUD's Response to PUC 1-10 and PUC Set 2.

²⁵ Hr'g. Tr. at 161-66.

be viewed as a proper cost of interconnection. However, he related that the cost of the second meter had been a major source of contention at Board meetings and the elected Board had made the decision to allow for the compensation out of existing rates. He described it as a compromise between the principles of encouraging net metering installations and avoiding improper subsidization of participants versus non-participants.²⁶ Mr. Bebyn testified that assuming a moderate and steady installation of the second meters, there is room within BIUD's budget to cover the meter subsidy. He indicated that the size limitations in the proposed tariff should provide protection against unsustainable pressure on the budget. Mr. Wright, however, stated that if the utility had to prioritize reliability expense against the meter subsidy, reliability would be the priority.²⁷

The Division presented Mr. Contente who made one correction to his memorandum to reflect the change in effective date presented by BIUD following the filing of the Division's memorandum. Recognizing that in the Pascoag Utility District, another electric distribution company in Rhode Island that has a net metering tariff that requires two meters, customers were required to pay to reconfigure their systems from a single meter to two meters, Mr. Contente explained that the relative magnitude of the number of customers who would be affected in each district was different. Pascoag has approximately 60% more customers than BIUD and also has fewer customers net metering than on Block Island. Furthermore, in the Pascoag Utility District matter, the General Manager had testified that two meters were required to allow Pascoag to comply with its previously approved net metering tariff.²⁸

²⁶ *Id.* at 167-71; Mr. Wright stated that the Board had not considered that with a second meter, net metering customers may be able to register their systems and monetize their net metering credits. *Id.* at 170.

²⁷ *Id.* at 173-74.

²⁸ Hr'g. Tr. at 182-85.

IV. Commission Ruling on Net Metering Tariff

At an Open Meeting held on March 29, 2022, the Commission reviewed the record and unanimously approved the proposed Net Metering Tariff with modifications. The modifications had been addressed and accepted by BIUD at the hearing. They relate to the effective date, consistency of tariff language to statute, clarity of terms, and efficiency in administration. They are set forth in the ordering paragraphs.

With respect to the proposal to credit customers with up to \$1,000 for the second meter, the Commission approved it by a vote of 2-1, with Commissioner Anthony dissenting.²⁹ The majority, however, accepted Mr. Wright's testimony that after thoughtful consideration by BIUD's Board, this was seen as a compromise to balance the principle of avoiding cross subsidies with the principle of encouraging more net metering on the island. Further, unlike other non-investor-owned utilities regulated by the Commission, Block Island, like Pascoag Utility District, are governed initially by two elected boards, members of whom can be replaced if the customers disagree with their policies. The Commission, in this case, is in the position of reviewing the Board's decision to determine if it is without a reasonable basis in ratemaking. The majority of the Commission found that the proposal has a reasonable basis for allowing the reimbursement under the specific facts presented that does not unduly discriminate against other ratepayers.³⁰

Noting that transparency is an important component to the administration of the new net metering tariff, particularly where there is a limitation on participation, the Commission required

²⁹ Commissioner Anthony viewed the cost as related to the cost of interconnection which is to be borne by the interconnecting customer. She viewed the proposal as inconsistent with the principle of avoiding subsidies to net metering customers by non-net metering customers. Despite this disagreement, she ultimately voted to approve the tariff.

³⁰ On April 18, 2022, BIUD filed an updated Net Metering Tariff RIPUC No. 5192 for effect April 1, 2022, incorporating the Commission's March 29, 2022 open meeting decisions.

BIUD to submit a queue management plan for implementation within six months of the Commission's decision.³¹

Finally, the Commission required BIUD to file an updated and revised tariff to replace the 2018 Policy for consideration by the Commission.

