

PUBLIC SERVICE COMMISSION OF THE DISTRICT OF COLUMBIA

NOTICE OF PROPOSED RULEMAKING**FORMAL CASE NO. 945 IN THE MATTER OF THE INVESTIGATION INTO ELECTRIC SERVICE MARKET COMPETITION AND REGULATORY PRACTICES**

1. The Public Service Commission of the District of Columbia ("Commission") hereby gives notice, pursuant to Sections 2-505(a) and 34-1518 of the District of Columbia Official Code,¹ of its intent to adopt the following amendments to Chapter 9 (Net Energy Metering) of Title 15 (Public Utilities and Cable Television) of the District of Columbia Municipal Regulations ("DCMR"), in not less than thirty (30) days after publication of this notice in the *D.C. Register*. The proposed rules amend Chapter 9 to comport with the "Community Renewable Energy Amendment Act of 2013."² The proposed rules amend the following sections and subsections of Chapter 9 of Title 15 of the DCMR: 900, 906, and 999 and adds new Sections 907, 908, 909, and 910. The addition of the new sections resulted in the renumbering of Chapter 9 from Section 907 through 910.

Chapter 9, NET ENERGY METERING, of Title 15, PUBLIC UTILITIES AND CABLE TELEVISION, of the DCMR is amended as follows:

900 GENERAL PROVISIONS

Subsection 900.1 is amended to read as follows:

900.1 The purpose of this chapter is to set forth the policies and procedures for implementation of the net energy metering and community net metering provisions of the "Retail Electric Competition and Consumer Protection Act of 1999,"³ as amended, the "Clean and Affordable Energy Act of 2008"⁴ ("CAEA"), and the "Community Renewable Energy Amendment Act of 2013" ("CREA").

Subsection 900.2 is amended to read as follows:

900.2 This chapter establishes the Public Service Commission of the District of Columbia's Rules and Regulations governing Net Energy Metering and

¹ D.C. Official Code §§ 2-505(a) and 34-1518 (2012 Repl. & 2014 Supp.).

² The Community Renewable Energy Amendment Act of 2013 ("CREA") was enacted October 17, 2013. See *D.C. Act 20-0186*. The CREA became effective December 13, 2013. See *D.C. Law 20-0047*.

³ The Retail Electric Competition and Consumer Protection Act of 1999 was enacted January 18, 2000. See *D.C. Act 13-0256*. Retail Electric Competition and Consumer Protection Act of 1999 became effective May 9, 2000. See *D.C. Law 13-107*.

⁴ The Clean and Affordable Energy Emergency Act of 2008 ("CAEA") was enacted September 25, 2008. See *D.C. Act 17-508*. The permanent version of the CAEA became law on October 22, 2008. See *D.C. Law 17-250*.

Community Net Metering, including eligibility for participating in Net Energy Metering and Community Net Metering, a bill crediting mechanism, Net Energy Metering and Community Net Metering billing requirements for participants, net metering-related equipment requirements, requirements for reporting and contractual arrangements, and safety and performance standards. This chapter shall be cited as the "District of Columbia Net Energy Metering and Community Net Metering Rules."

Subsection 900.3 is amended to read as follows:

- 900.3 The provisions of this chapter are promulgated pursuant to the authority set forth in Section 34-1518 of the D.C. Official Code and the CREA.

Section 906, WAIVER, is renamed and amended to read as follows:

906 COMMUNITY RENEWABLE ENERGY FACILITIES

- 906.1 A Community Renewable Energy Facility ("CREF") 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") as required by the Electric Company for execution of an Interconnection Agreement.
- 906.2 A CREF: (a) must be directly interconnected with the Electric Company's distribution system and must execute an Interconnection Agreement and CREF Rider with the Electric Company; (b) may be built, owned or operated by a third party under contract with a Subscriber Organization; (c) may add capacity and Subscribers to its facility if the added capacity and Subscribers do not reduce the electrical production benefit to existing Subscribers; and (d) may update its Subscribers no more frequently than once per quarter, by providing the following information about its Subscribers to the Electric Company: (i) name, address and account number of each Subscriber; and (ii) the percentage interest of each Subscriber in the capacity of the CREF. Under no circumstances may a CREF sell subscriptions totaling more than one hundred percent (100%) of its energy generation.
- 906.3 The owners of any Subscriber Organization controlling a CREF: (a) shall not be considered public utilities or electricity suppliers solely as a result of their interest or participation in the CREF; (b) shall own any Renewable Energy Credits associated with the electricity generated by the CREF, unless the credits were explicitly contracted for through a separate transaction independent of any interconnection agreement or contract; (c) shall follow all procedures for interconnection set forth in Chapter 40 of Title 15 of the District of Columbia Municipal Regulations; and (d) shall be subject to the distribution level generation requirements set forth in Chapter 41 of Title 15 of the District of Columbia Municipal Regulations, Section 4109.

