

STATE OF RHODE ISLAND
PUBLIC UTILITIES COMMISSION

IN RE: THE NARRAGANSETT ELECTRIC COMPANY : DOCKET 23-05-EL
D/B/A RHODE ISLAND ENERGY TARIFF ADVICE :
TO AMEND THE NET METERING TARIFF :
PROPOSAL FOR ADMINISTRATION OF EXCESS :
NET METERING CREDITS :

DIVISION OF PUBLIC UTILITIES & CARRIERS
MEMORANDUM

The Division submits this brief memorandum in response to those filed by Mass American Energy, LLC and Revity Energy LLC, which presented several issues challenging the Company’s proposed Tariff Advice.

I. Mass American Energy, LLC

Mass American Energy LLC (“MAE”) argues that the Company’s proposed methodology for calculating net metering credits by applying an annual average of last-resort service (LRS) rates is unfair because LRS rates fluctuate widely between seasons based on the demands for natural gas - with higher demand for natural gas in the winter months – for heating needs. MAE submits that because “net metering customers transact on the electricity market, not the thermal market” the “current policy of tying compensation of net metering customers to the value of natural gas is fundamentally inconsistent with the ratemaking principles of Docket 4600.”¹ MAE further avers that “penalizing net metering customers for the price impact of demand for natural gas” does not serve any of the statutory purposes or goals of net metering.² Finally, MAE urges the

¹ Mass American Energy, LLC, Legal Brief at 4 (Sept 8, 2023).

² *Id.* at 5.

Commission to “take an equitable approach to assessing net metering customers charges for excess production.” MAE seeks an order requiring RIE to “credit net metering customers the same way that it proposes to charge them, by averaging the LRS rate over an annual period when reconciling the value of production versus the cost of consumption.”

A) MAE’s request for the PUC to apply a “more equitable approach” does not comply with the net metering statute.

The Net Metering Statute, R.I. Gen Law §39-26.2 (2), provides a definition of the net metering credit and the components of the credit:

“Renewable net-metering credit” means a credit that applies to an eligible net-metering system or a community remote net-metering system up to one hundred percent (100%) of either the renewable self-generator’s usage at the eligible net-metering system site or the sum of the usage of the eligible credit-recipient accounts associated with the community remote net-metering system over the applicable billing period. This credit shall be equal to the total kilowatt hours of electrical energy generated up to the amount consumed on-site, and/or generated up to the sum of the eligible credit-recipient account usage during the billing period multiplied by the sum of the distribution company’s:

- (i) Standard-offer service kilowatt-hour charge for the rate class applicable to the net-metering customer, except that for remote public entity and multi-municipality collaborative net-metering systems that submit an application for an interconnection study on or after July 1, 2017, and community remote net-metering systems, the standard-offer service kilowatt-hour charge shall be net of the renewable energy standard charge or credit;
- (ii) Distribution kilowatt-hour charge;
- (iii) Transmission kilowatt-hour charge; and
- (iv) Transition kilowatt-hour charge.

Notwithstanding the foregoing, except for systems that have requested an interconnection study for which payment has been received by the distribution company, or if an interconnection study is not required, a completed and paid interconnection application, by December 31, 2018, the renewable net-metering credit for all remote public entity and multi-municipal collaborative net-metering systems shall not include the distribution kilowatt-hour charge commencing on January 1, 2050.

The statute makes no reference to Docket 4600 or other rate-making principles. The Commission is required to apply statutes as written and not some alternative – even if the Commission were to agree that it was more “equitable.”

B) MAE’s and Revity’s objections to cash payments are misplaced because the law provides authority for issuing such payments to the electric distribution company and the proposed tariff permits the customer to elect rollover credits in lieu of a cash payment.

R.I. Gen Law §39-26.4-3 (a) (2) provides:

(2) For ease of administering net-metered accounts and stabilizing net-metered account bills, the electric distribution company may elect (but is not required) to estimate for any twelve-month (12) period:

(i) The production from the eligible net-metering system or community remote net-metering system; and

(ii) Aggregate consumption of the net-metered accounts at the eligible net-metering system site or the sum of the consumption of the eligible credit-recipient accounts associated with the community remote net-metering system, and establish a monthly billing plan that reflects the expected credits that would be applied to the net-metered accounts over twelve (12) months. The billing plan would be designed to even out monthly billings over twelve (12) months, regardless of actual production and usage. If such election is made by the electric distribution company, the electric distribution company would reconcile payments and credits under the billing plan to actual production and consumption at the end of the twelve-month (12) period and apply any credits or charges to the net-metered accounts for any positive or negative difference, as applicable. Should there be a material change in circumstances at the eligible net-metering system site or associated accounts during the twelve-month (12) period, the estimates and credits may be adjusted by the electric distribution company during the reconciliation period. The electric distribution company also may elect (but is not required) to issue checks to any net-metering customer in lieu of billing credits or carry-forward credits or charges to the next billing period. For residential-eligible net-metering systems and community remote net-metering systems twenty-five kilowatts (25 KW) or smaller, the electric distribution company, at its option, may administer renewable net-metering credits month to month allowing unused credits to carry forward into the following billing period.

The general assembly has clearly provided the discretion to the electric distribution company on whether cash payments [checks] are permitted. Amending the tariff to include the company's discretion to issue cash payments is inherently consistent with statutory authority.

