



STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF WILLIAM C. SKYE d/b/a
REDSKYE FARMS NET METERING
DETERMINATION FOR SOLAR SYSTEM BY
AUGUST 31, 2008

ORDER

DOCKET NO. EO08060410

(SERVICE LIST ATTACHED)

BY THE BOARD:

This Order memorializes the actions taken by the Board of Public Utilities ("Board") and sets forth the reasons for the Board's determination at its July 30, 2008 public agenda meeting regarding the above-captioned matter.

The Board's Customer On-site Renewable Energy ("CORE") program offers prescribed financial incentives to New Jersey property owners to encourage the installation of Class I renewable energy technologies. Eligible applicants may receive rebates for a portion of the cost of installing solar, wind, or sustainable biomass at their site.

In May 2006, William C. Skye ("Petitioner") applied for a CORE rebate from the New Jersey Clean Energy Program. Petitioner's CORE application sought rebate approval for three separate installations, each to be installed upon a separate meter on its property. At the request of the Clean Energy Program staff, Petitioner re-submitted its application as three separate applications, one for each meter. Two of those applications related to systems of 2.97 kilowatts (kW) each, subsequently increased to 3.15 kW each, and the third sought funding for a 13.86 kW system.

On September 21, 2006, Petitioner received a Letter of Conditions from the United States Department of Agriculture ("USDA"). Among other things, the USDA conditioned Petitioner's Renewable Energy Systems Grant, which was intended to cover 25 percent of the solar system's construction cost, on the receipt of CORE rebate funds for which Petitioner had applied by August 31, 2007. That deadline was subsequently extended to August 31, 2008.

Petitioner submitted his rebate applications when the number of applicants for CORE funding caused the Board to approve the establishment of queues for particular market segments. Applications remain in queue until funding sufficient for the CORE program to issue a rebate commitment to a given application becomes available. Two of Petitioner's three applications joined the queue for less than 10 kW projects and the third application joined the queue for greater than 10 kW projects. Petitioner's two applications for 2.97 kW systems, subsequently revised to 3.15 kW, were approved and have been installed upon two of the three meters on Petitioner's property. These two systems are installed upon commercial premises on Petitioner's property. Each of these systems was intended to be metered at Atlantic City Electric Company's ("ACE's") Monthly General Service rate, a rate which is not applicable to residences. On June 4, 2008, the Office of Clean Energy ("OCE") approved Petitioner's third rebate application and issued a commitment letter offering a rebate of \$48,607 for Petitioner's 13.86 kW solar system.

On June 13, 2008, Petitioner filed an Emergent Petition to Expedite a Net Metering Determination to Complete Installation of an Approved Solar System by August 31, 2008 to Meeting Funding Deadlines Required by the USDA ("Petition") with the Board. Petitioner requests a determination by the Board that he may install the recently approved 13.86 kW system on the same commercial meter as one of his existing systems. Petitioner further seeks approval to aggregate the three meters on one bill and "net out" the electricity produced monthly on his property with the electricity used monthly on one electric bill. This process is known as aggregated on-site net metering. The requested relief would result in three solar systems installed on one or two meters rather than three solar systems, one for each meter. In addition, Petitioner seeks to locate the 13.86 kW solar system on a meter where its generation would exceed consumption and on an account currently billed at a commercial rate. This solar system application was originally proposed to be located on the residence, installed upon the residential meter, and billed at the residential rate. Petitioner asserts that locating the solar system in an open field with unimpeded southern exposure will reduce installation cost and increase generation. Last, Petitioner asks that the Board direct ACE, the electric distribution company ("EDC"), to "net" the total electricity generated on his property against Petitioner's total consumption rather than following the existing practice of netting the generation at each meter on a property against the usage at that meter.

After reviewing the Petition and considering various billing mechanisms, ACE has informed Board Staff that it can provide the necessary metering and manual billing services to enable the aggregation of all consumption and generation on Petitioner's property and the billing of these aggregated amounts. ACE currently intends to utilize interval meters to allow for combining kWh values received and delivered for different services. The additional service meter for the new larger system will be installed at Petitioner's expense.