- 906.4 Prices paid for subscriptions and contractual matters between the CREF owner, Subscriber Organization, and Subscribers shall not be subject to the jurisdiction of the Commission.
- 906.5 All electricity exported to the grid by a CREF shall become the property of the SOS Administrator, pursuant to Section 118a(h) of the CREA, but shall not be counted toward the Electric Company's total retail sales pursuant to the Renewable Energy Portfolio Act of 2004, effective April 12, 2005, D.C. Law 15-340; D.C. Official Code §§ 34-1431 *et. seq.* If the electrical capacity of a CREF is not fully subscribed, the Electric Company designated as the SOS Administrator shall purchase the unsubscribed energy produced by the CREF, up to the 5 megawatt maximum, at the PJM Locational Marginal Price for energy in the Pepco zone, adjusted for ancillary service charges. CREF owners shall provide the level of voltage and VAR support required by the Electric Company if they opt to have their price adjusted upward to include payment for ancillary services or shall allow the Electric Company to procure all necessary ancillary services to maintain voltage and VAR support and have the CREF price adjusted downward to remove the payment for ancillary services. The SOS Administrator shall use unsubscribed energy to offset purchases from wholesale suppliers for standard offer service, and shall recover the cost of unsubscribed energy from SOS customers, in accordance with Chapter 41 of Title 15 of the District of Columbia Municipal Regulations, Subsection 4109.3.
- 906.6 A CREF shall have no less than two (2) Subscribers. In the event that a CREF has begun operation with more than two (2) Subscribers and subsequently falls below two (2) Subscribers, the CREF shall notify the Electric Company within twenty-four (24) hours of having less than two (2) Subscribers. Upon request from the Commission, the Electric Company shall provide notice of any CREFs which fall below two (2) Subscribers. A CREF with fewer than two (2) Subscribers is subject to disconnection and shall not provide energy for CREF credit pursuant to Subsection 907.4 or sell any energy supply to the SOS Administrator pursuant to Subsection 907.8.
- 906.7 The Electric Company shall be responsible for ensuring that public safety and system reliability is maintained, including during the interconnection and disconnection of a CREF.
- 906.8 A CREF applicant shall apply for an Interconnection Agreement as a generating facility that is authorized to export power pursuant to Chapter 40 of Title 15 of the District of Columbia Municipal Regulations.
- 906.9 The Electric Company shall create and submit to the Commission for approval a separate CREF Rider to the Interconnection Agreement, which shall be executed between the Electric Company and a CREF when its interconnection application

is granted, in accordance with Chapter 40 of Title 15 of the District of Columbia Municipal Regulations.

- 906.10 A CREF applicant shall notify the Commission if it is interconnected to the bulk power system in addition to an interconnection to the local distribution system. A CREF shall notify the Commission within five (5) days of submitting an application to be interconnected to the bulk power system. The Commission has the right to review, and if necessary terminate, the operation of a CREF with an interconnection to the bulk power system if the sale of its electric supply raises federal jurisdictional issues.

Add a new Section 907, BILLING AND CREDITING FOR COMMUNITY NET METERING CUSTOMERS, to read as follows:

907 BILLING AND CREDITING FOR COMMUNITY NET METERING CUSTOMERS

- 907.1 Each subscription to a CREF shall represent a percentage of the CREF's generating capacity, provided that the subscription is intended primarily to offset part or all of the Subscriber's own electrical requirements. In no event may a Subscriber offset more than one hundred and twenty percent (120%) of the Subscriber's billing meter electricity consumption over the previous twelve (12) months. The Electric Company shall use the twelve (12) months immediately prior to the first billing cycle upon which a Subscriber is eligible to receive a credit for CREF generation to determine the Subscriber's previous twelve (12) months of electricity consumption. If the Subscriber does not have a twelve (12) month billing history as of that first billing cycle, the Electric Company shall use the then current average annual consumption of a customer in the Subscriber's distribution service rate class as a proxy for the Subscriber's previous twelve (12) months consumption. The Electric Company shall update the Subscriber's previous twelve (12) months of consumption once each year; upon reaching the anniversary date of the first billing cycle that the Subscriber was eligible to receive a credit for CREF generation.
- 907.2 All individual billing meters for subscriptions to community renewable energy facilities shall be within the District of Columbia.
- 907.3 If a Subscriber designates a set of individual meters that are combined for billing purposes for its Community Net Metering ("CNM") Credit, the CNM Credit shall be applied to the single billing account and shall not be more than one hundred and twenty percent (120%) of the combined total of electricity consumption of all of the individual billing meters over the previous twelve (12) months.
- 907.4 The amount of electricity generated by a CREF each month and available for allocation as subscribed or unsubscribed energy shall be determined by a revenue quality production meter installed and paid for by the owner(s) of the CREF. It

