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PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA
1325 G STREET, N.W., SUITE 800
WASHINGTON, D.C. 20005

ORDER

August 6, 2020

RM9-2020-03, IN THE MATTER OF 15 DCMR CHAPTER 9 — NET ENERGY METERING, Order No. 20387

I. INTRODUCTION

1. By this Order, the Public Service Commission of the District of Columbia ("Commission") adopts the attached amendments to Chapter 9, (Net Energy Metering), Subsections 901.2, 902.3, and 903.5 of Title 15 of the District of Columbia Municipal Regulations ("DCMR") allowing net energy metering ("NEM") systems for individual behind-the-meter generators to go beyond 100 percent of the customer's historical usage and customer payment for excess generation. A NEM system can increase the generation threshold by 20% annually, starting in 2020 until the generation threshold reaches 200% in 2024. The amendments as shown in Attachment A shall become effective upon publication of the Notice of Final Rulemaking in the *D.C. Register*.

II. BACKGROUND

2. In 2015, the Commission stated that a NEM customer is allowed "to install generation that is forecast to provide no more than 100 percent of its annual historic use,"[1] which limits the amount a customer may receive or be credited for the excess generation exported to the grid. As part of its PowerPath initiative, the Commission on September 26, 2018, directed "the RM9 Net Energy Metering [] Working Group established by Order No. 19676 in *Formal Case No. 1050*, [to] consider . . . , whether the generating threshold for net energy metering systems for individual behind-the-meter generators should be increased beyond 100 percent of the customer's historical usage."[2] After much deliberation and meeting a total of eight (8) times, the NEM Working Group

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[1] *Formal Case No. 945, In the Matter of the Investigation into Electric Service Market Competition and Regulatory Practices*, Order No. 17794, ¶ 23, rel. February 4, 2015. *See also* 15 DCMR § 999 and D.C. Code § 34-1501 (15) defining customer-generator as "a residential or commercial customer that owns and operates an electric generating facility that: (A) Has a capacity of not more than 1000 kilowatts; (B) Uses renewable resources, cogeneration, fuel cells, or microturbines; (C) Is located on the customer's premises; (D) Is interconnected with the electric company's transmission and distribution facilities; and (E) Is intended primarily to offset all or part of the customer's own electricity requirements."

[2] *Formal Case No. 1130; RM-09-2017-01, In the Matter of 15 DCMR Chapter 9 — Net Energy Metering; RM-13-2017-01, In the Matter of 15 DCMR Chapter 13 — Rules Implementing the Public Utilities Reimbursement Fee Act of 1980; RM-29-2017-01, In the Matter of 15 DCMR Chapter 29 — Renewable Energy Portfolio Standard; RM-36-2017-01, In the Matter of 15 DCMR Chapter 36 — Electricity Quality of Service Standards; RM-40-2017-01, In the Matter of 15 DCMR Chapter 40 — District of Columbia Small Generator Interconnection Rules; RM-41-2017-01, In the Matter of 15 DCMR Chapter 41 — The District of Columbia Standard Offer Service Rules; RM-42-2017-01, In the Matter of 15 DCMR Chapter 42 — Fuel Mix and Emissions Disclosure Reports;* and *RM-44-2017-01, In*

agreed that the generating threshold for net energy metering systems for individual behind-the-meter generators should be increased beyond 100 percent of the customer's historical usage. More specifically, the NEM Working Group agreed to increase the threshold to 200%, over a five-year period.

3. Thereafter, on May 22, 2020, the Commission issued a NOPR amending Chapter 9, Subsections 901.2, 902.3, and 903.5 of Title 15 of the DCMR proposing to gradually increase the generation threshold by 20% for five years until the threshold reaches 200 percent capacity of the customer's historical usage.[3] On June 22, 2020, Sierra Club and District residents Nicola Hayes-Allen and Judith Taylor filed Comments on the NOPR applauding the Commission of its efforts to modernize the energy system, but suggested some alternative revisions.[4]

III. DISCUSSION

A. Chapter 9 Overview

4. Chapter 9 establishes the rules governing Net Energy Metering in the District of Columbia.[5] The proposed NOPR adds a new Subsection 901.2 to Section 901 (Eligible Customer Generators) prescribing the allowable annual generation threshold increase per year over the next five (5) years. Subsection 901.2(a) includes the 100% threshold in the rules and notes that an eligible customer-generator can begin to increase their system's generation capacity annually by 20% in 2020. Thereafter, the system owner can continue to increase annually by 20% until the generation threshold reaches 200% in 2024. Subsection 901.2(b) allows the electric distribution company to request a suspension of the increase if a reliability, safety, or cost impact concerns occur as a result of the implementation of the generation threshold.