DISCUSSION

The Electric Discount and Energy Competition Act ("EDECA"), N.J.S.A. 48:3-49 et seq. and the Board's net metering rules provide that a customer-generator shall receive credit from its EDC, electric power supplier, or basic generation provider at the full retail rate for each kilowatt-hour produced by a class I renewable energy system installed on the customer-generator's side of the meter, up to the total amount of energy used by that customer during an annualized period. N.J.S.A. 48:3-87(e)(1); N.J.A.C. 14:8-4.1. At the end of the annualized period, the supplier or provider must compensate the customer-generator for any excess kilowatt-hours generated at the electric power supplier's or basic generation service provider's avoided cost of wholesale

power. N.J.A.C. 14:8-4.3(e). A customer-generator's generating capacity can not exceed two megawatts and can not exceed the amount of electricity supplied by the electric power supplier or basic generation service provider to the customer over an annualized period. N.J.A.C. 14:8-4.3(a). This provision aims to limit customer-generators from becoming suppliers by exporting electricity to the grid.

Neither the statute nor the rules speak to whether the customer-generator may install generation which exceeds capacity at an individual meter where that generation will be offset by consumption metered at a separate location on the same property (aggregated on-site net metering). The CORE Program has been administered so as to require a separate installation for each meter on a customer-generator's property, such that anticipated generation does not exceed usage at each meter. Similarly, the rules do not address the authorization of the EDC to aggregate the usage and generation at separate meters in order to net them out for billing purposes. Therefore, the Board recognizes that a change to the widely understood application of the net metering rules would be more appropriately addressed in the context of a rulemaking proceeding.

At present, the Board is engaged in a rulemaking proceeding to amend the net metering rules and Staff has taken steps to address these issues in that proceeding. Staff has sought stakeholder comment upon the question of aggregated on-site net metering. On July 15, 2008, Staff circulated a document to the Renewable Energy subcommittee of the Clean Energy Council seeking stakeholder input on issues raised by the potential approval of Petitioner's project as a pilot or test case for both aggregated on-site net metering and the Board's Community Solar initiative, which will be further discussed below. Comments were received from Brother Sun Solar ("BSS") upon some of the issues identified. BSS strongly supported permitting multiple meters for single or multiple systems and stated that this change in existing practice would be instrumental in furthering the Community Solar initiative. BSS supported continuing the limitation of generation to no more than consumption, provided ratepayer-funded rebates provided a portion of the funding for solar installations. BSS favored permitting generation in excess of consumption and export of that excess generation for profit in the event that an installation was paid for entirely by its owner. BSS opposed permitting the netting at one tariff rate against consumption at a different tariff rate, as is sought by Petitioner, on the ground that such a situation could lead to "selling back" generation at a higher rate than "buying from."

Following consideration of the input received at a public meeting on July 23, 2008, it was decided to proceed with amendments to the net metering rules be undertaken in two stages. Aggregated on-site net metering will be among the modifications considered in the second stage. Amendments to enable the utilization of net metering as a vehicle for Community Solar will also be considered during the second stage.

The Board considers Petitioner's request in the context of this rulemaking proceeding. The relief requested by Petitioner provides a concrete example of the aggregated on-site net metering issue, which is a consideration within that proceeding. Petitioner has rebate approval from the CORE program for all three renewable energy installations on his property. Two are already installed. ACE has reviewed the petition and, having considered a variety of billing options, has made significant progress on determining a means by which to track and aggregate usage and generation at the various meters and tariffs on Petitioner's property. In short, Petitioner presents a ready-made test case that can provide data on this approach to inform its discussion among the stakeholders during the rulemaking proceeding.

The Board believes that the rulemaking process will benefit from an aggregated on-site net metering pilot program available to customers similarly situated to Petitioner. A pilot program that makes aggregated on-site net metering available to other customers, who have waited in the queue, and have mixed residential and non-residential use on the same agricultural property within ACE's service territory, would serve this purpose. This pilot may provide more data for consideration in the rulemaking proceeding and guard against the extrapolation of results from circumstances that might prove to be unique to Petitioner. Thus, this pilot program promotes the equitable goal of treating similarly situated customers in the same manner, while its size will limit the impact upon rates caused by the labor-intensive manual metering currently required.

In addition, the Board does not believe that the usefulness of this pilot program will be limited to the rulemaking process. The pilot could also provide useful data on net metering for the Community Solar stakeholder process directed by the Board in its Decision and Order Regarding Solar Electric Generation, In the Matter of the Renewable Energy Portfolio Standards – Alternative Compliance Payments and Solar Alternative Compliance Payments, Docket Number EO06100744, (Dec. 6, 2007) (December 6th Order).¹ In the December 6th Order, the Board found that the development of community based systems could create a way for smaller customers to participate in the solar marketplace at a lower cost than that of building a small system on each customer's residence. December 6th Order at 42. The Board directed Staff to commence a stakeholder process to develop specific recommendations regarding a proposed community based solar program, and to develop proposed modifications to the Renewable Portfolio Standards and net metering regulations. December 6th Order at 42.