shall be the Electric Company's responsibility to read the production meter. In no event shall the electricity generated by a CREF be eligible for net energy billing.

- 907.5 The determination of the monetary value of credits allocated to each Subscriber of a particular CREF shall be based on each Subscriber's percentage interest of the total production of the CREF.
- 907.6 Each billing month, the Electric Company shall calculate the value of the CNM Credit for subscribed energy allocated to each Subscriber by multiplying the quantity of kilowatt hours allocated to each Subscriber by the CREF Credit Rate. If the value of the CNM credits generated by the CREF allocated to the Subscriber for subscribed energy exceeds the amount owed by the Subscriber as shown on Subscriber's bill at the end of the applicable billing period, the remaining value of the CNM credit shall carry over from month to month until the value of any remaining CNM credits are used. If the value of the CNM credits generated by the CREF allocated to the Subscriber for subscribed energy is less than the amount owed by the Subscriber as shown on Subscriber's bill at the end of the applicable billing period, the Subscriber shall be billed for the difference between the amount shown on the bill and the value of the available credits. The Electric Company shall calculate CNM credit by multiplying quantity of kWh by the applicable CREF Credit Rate for the Subscriber. If the Subscriber is served by a Competitive Electricity Supplier, the Subscriber shall be billed by the Competitive Electricity Supplier for the full kilowatt-hours consumed by the Subscriber during the applicable billing period. Each billing period, the SOS Administrator shall transfer SOS funds equal to the value of the Subscriber's applicable CNM Credit to the Electric Company for purposes of settling the total charges that appear on the Subscriber's bill. The bill of a Subscriber that obtains electric supply from a Competitive Electricity Supplier shall be prepared using the Electric Company's consolidated bill and shall not be prepared using separate billing (i.e., billing by both the Electric Company and the Competitive Electric Supplier ("CES")).
- 907.7 The CNM credit shall be a line item on a Subscriber's Electric Company bill. In addition to the value of the Subscriber's CNM credit, the line item shall also include the Subscriber's percentage ownership of the CREF, the price used to calculate the CNM credit and the applicable monthly output of the CREF.
- 907.8 Any unsubscribed energy purchased by the SOS Administrator will be distributed to CREF Subscribers as CNM credits in proportion to their ownership share in the CREF up to the CREF Subscriber's one hundred and twenty percent (120%) cap for subscribed energy. CNM credits for unsubscribed energy that are not credited to CREF Subscribers must be used within twenty-four (24) months otherwise the CNM credits will expire.
- 907.9 If the Electric Company determines that a Subscriber's share of CREF generation has offset one hundred and twenty percent (120%) of the Subscriber's electricity

consumption over the previous twelve (12) months, the Subscriber shall not be eligible for any additional CNM credit for any billing periods between (i) the date the Subscriber reached the maximum allowable consumption offset and (ii) the next anniversary date of the first billing cycle that the Subscriber was eligible to receive a CNM credit for CREF generation. Beginning with the Subscriber's next anniversary date, the Subscriber shall once again be eligible to receive a CNM credit. Any CREF generation allocable to a Subscriber in excess of the Subscriber's maximum allowable consumption offset shall be deemed unsubscribed energy by the SOS Administrator.

- 907.10 The Electric Company may require that a CREF and its Subscribers have their meters read on the same billing cycle. Subscribers shall be eligible to receive CNM credits so long as the CREF continues to generate and provide electric supply to the Electric Company's distribution grid, regardless of the bankruptcy or contractual default of any Subscriber or of the Subscriber Organization, unless otherwise directed by a judicial order.