5. Section 902 (Net Energy Billing and Crediting for Customers of Competitive Electricity Suppliers) and Section 903 (Net Energy Billing and Crediting for SOS Customers) were amended in Subsections 902.3 and 903.5 adopting the NEM Working Group's recommendation on customer payments for monthly and annual excess generation. Specifically, excess generation not used in a previous month will remain on the customer's account as a rolling kWh credit amount.

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the Matter of 15 DCMR Chapter 44 — Submetering and Energy Allocation, Order No. 19692, ¶ 1, rel. September 26, 2018.

3 67 *D.C. Reg.* 5394-5397 (May 22, 2020).

4 *RM9-2020-03, In the Matter of 15 DCMR Chapter 9 — Net Energy Metering*, Sierra Club's Comments; Nicola Hayes-Allen's Comments, filed June 22, 2020 ("Hayes-Allen's Comments"); Judith Taylor's Comments, filed June 22, 2020 ("Judith Taylor's Comments").

5 Net metering allows an owner of rooftop solar panels to participate in the electric grid as a distributed energy producer. Solar panels first supply power to the home, and at times when the solar panel produces more power than the home is using the power is sent back onto the grid to be used by other customers. The meter "spins" backwards, subtracting the power sent onto the grid from the total power used by the consumer. That is how net metering gets its name—it means that at the end of the month the consumer is charged only for net electricity used. S*ee also*, 15 DCMR § 999; "Net energy metering – means the difference between the kilowatt-hours consumed by a customer-generator and the kilowatt-hours generated by the customer-generator's facility over any time period determined as if measured by a single meter capable of registering the flow of electricity in two directions."

Any monthly excess generation, used to offset month's usage, will be calculated and credited to the customer at the full retail rate.[6] Any total remaining excess kWh at the end of the previous 12-month period ending with the billing cycle that is complete immediately prior to the end of December, will be compensated at the generation rate only. Lastly, total remaining excess kWh at the end of a calendar year that amounts to greater than $25.00 will be refunded to the customer.

B. Parties' Comments

6. **Sierra Club's Comments**. Sierra Club Comments urged the "Commission to allow net metering for 200 percent of the historical usage over the previous 12 months in two steps: a 120 percent threshold for 2020, as proposed in this rulemaking, a 150 percent threshold for 2021, and a 200 percent threshold for 2022."[7] Sierra Club further notes that their "suggestion means reaching the final threshold two years earlier than the Commission's proposal, putting DC much closer to achieving the 2032 and 2041 climate commitments the Commission is statutorily obligated to uphold.."[8]

7. **Nichola Hayes-Allen's Comments**. Ms. Hayes-Allen filed Comments requesting that the Commission replicate "Pepco's adaptation of a 200% generation threshold in Maryland, in the District."[9] Ms. Hayes-Allen believes that with the District's "vision of fully renewable energy by 2032" a "[t]imid 20% incremental steps towards that goal fail[s] to match our city's vision."[10] Ms. Hayes-Allen also requests that Commission change the month for refunding excess kWh generation from December to April given the fact that solar installations are generally planned to generate a net excess of 3,000 kWh from April to December each year, which then allows the "excess to be used for HVAC heat in the cold months (Jan to March)." Given this, Ms. Hayes-Allen asserts that "[d]ecember is [] the worst time for solar households with HVAC heat to have [their] banked kWh taken away!"[11] Ms. Hayes-Allen notes that solar owners receive a "taxable check for [their] 'excess' production" and receipt of payment in December would cause owners "to have to buy back those same kWh the next month."[12]

8. **Judith Taylor's Comments**. Ms. Taylor asserts that she would like to own an electric car in the near future and suggests that the Commission make "the change in two years, instead of the proposed five."[13] According to Ms. Taylor, doing so, would allow citizens to build

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6 Full retail rate includes the combined rate for generation, supply and distribution as determined by the utility in its tariff.

7 Sierra Club Comments at 1.

8 Sierra Club Comments at 2.

9 Generally, Hayes-Allen's Comments.

10 Generally, Hayes-Allen's Comments.

11 Generally, Hayes-Allen's Comments.

12 Generally, Hayes-Allen's Comments.

13 Generally, Judith Taylor's Comments.

up to 200% capacity thus supporting the District in reaching its goal of 100% renewable energy by 2032.[14]

IV. DECISION

9. The Commission appreciates the efforts of the NEM Working Group and the commenters on the recommendation to allow the generating threshold for net energy metering systems for individual behind-the-meter generators to exceed 100 percent of the customer's historical usage. The comments suggest alternatively that the Commission allow: (1) the threshold increase to reach its 200% generation goal by 2022, instead of 2024; (2) the construction of NEM systems to generate at a 200% capacity by 2021 to account for electric car charging support at residences; and (3) the annual true-up of excess generation to occur in April instead of December.