V. Legacy Net Metering Tariff

On August 19, 2022, BIUD filed revisions to the 2018 Policy hereinafter, the Legacy Net Metering Tariff, together with testimony of Mr. Wright.³² Consistent with the effective dates within the Net Metering Tariff, the Legacy Net Metering Tariff would apply to net metering customers with systems installed and operational prior to December 31, 2020. As proposed by BIUD, the Legacy Net Metering Tariff would expire for all customers on June 30, 2042, and after that date, customers would be required to rewire their systems to support a two meter configuration and transition to the then-in-effect Net Metering Tariff.³³

Customers who replace their system or increase its capacity by more than 15% would be required to transition to the Net Metering Tariff and install two meters.³⁴ Mr. Wright explained that with the approval of the Net Metering Tariff requiring a production meter and load meter, BIUD was confident that it “can manage the output of the legacy systems while on [diesel]

³¹ On September 29, 2022, BIUD filed its queue management plan. BIUD provided a link directly to its enhanced net metering webpage and explained that people can still reach that page from the utility's homepage. The net metering webpage contains (1) a table with up-to-date information including the summer peak in kW, the 10% calculation in kW, the current installed capacity in kW, the current amount of capacity approved/under construction, the remaining capacity available, the current maximum project size allowed, the number of pending or incomplete applications under review, the number of approved applications not yet under construction, and the current number of in-service net metering facilities; (2) a link to the net metering tariff; (3) the current net metering rate, (4) a link to the net metering application; and (5) a step-by-step guide to the application process.

³² BIUD proposed non-substantive clarifying changes to the Legacy Net Metering Tariff on December 14, 2022.

³³ *Id.* at 6; BIUD Response to PUC 4-1. Given the range of legacy system ages, the Commission inquired about the reasonableness of an expiration date rather than a fixed number of years from the operational date for each system. BIUD explained that after deliberations, the Board determined that it preferred the simplicity of one expiration date, particularly where documentation from the previous company was incomplete. BIUD Response to PUC 4-2.c.

³⁴ Mr. Wright explained that maintenance includes replacing broken or failed panels, failed inverters, or even the addition of panels to compensate for underperforming panels as long as the DC output rating does not exceed 15% of the original permitted rating. BIUD Response to PUC 4-4.b.

generators under all conditions.”³⁵ Mr. Wright clarified that this confidence arises from BIUD’s ability to disconnect its own 92.4kW rooftop solar array. He explained that even if all legacy net metering customers were to increase their capacity by 15%, it would only result in an additional 30.73 kW. If BIUD needed to reduce the level of solar generation output while on diesel generation, it could take all or part of its system offline to ensure continued grid stability.³⁶ Thus, the Legacy Net Metering Tariff does not require those customers to install a separate meter. Mr. Wright explained that the 15% limitation was reasonable because oftentimes replacement parts are not identical to those which have failed and the 15% allowance appropriately accounts for this while not unreasonably affecting BIUD’s exposure to distribution system limitations.³⁷

Mr. Wright explained that in addition to the expiration date, eligibility requirements, and capacity addition limitations, the Legacy Net Metering Tariff included other changes. Importantly, where the 2018 Policy had described excess net metering credits as being paid at the avoided cost, the Legacy Net Metering Tariff provided the calculation, consistent with the Net Metering Tariff. BIUD also removed a provision that limited the volume of net metering credits a net metering customer could be compensated for to 125% of their consumption. Under the proposal, customers could be compensated for an unlimited volume of net metering credits. Mr. Wright justified the removal of the 125% limitation provision by noting that the new avoided cost rate minimizes the risk of a cost shift to other customers. He further explained that the billing system would need a software upgrade costing up to \$5,000 to enforce the 125% limitation provision and further, BIUD had no record of having enforced the provision.³⁸

³⁵ Wright Test. at 3 (Aug. 19, 2022).

³⁶ BIUD Response to PUC 4-4.d.

³⁷ Wright Test. at 8.

³⁸ Wright Test. at 7; Response to PUC 4-3.

Addressing the reasonableness of having two net metering tariffs with different requirements, Mr. Wright explained that BIUD had engaged in extensive public processes at its Board level through public sessions/open meetings. He related that most meetings had fairly equal representations between net metering and non-net metering customers. He described spirited debate and arguments among meeting participants, particularly relating to the debate of whether to incentivize renewable energy as much as possible versus avoiding any further cost shift in the Net Metering Tariff like that created by the Legacy Net Metering Tariff.³⁹ With respect to the changes to the Legacy Net Metering Tariff, Mr. Wright described the creation of a sub-committee to review and edit the 2018 Policy. The Legacy Net Metering Tariff was presented to the Board at an open meeting on July 28, 2022. BIUD customers were present at the meeting and were evenly split between net-metering customers and non-net metering customers. While there was strong support to expand the availability of the Legacy Net Metering Tariff and “undo” the Net Metering Tariff, the non-net metering customers “commended BIUD for addressing the cost shift created by the [2018 Policy]” through the design of the Net Metering Tariff that had been approved by the Commission. According to Mr. Wright, however, there was strong support for allowing legacy net metering systems to operate under the Legacy Net Metering Tariff through 2042, particularly where some projects had only connected in the fall of 2020 and would be financially burdened to have to rewire such a new system.⁴⁰