Add a new Section 908, REPORTING AND CONTRACTUAL REQUIREMENTS FOR COMMUNITY RENEWABLE ENERGY FACILITIES, to read as follows:

908 REPORTING AND CONTRACTUAL REQUIREMENTS FOR COMMUNITY RENEWABLE ENERGY FACILITIES

- 908.1 Each CREF shall register with the Electric Company. The Electric Company shall develop a Registration Form within thirty (30) days of these rules becoming final. The Registration Form shall include:
- (1) Name of CREF Organization;
 - (2) Address of CREF;
 - (3) City Ward where the CREF is located;
 - (4) Generating technology used by the CREF;
 - (5) Name Plate summer AC generating capacity of the CREF;
 - (6) Copy of Interconnection Agreement and CREF Rider between the CREF and the Electric Company;
 - (7) Type of Organization that owns the CREF (if a for-profit making entity, a copy of the current DC Business License); and
 - (8) List of CREF Subscribers including:

- (a) Name and address of Subscriber;
 - (b) Address of the individual billing meter in the District of Columbia to which the CNM credit will be applied;
 - (c) Electric Company Account number; and
 - (d) Percentage ownership in the CREF.
- 908.2 Each CREF shall provide an affidavit affirming that the facility meets all applicable safety and performance standards established by the NEC, NESC, the IEEE, and UL.
- 908.3 The CREF owner or operator may change the list of Subscribers in a CREF on a quarterly basis. When there are changes to the list of CREF Subscribers, the CREF owner or operator shall provide an updated list of its CREF Subscribers to the Electric Company quarterly by a date certain established by the Electric Company.
- 908.4 Within thirty (30) days of this rulemaking, the Electric Company shall submit to the Commission, for the Commission's approval, a procedural manual, including related sample documents where appropriate, for the implementation of CREA and the Electric Company's relationship with the CREF that shall include, but not be limited to:
- (1) The arrangement between the Electric Company as the SOS Administrator and the CREF related to the Electric Company as SOS Administrator taking title to CREF output at the point of common connection between the CREF and the Electric Company's distribution grid;
 - (2) The arrangement between the Electric Company as the SOS Administrator and the CREF relating to the Electric Company's purchase of, and payment for, unsubscribed energy from the CREF at the price specified in these rules;
 - (3) The arrangement between Electric Company and the CREF for the Electric Company to create the CNM credit based on CREF output and the price specified in the rules; and
 - (4) Arrangement between the Electric Company and the CREF to credit individual CREF Subscribers with the CNM credit based on each Subscriber's ownership share in the CREF and to modify the list of Subscribers and the amount of each Subscriber's subscription.
- 908.5 Within thirty (30) days of this rulemaking, the Electric Company shall submit to

the Commission for its approval the form of the line item on the Electric Company's bill for a Subscriber's CNM credit.

908.6

Within ten (10) days of the end of each quarter the Electric Company shall submit to the Commission a report that provides:

- (1) An overview of the CREFs operating in the District including summary statistics as to the number of CREFs, the number of Subscribers, and the amount of electric supply being generated;
- (2) A listing of each CREF including:
 - (a) Name of CREF,
 - (b) Name of CREF Organization,
 - (c) Type of CREF Organization,
 - (d) Type of generating technology used by the CREF,
 - (e) Nameplate summer AC generating capacity of the CREF,
 - (f) Monthly CREF output as measure by production meter,
 - (g) Number of CREF Subscribers,
 - (h) Median percentage of CREF Subscribers,
 - (i) Mean percentage of CREF Subscribers,
 - (j) Percentage of CREF ownership of largest percentage CREF owner,
 - (k) Percentage of CREF ownership of smallest CREF owner,
 - (l) Any problems created by CREFs to the distribution system that are of concern to the Electric Company, and
 - (m) Any benefits to the distribution system from CREFs including use of CREFs to supply ancillary services including, but not limited to, voltage support, VAR support, and frequency regulation; and
- (3) The identification of any feeder which approaches a net energy export within a ten percent (10%) margin (*i.e.* a feeder where the total production from CREF and other net metering facilities is ten percent (10%) or less than the total energy consumption for the feeder) or any feeder where

there exists a net energy export for the reporting quarter. The report for the feeder must also include the distribution circuit capacity and power transformer limits and an identification of the CREF(s) and other net metering facilities which are presently interconnected on these feeder(s).

- 908.7 Any net costs for the implementation of Community Net Metering incurred by the Electric Company that are approved by the Commission shall be recovered solely through a rate assessment on Subscribers, pursuant to Section 122 of the CREA.