10. Part of our decision for phasing the increased threshold as recommended is tempered by stakeholders' concerns regarding the safeguard of interconnecting more and bigger systems to the District's electric distribution system. In fact, part of the rationale behind the NEM Working Group's recommendation to gradually increase the threshold in five (5) phases was to facilitate an evaluation of the electric distribution system for any potential reliability, safety, or cost impacts that may arise as a result of the threshold increases. For example, the increase of the generation threshold may accelerate the need to upgrade the secondary electric distribution line and associated distribution transformer to accommodate the larger systems and to control capacity constraint issues. Given these uncertainties, the Commission is not inclined, to adopt the more aggressive generation threshold increases as recommended by commenters.

11. Additionally, the Commission believes the NEM Working Group's approach to increase by 20% yearly, until the 200% threshold is achievable, is more manageable and allows the Commission and Pepco to effectively address any possible reliability impacts on the system that may arise as a result of the threshold increases. Furthermore, the NEM Working Group discussed the need to review the generation threshold increases to address any potential adverse impact on reliability of the electric distribution system. Therefore, the Commission directs the NEM Working Group to meet after July 1, 2021, to review and discuss the impacts of the 2020 and 2021 threshold increases in generation of customer-generators on the electric distribution system.

12. Furthermore, we are not persuaded by Ms. Hayes-Allen's recommendation that the Commission allow the annual true-up of excess generation to occur at the end of April instead of December, to allow the use of excess generation in the heating months. While the argument made by Ms. Hayes-Allen sounds plausible, the savings received by the customer is about the same. The winter months of January to March are not key producing months for solar and thus, the customers may not have excess generation to export. As long as the accounting period includes 12 months, we believe there is no need to deviate from the calendar year true-up process. A true-up payment received by a customer at the end of December can also be used toward the customer's heating bill

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[14] Generally, Judith Taylor's Comments.

during the cold season. As such, the Commission declines to change the true-up month to April and retains a calendar year true-up process.

13. The Commission believes the adoption of the proposed amendments support and advance the District's energy goals.[15] The Commission hereby adopts amendments to Chapter 9, Subsections 901.2, 902.3, and 903.5 of Title 15 of DCMR allowing an increase of the generation threshold of net energy metering systems for individual behind-the-meter generators beyond 100 percent of the customer's historical usage, by 20% annually, to begin in 2020 until the generation threshold reaches 200% in 2024 and customer payment for excess generation as shown in Attachment A to this Order. These amendments shall become effective upon publication in the *D.C. Register.*

THEREFORE, IT IS ORDERED THAT:

14. The rule amendments in Chapter 9 of Title 15 of the District of Columbia Municipal Regulations as shown in Attachment A to this Order is **ADOPTED** and shall become effective upon publication of a Notice of Final Rulemaking in the *D.C. Register*; and

15. The Commission **DIRECTS** the RM9 Net Energy Metering Working Group to meet after July 1, 2021, to review the impacts of the 2020 and 2021 threshold increases on the electric distribution system.

A TRUE COPY: **BY DIRECTION OF THE COMMISSION:**

CHIEF CLERK: **BRINDA WESTBROOK-SEDGWICK**
COMMISSION SECRETARY

[15] *See, e.g.*, CleanEnergy DC Omnibus Amendment Act of 2018, D.C. Law 22-257, effective March 22, 2019.

Chapter 9, DISTRICT OF COLUMBIA NET ENERGY METERING RULES of Title 15 DCMR, PUBLIC UTILITIES AND CABLE TELEVISION,

Section 901 ELIGIBLE CUSTOMER-GENERATORS AND GENERATION THRESHOLD is amended to read as follows:

901.1 Eligible customer-generators utilizing renewable resources, cogeneration, fuel cells, or microturbines may elect and shall be afforded the opportunity to participate in net energy metering. An eligible customer-generator's facility shall meet all applicable safety and performance standards established by the National Electrical Code ("NEC"), National Electrical Safety Code ("NESC"), the Institute of Electrical and Electronics Engineers ("IEEE"), Underwriters Laboratories ("UL") and any other relevant standards specified by the Commission.

901.2 For the purpose of net metering throughout this chapter, eligible customer-generators with net energy metering are allowed to incrementally increase its generation threshold, when filing a new or amended interconnection application, beyond 100% of the customer historical 12-month usage annually as follows:

(a) Allowable Generation Threshold Schedule:

i. 120% in 2020,
ii. 140% in 2021,
iii. 160% in 2022,
iv. 180% in 2023, and
v. 200% in 2024.

(b) On or before October 1, 2021, and each October 1 thereafter, if the Electric Company identifies a reliability, safety, or cost impact on the electric distribution system caused by the implementation of the Generation Threshold Schedule in Subsection (a), the Electric Company may request suspension of the increase in the following year. The Electric Company's filing should identify the specific reliability, safety, and cost impacts identified and provide a timeline for developing a plan to address those impacts. Absent such a request, the increase will take place automatically on January 1 each year. The allowable generation threshold for 2020 will become effective upon publication of these final rule amendments in the *D.C. Register*.