Mr. Wright, although not an attorney, opined that it was not unreasonable for BIUD to have two separate net metering tariffs where the Commission, in 1998, allowed for net metering systems

³⁹ Wright Test. at 6.

⁴⁰ Wright Test. at 5-6.

that existed as of April 1, 1998 to remain on the tariff while there were size and crediting limitations going forward.⁴¹

On November 16, 2022, Attorney Mark Simpkins filed a memorandum summarizing the filing and the travel to that date. He concluded that “After a careful review of BIUD’s proposed tariff advice and in considering that the proposal has been well vetted by BIUD’s Board members and is the result of overwhelming support from both net-metering and non-net metering members in attendance at BIUD’s July 28, 2022, open meeting, the Division does not object to the Commission’s approval of the proposed tariff.”⁴²

VI. December 14, 2022 Public Hearing and Commission Ruling on Legacy Net Metering Tariff

On December 14, 2022, the Commission conducted a hearing via Zoom to elicit public comments on the proposed Legacy Net Metering Tariff. No members of the public participated.

At an Open Meeting held on December 22, 2022, the Commission considered the record and unanimously approved BIUD’s Legacy Net Metering Tariff as amended on December 13, 2022. The Commission noted that the tariff had been well vetted by the BIUD Board, its

⁴¹ In that case, The Narragansett Electric Company filed with the Commission proposals for certain new tariffs and changes to existing tariffs relating to rates and terms for purchases from Qualifying Facilities ("QFs") under the Public Utility Regulatory Policy Act of 1978 ("PURPA"); new rates and terms for providing backup, supplemental, and/or maintenance service to customers with self-generation; and a premium service option for large commercial and industrial customers who request greater reliability from Narragansett involving second feeders. A settlement was presented to the Commission, but it did not resolve the issue of whether the Commission should allow reverse metering for QFs of less than 25 kVA in size. The Company proposed to continue current policy for reverse metering for all very small QFs, while the Division took the position that reverse metering be limited only to the customers being reverse metered as of the date of the filing. The Commission noted that the public policy of the state supports renewable generation and that at the time, the subsidy from net metering customers was expected to be very small, and that there were disproportionate administrative costs involved in separately tracking the few excess kilowatt hours that small systems produce, requiring installing a second meter, cutting and sending checks, etc. Thus, the Commission allowed the existing facilities to net meter with one meter. Under these principles, the Commission also limited additional net metering using one meter to very small systems less than 25kVa, located on the customer’s premises, to meet the customer’s own load up to an aggregate total of 1MW. Order No. 15705 (Oct. 28, 1998) (PUC Docket No. 2710).

⁴² Simpkins Mem. (Nov. 16, 2022).

subcommittee, and received input from members of the public. It applied the same avoided cost rate to the excess generation from the net metering system and was clearer than the 2018 Policy.

A. Legal Analysis

The Commission has approved two net metering tariffs applicable to solar PV installations at customer premises on Block Island. Members of the public objected based in part on two contentions: (1) The Net Metering Tariff violates R.I. Gen. Laws § 39-26.4-1 through 3 (Net Metering law) and (2) The Net Metering Tariff is not net metering. Neither argument is correct. First, it is important to distinguish BIUD and Pascoag Utility District from The Narragansett Electric Company as it pertains to Rhode Island’s Net Metering law. BIUD and Pascoag are specifically excluded from the definition of “electric distribution company” for purposes of the net metering law.

“Electric distribution company” shall have the same meaning as § 39-1-2, but shall not include Block Island Power Company or Pascoag Utility District, each of whom shall be required to offer net metering to customers through a tariff approved by the public utilities commission after a public hearing. Any tariff or policy on file with the public utilities commission on the date of passage of this chapter shall remain in effect until the commission approves a new tariff.⁴³

Only The Narragansett Electric Company is subject to the statutorily prescribed net metering construct. Furthermore, BIUD and Pascoag are specifically allowed to limit the aggregate size of their allowable net metering systems based on their operational characteristics, an opportunity not afforded to The Narragansett Electric Company as the only electric distribution company to whom the statutory net metering construct applies.⁴⁴ Thus, based on each of these

⁴³ R.I. Gen. Laws § 39-26.4-2(2).