Additionally, Section II (12) of the proposed tariff provides:

“Following the annual reconciliation described in subsection (5) above, the Company may issue payment to the Net Metered Account for the remaining Excess Renewable Net Metering Credit at the annual average Last Resort Service rate. No payments permitted under this section will be issued until after the annual reconciliation of the Net Metered Account. In lieu of payment, the Net Metered Account customer may elect to roll over remaining Excess Renewable Net Metering Credits.”

So, while the first sentence of this section provides authority to the Company to issue payments, the last sentence provides a customer election for either a cash payment or a rollover credit. Therefore, there are no “forced” payouts as argued by the Intervenors.

II. Revity Energy LLC

Revity advances three arguments against the proposed tariff changes. Revity first claims that the proposed tariff advice is proposing to take away the consideration paid by the Company in exchange for the provision of electricity to the grid. Revity argues that the statute should be strictly construed against such “revocation.” However, Revity's suggestion that the statute should be strictly construed contradicts its ultimate request which is to simply permit the excess credit to remain unchanged. However, the net metering statute sets forth different compensation levels and methods for calculating the compensation levels depending upon the amount of electricity generated by the net metering system. No customer is entitled to more than what is set forth in the statute. To the extent that there have been problems in how the net metering credits have been accumulated in the past, correcting them going forward with clarifying tariff changes is absolutely

within the Commission’s authority and is in the best interest of ratepayers, as well as the net metering customers. The Division does not support Revity’s position. Correcting the errors of this program is consistent with public policy.

Next, Revity argues that there is a legal difference between consumption and usage which somehow exempts “non-community stand alone” configurations. Revity’s proffered definition of “consumption” (from Black’s Law Dictionary 11th edition, 2019) specifically incorporates the word “use” as part of the definition. The Division struggles to understand Revity’s arguments on this topic and its attempted distinction between consumption and usage – as it pertains to electricity.

Rhode Island Gen. Law § 39-26.4-2 (22) defines “renewable net metering credit” as a credit that applies to an eligible net-metering system or a community remote net-metering system up to one hundred percent (100%) of either the renewable self-generator’s *usage* at the eligible net-metering system site or the sum of the usage of the eligible credit-recipient accounts associated with the community remote net-metering system over the applicable billing period. This credit shall be equal to the total kilowatt hours of electrical energy generated up to the amount consumed on-site, and/or generated up to the sum of the eligible credit-recipient account usage during the billing period multiplied by the sum of the distribution company’s:

(i) Standard-offer service kilowatt-hour charge for the rate class applicable to the net-metering customer, except that for remote public entity and multi-municipality collaborative net-metering systems that submit an application for an interconnection study on or after July 1, 2017, and community remote net-metering systems, the standard-offer service kilowatt-hour charge shall be net of the renewable energy standard charge or credit;

- (ii) Distribution kilowatt-hour charge;
- (iii) Transmission kilowatt-hour charge; and
- (iv) Transition kilowatt-hour charge.

Notwithstanding the foregoing, except for systems that have requested an interconnection study for which payment has been received by the distribution company, or if an interconnection study is not required, a completed and paid interconnection application, by December 31, 2018, the renewable net-metering credit for all remote public entity and multi-municipal collaborative net-metering systems shall not include the distribution kilowatt-hour charge commencing on January 1, 2050.”

Rhode Island Gen. Law § 39-26.4-2 (7) defines “excess renewable net-metering credit” as “a credit that applies to an eligible net-metering system or community remote net-metering system for that portion of the production of electrical energy beyond one hundred percent (100%) and no greater than one hundred twenty-five percent (125%) of the renewable self-generator’s own *consumption* at the eligible net-metering system site **or** the sum of the usage of the eligible credit recipient accounts associated with the community remote net-metering system during the applicable billing period. Such excess renewable net-metering credit shall be equal to the electric distribution company’s avoided cost rate, which is hereby declared to be the electric distribution company’s standard-offer service kilowatt hour (KWh) charge for the rate class and time-of-use billing period (if applicable) applicable to the customer of record for the eligible net-metering system or applicable to the customer of record for the community remote net-metering system. The commission shall have the authority to make determinations as to the applicability of this credit to specific generation facilities to the extent there is any uncertainty or disagreement.”

The Division submits that consumption and usage, when referencing the measurement of electricity, is one in the same. We see no correlation to Revity’s hamburger analogy.

Finally, Revity argues that requiring host allocations on Schedule B as close to 100% as possible before a project receives authority to interconnect will not address unused credits from accruing on third party off-taker accounts, and this is only a “legacy” issue. Revity offers no legal argument that would prohibit this change to the tariff. The Division submits that this requirement

would be but *one* tool in the box to help prevent the accumulating net metering credit problem from reoccurring. There is simply no testimony on the record to support Revity's assertions that such a provision would interfere with interconnection processes or would cause tax problems.

CONCLUSION

As set forth in its prefiled testimony, the Division supports the proposed tariff amendments as prudent changes to address/prevent the net metering credit accumulation issue in the future. The Division recognizes that these changes do not address the accumulations to date and that issue is one for another day.

Respectfully Submitted:
Division of Public Utilities & Carriers
By its Attorney:

Margaret L. Hogan, Esq. (#5006)
Division of Public Utilities & Carriers
89Jeffereson Boulevard
Warwick, R.I. 02888
401-780-2120
Margaret.l.hogan@dpuc.ri.gov

CERTIFICATION OF NOTICE

I do hereby certify that on the 26th day of September, 2023, I caused a true copy of the within Memorandum to be sent electronically to all parties on the Service List for Docket 23-05-EL.

Margaret L. Hogan