Add a new Section 909, DISPUTE RESOLUTION, to read as follows:

909 DISPUTE RESOLUTION

- 909.1 Any dispute related to the CREF Subscriber's bill regarding the accuracy or calculation of the bill is subject to the Commission's Complaint Procedures under Chapter 3 of Title 15 of the DCMR (rules for residential customer complaints), or Chapter 18 of Title 15 of the DCMR (rules for non-residential customer complaints).
- 909.2 The owner of a CREF may file a complaint with the Commission to object to or appeal the cessation of payments to the CREF for unsubscribed energy supply or for the CREF's disconnection from the grid. As a Non-Residential entity, the CREF is subject to Chapter 18 of Title 15 of the DCMR (rules for non-residential customer complaints).
- 909.3 Any dispute regarding the contract between the CREF and its Subscribers is not within the jurisdiction of the Commission.

Add a new Section 910, WAIVER, to read as follows:

910 WAIVER

- 910.1 Upon request of any person subject to this chapter or upon its own motion, the Commission may, for good cause, waive any requirement of this chapter that is not required by statute or inconsistent with the purposes of this chapter.

Section 999, DEFINITIONS, is amended by amending and adding the following terms and definitions:

When used in this chapter; the following terms and phrases shall have the following meaning:

"Community Net Metering" means a billing arrangement under which the monetary value of electric energy generated by a community renewable energy facility and delivered to the electric company's local distribution facilities is used to create a billing credit for CREF Subscribers. The

billing credit will be part of the Subscribers' bills from the Electric Company.

"Community Renewable Energy Facility" or "CREF" means an energy facility with a capacity no greater than five (5) megawatts that: (a) uses renewable resources defined as tier one renewable sources in accordance with Section 3(15) of the Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005, (D.C. Law 15-340; D.C. Official Code § 34-1431(15)); (b) is located within the District of Columbia; (c) has at least two (2) Subscribers; and (d) has executed an Interconnection Agreement and CREF Rider with the Electric Company.

"CREF Credit Rate" means a credit rate applied to Subscribers of community renewable energy facilities which shall be equal to the standard offer service rate for the General Service Low Voltage Non-Demand Customer class or its successor, as determined by the Commission, based upon Section 118 of the CREA.

"Electric Company" every corporation, company, association, joint-stock company or association, partnership, or person and doing business in the District of Columbia, their lessees, trustees, or receivers, appointed by any court whatsoever, physically transmitting or distributing electricity in the District of Columbia to retail electric customers as provided by the fifteenth unnumbered paragraph in paragraph one (1) of Section 8 of An Act Making Appropriations to Provide for the Expenses of the District of Columbia for the fiscal year ending June 30, 1914, and for other purposes, approved March 4, 1913 (37 Stat. 976), as amended by Section 201(b)(5) of the Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000 (D.C. Law 13-107; D.C. Official Code § 34-207).

"Individual Billing Meter" means an individual meter within the District of Columbia or a set of individual meters within the District of Columbia when meters are combined for billing purposes.

"Renewable Energy Credit" shall have the same meaning as that provided in Section 3(10) of the Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340; D.C. Official Code § 34-1431(10)).

"SOS Administrator" means the provider of standard offer service mandated by Section 109 of the Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000 (D.C. Law 13-107; D.C. Official Code § 34-1509).

"Standard Offer Service" means that electric service mandated by Section 109 of the Retail Electric Competition and Consumer Protection Act of 1999,

effective May 9, 2000 (D.C. Law 13-107; D.C. Official Code § 34-1509).

“Subscriber” means a retail customer of a competitive electricity supplier or a SOS customer of the Electric Company in the District of Columbia who owns a subscription in a CREF and who has identified an individual billing meter within the District of Columbia to which the subscription shall be attributed.

“Subscriber Organization” means any for-profit or nonprofit entity permitted by District of Columbia law that owns or operates one or more CREFs for the benefit of the Subscribers.

“Subscription” means a percentage interest in a CREF’s electrical production.

“Tier One Renewable Source” shall have the same meaning as that provided in Section 3(15) of the Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340; D.C. Official Code § 34-1431(15)), as amended by the Distributed Generation Amendment Act of 2011, effective October 20, 2011 (D.C. Law 19-0036; D.C. Official Code § 34-1431(15)).

2. Comments and reply comments on the subject matter of this proposed rulemaking action must be made in writing to Brinda Westbrook-Sedgwick, Commission Secretary, Public Service Commission of the District of Columbia, 1333 H Street, N.W., West Tower, Suite 200, Washington D.C., 20005. All comments and reply comments must be received within thirty (30) and forty-five (45) days, respectively, of the date of publication of this Notice in the *D.C. Register*. Once the comment period has expired, the Commission will take final rulemaking action on the proposed amendments to Chapter 9 of Title 15 of the District of Columbia Municipal Regulations.