⁴⁴ R.I. Gen. Laws § 39-26.4-3(a)(1)(i).

definitions, it is clear that while the State of Rhode Island expects BIUD and Pascoag to offer a form of net metering, the exact parameters of that are not prescribed by the state law.⁴⁵

Second, the Net Metering Tariff as well as the Legacy Net Metering Tariff follow a form of net metering as contemplated under Rhode Island Law. Rhode Island law contains two definitions of net metering. First, in Title 39, net metering is defined as “using electrical energy generated by an eligible net-metering system for the purpose of self-supplying electrical energy and power at the eligible net-metering system site.... The amount so generated will thereby offset consumption at the eligible net-metering system site through the netting process established in this chapter....⁴⁶ Nobody challenges that the Legacy Net Metering Tariff is consistent with this definition.

Instead, members of the public have challenged the Net Metering Tariff as not being net metering. This is incorrect for two reasons. First, Title 42 contains another definition that was to be used by the Office of Energy Resources in conducting a study of distributed generation.⁴⁷ In that section, net metering was defined as:

Billing or charging an end-use customer only for the electricity supply or services which is the net amount of electricity actually delivered to the client by a supplier or service company, less any amount of electricity generated by or on behalf of the end-use customer and either used on the end-use customer’s property or put on to the electric distribution

⁴⁵ Nor is BIUD a covered electric utility under Title I of the Public Utility Regulatory Policies Act of 1978; <https://www.energy.gov/oe/articles/list-covered-electric-utilities-under-public-utility-regulatory-policies-act-1978-1>; <https://www.energy.gov/oe/public-utility-regulatory-policies-act-1978-purpa>; Nor is BIUD a covered electric utility under PURPA as applicable to the Energy Policy Act of 2005; <https://www.energy.gov/oe/articles/public-utility-regulatory-policies-act-1978-purpa-applicable-energy-policy-act-2005-0>; Because BIUD is not a covered electric utility under Title I of PURPA, the Energy Independence and Security Act of 2007 also does not directly apply; <https://www.energy.gov/oe/articles/reference-manual-and-procedures-implementation-purpa-standards-eisa-2007>.

⁴⁶ R.I. Gen. Laws § 39-26.4-2(12).

⁴⁷ R.I. Gen. Laws §§ 39-26.2-3(6) and 39-26.6-3(6) define distributed-generation facility as an electrical-generation facility located in the electric distribution company’s load zone with a nameplate capacity no greater than five megawatts (5 MW), using eligible renewable energy resources as defined by § 39-26-5, including biogas created as a result of anaerobic digestion, but, specifically excluding all other listed eligible biomass fuels, and connected to an electrical power system owned, controlled, or operated by the electric distribution company. (In each of these laws, BIUD and Pascoag are excluded from the definition of electric distribution company).

grid within the same transmission interconnect area in which the end-use customers is located.”⁴⁸

The Net Metering Tariff is consistent with this definition of net metering. Under the Net Metering Tariff, a customer is being billed for the electricity delivered by BIUD and is being paid for the energy put onto BIUD’s distribution grid. The customer receives one bill each month that nets those two amounts based on the readings from the production meter and the load meter.

Second, the General Assembly has, through a subsequent law, clarified that the definition of net metering in R.I. Gen. Laws § 39-26.4-2(12) can be accomplished with two meters. The existence of two meters in parallel to one another does not violate the nature of “self-supply” in the definition of net metering. First, the General Assembly has contemplated net metering using two meters in the Renewable Energy Growth (REGrowth) Program. The REGrowth Program is a feed-in tariff program that provides a participant with a fifteen- to twenty-year revenue stream at a fixed credit price. Customers are entitled to net meter at the end of the term.⁴⁹ Projects of a certain size are required to have a production meter. The utility is entitled to install a second meter for small projects. This section of the law states that:

The electric distribution company shall have the discretion to install the second meter in a parallel configuration to the retail meter or behind the meter, *provided that a parallel installation shall have no effect on the right of the customer to net meter using the net of the two meters.*⁵⁰

Thus, while not applying specifically to BIUD, the General Assembly has, subsequent to drafting the definition of net metering in R.I. Gen. Laws § 39-26.4-2, provided guidance that having two meters to separately measure production and usage, and then netting the two, will

⁴⁸ R.I. Gen. Laws § 42-140.2-2(1)(c).