Section 902 NET ENERGY BILLING AND CREDITING FOR CUSTOMERS OF COMPETITIVE ELECTRICITY SUPPLIERS is amended to read as follows:

902.1 A customer that has elected net energy billing may obtain generation service from any Competitive Electricity Supplier that agrees to provide service on a net energy basis. In such circumstances, the net inflow or outflow of electricity supplied to or by the customer-generator will be billed or credited at the Competitive Electricity

Supplier's energy rate specified in the agreement between the customer-generator and the Competitive Electricity Supplier. The Competitive Electricity Supplier shall be responsible for calculating the net energy bill (or credit) amount for each billing period.

902.2 For customer-generators purchasing generation and transmission service from a Competitive Electricity Supplier, if the customer-generator's kilowatt-hour usage during the billing period exceeds the kilowatt-hours generated by the customer-generator during that period, the customer-generator will be billed for the net energy delivered by the Electric Company at the full retail distribution rate for distribution service. In no event shall distribution-related usage charges be applied to the kilowatt-hours generated by the customer's net metering facility.

902.3 For a customer-generator with an electric generating facility that has a capacity less than or equal to 100 kilowatts, if the electricity generated during the billing period by the customer-generator's facility exceeds the customer-generator's kWh usage during the billing period (excess generation), the customer generator's next monthly bill will be credited by the Electric Company for the excess generation at the full retail distribution rate. At the end of the calendar year (December), excess generation that exceeds 100% of the annual consumption, will be compensated at the generation rate only, per kWh. If a credit is greater than $25 at the end of the calendar year, the Electric Company is directed to issue a refund to the customer. If the excess generation credit at the end of the calendar year is not greater than $25, the remaining credit, calculated at the full retail distribution rate shall be carried over until such time as the full credit has been exhausted. In no event shall such distribution-related compensation for excess generation apply to customer-generators with electric generating facilities that have a capacity greater than 100 kilowatts.

902.4 Net energy billing applies only to kilowatt-hour usage charges. Net energy billing customers are responsible for all other charges applicable to the customer's rate class and recovered through fixed amounts or over units other than kilowatt-hours, including customer and/or demand charges, as applicable.

Section 903 NET ENERGY BILLING AND CREDITING FOR SOS CUSTOMERS is amended to read as follows:

903.1 This section governs the billing practices applicable to participating net energy billing customers receiving SOS generation service during a billing period. In no event shall transmission or distribution-related usage charges be applied to the kilowatt-hours generated by the customer's net metering facility.

903.2 If the value of the generation (generation value) used to supply the customer's usage exceeds the generation value of the electricity generated by the customer's net metering facility during the billing period, the customer-generator will be billed for the difference between the generation value of the energy consumed and the energy supplied.

903.3 For a customer-generator with an electric generating facility that has a capacity less than or equal to 1,000 kilowatts, if the generator value of the electricity generated by the customer's net metering facility exceeds the generation value of the electricity used to supply the customer's usage during the billing period, the customer-generator's next bill will be credited for the difference between the generation value of the energy supplied and the energy consumed. The credit for the difference in generation value shall be expressed as a dollar value on the customer-generator's bill. If the full credit is not exhausted during the next billing period, the remaining credit shall be carried over until such time as the full credit has been exhausted.

903.4 If the customer's kWh usage exceeds the electricity generated by the customer's net metering facility during the billing period, the customer-generator will be billed transmission and distribution related usage charges on the net energy supplied to the customer during the billing period.

903.5 For a customer-generator with an electric generating facility that has a capacity less than or equal to 100 kilowatts, if the electricity generated during the billing period by the customer-generator's facility exceeds the customer-generator's kWh usage during the billing period (excess generation), the customer-generator's next monthly bill will be credited for the excess generation at the full retail rate for transmission and distribution service applicable during the billing period in which the excess generation occurred. At the end of the calendar year (December), excess generation that exceeds 100% of the annual consumption, will be compensated at the generation rate only, per kWh. If a credit is greater than $25 at the end of the calendar year, the Electric Company is directed to issue a refund to the customer. If the excess generation credit at the end of the calendar year is not greater than $25, the remaining credit, calculated at the full retail rate for transmission and distribution service, shall be carried over until such time as the full credit has been exhausted. In no event shall such transmission- and distribution-related compensation for excess generation apply to customer-generators with electric generating facilities that have a capacity greater than 100 kilowatts.

903.6 Net energy billing applies only to kilowatt-hour usage charges. Net energy billing customers are responsible for all other charges applicable to the customer's rate class and recovered through fixed amounts or over units other than kilowatt-hours, including customer, demand and/or minimum charges, as applicable.