⁴⁹ R.I. Gen. Laws § 39-26.6-23 (Net-metering credits for excess generation shall not be credited during the term of the tariff when the distributed-generation project is receiving performance-based incentive payments under the tariff. After the end of the term of the performance-based incentive tariff applicable to a distributed-generation project, net-metering credits for excess generation in any given month shall be credited to the net-metered account at the applicable rate allowed under the law.) See R.I. Gen. Laws §§ 39-26.6-20 and 39-26.6-31.

⁵⁰ R.I. Gen. Laws § 39-26.6-18 (emphasis added).

comply with the statutory definition of the Net Metering law. Therefore, the General Assembly has confirmed that a construct where two meters separately measure production and usage, and where the customer is billed for the net total of the cost of that usage and the value of that production, represents a form of self-supply.

B. Regulatory Analysis of Two Net Metering Tariffs

While it may be preferable for a utility to have only one net metering tariff, in this case, BIUD made a compelling argument that because of its operating characteristics, primarily the periodic need to more carefully control solar output when relying on its diesel generators, it cannot raise the cap on net metering capacity unless it can control the output of the solar PV systems to maintain grid reliability. BIUD knows that it can handle the existing solar output while running its diesel generators, particularly since it can control its own net metering facility. It does not know, however, how much more capacity can be interconnected to the distribution system without threatening reliability. Therefore, to allow growth in net metering without compromising system reliability, the solution BIUD proposed, to which no viable alternative was presented, was to require two meters for new net metering systems. Thus, under these unique circumstances, the Commission finds that it is preferable to allow for the growth of renewable installations on the island under two net metering tariffs rather than to simply keep the net metering cap at 3%.

Accordingly, it is hereby,

(24659) ORDERED:

1. Block Island Utility District's Net Metering Tariff filed on October 26, 2021, is hereby approved with the following modifications:
 - a. The term "Standard Offer" in the proposed tariff's definition of Generation Credit on page 1 shall be changed to "Last Resort Service."

- b. On page 2, paragraph 1 of General Provisions shall be amended to the following:
“This tariff applies to Net Metering Systems installed after December 31, 2020 and to Net Metering Systems installed on or before December 31, 2020 when the consumer member replaces, or upgrades which increases the rated nameplate DC output of the Net Metering System.”
 - c. On page 2, paragraph 2 shall be amended to change “Policy” to “Tariff” and if “policy” shows up anywhere else, it should be changed to “tariff,”
 - d. On page 2, paragraph 6 of General Provisions shall be amended to remove the reference to “approximately 500 kW.”
- 2. Block Island Utility District’s Net Metering Tariff RIPUC No. 5192, filed on April 18, 2022, with an effective date of April 1, 2022, reflects the decisions of the Commission in Ordering paragraph. 1.
 - 3. Block Island Utility District’s Legacy Net Metering Tariff RIPUC No. 5192-A filed on December 13, 2022, is hereby approved for effect on December 22, 2022.
 - 4. Block Island Utility District shall maintain, keep up to date, and otherwise comply with its queue management plan filed on September 29, 2022.

EFFECTIVE AT WARWICK, RHODE ISLAND ON APRIL 1, 2022 AND DECEMBER 22, 2022 PURSUANT TO OPEN MEETING DECISIONS ON MARCH 29, 2022 AND DECEMBER 22, 2022. WRITTEN ORDER ISSUED ON MAY 17, 2023.

PUBLIC UTILITIES COMMISSION



Ronald T. Gerwatowski, Chairman



Abigail Anthony, Commissioner



John C. Revens, Jr., Commissioner



NOTICE OF RIGHT OF APPEAL: Pursuant to R.I. Gen. Laws § 39-5-1, any person aggrieved by a decision or order of the PUC may, within seven days from the date of the order, petition the Rhode Island Supreme Court for a Writ of Certiorari to review the legality and reasonableness of the decision or order.