Aggregated net metering could be one such specific path to implementation. In this model, Community Solar would involve a more complex variant on the accounting and billing treatment sought by Petitioner. The energy usage of a group of customers would be aggregated to match the generation of a renewable energy facility not directly connected to the load of those customers. This aggregation would permit those customers to take advantage of renewable energy that either cannot be installed on the customer's property or is more cost efficiently constructed collectively in a larger system as opposed to smaller individual systems. Since Community Solar would involve generation not constructed at the point of the customers' load, it would entail issues of technical complexity as well as allocation and billing complexity. As the properties of pilot participants would also involve multiple meters, but only one customer-generator, the pilot program would provide a set of less complicated models in which these issues could be explored. Community Solar could also provide for aggregation of the consumption of both commercial and residential customers, just as the pilot participants would aggregate both a residential and a commercial tariff for an individual customer on a agricultural property. Thus, this Petition and the pilot program could provide information and experience which Staff of the Board can draw upon in approaching the complex implementation issues that will come with Community Solar.

The Board also notes that, should aggregated on-site net metering result in an increase in the number of customers who wish to net meter, another issue may arise. At present, net metering customers' bills include transmission and distribution charges for every hour of the day, while they are permitted to offset those charges with renewable generation that is produced for only a portion of a given day. Petitioner, for example, with a solar installation, produces electricity only during daylight hours, but ACE's net metering tariff does not differentiate between daytime and nighttime hours. Thus, either ACE or its non-net metering customers are in effect paying for the portion of the transmission and distribution charges incurred during the hours when no

¹ At its July 30, 2008 meeting, the Board voted to explore Community Renewable Energy.

generation is occurring. Should the institution of a pilot program or the adoption of an aggregated on-site net metering tariff result in an appreciable increase in the number of net metering customers, the extent of the charges affected will increase. At that time, the Board may revisit this issue.

FINDINGS AND CONCLUSION

The Board FINDS that Petitioner applied for a CORE rebate for his mixed-use residential and non-residential solar project on his agricultural property in May 2006; that the three applications were placed in the queues of which two were for the less than 10kW and one was for the greater than 10 kW projects; and that Petitioner did not receive a commitment letter for his 13.86 kW installation from CORE program staff until June 2008. The Board FINDS that Petitioner's request for permission to net usage against on-site generation installed at a different location from the on-site usage will provide valuable data for the consideration of aggregated on-site net metering in the current rulemaking proceedings. The Board further FINDS that an aggregated on-site net metering pilot program for mixed-use residential and non-residential use renewable generation projects on a single, agricultural property within ACE's service territory by customers, who have waited in a CORE program queue for rebate approval, will provide additional useful data for consideration in this proceeding.

The Board FINDS that Petitioner's project and the pilot program will provide data for consideration in the Board's Community Solar initiative during a second stage of net metering rulemaking proceeding. The Board also FINDS that Petitioner's project, because it would involve netting usage currently metered at residential rates against generation metered at non-residential rates, will provide additional data useful in considering netting the generation and consumption of residential customers against the generation and usage of commercial customers in the aforementioned Community Solar initiative.

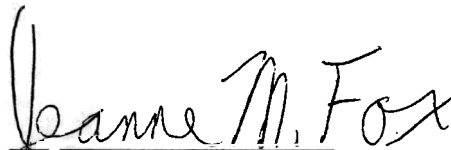
The Board HEREBY GRANTS authorization to the Petitioner to install the 13.86 kW solar system. The Board DIRECTS ACE to provide the necessary services for the aggregation of consumption and generation at Petitioner's three meters, to be netted out monthly, with an annual true-up at the Company's avoided cost of wholesale power, as set forth in the Board's regulations at N.J.A.C. 14:8-4.3. The Board further ORDERS that this pilot authorization shall exist until new regulations are in place.

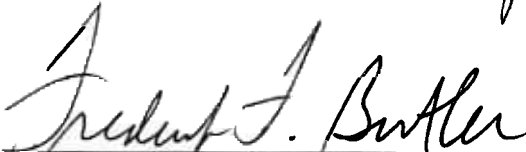
The Board also DIRECTS Staff to develop a pilot program, for implementation by ACE, which will provide aggregated on-site net metering to mixed residential and non-residential use renewable generation projects on a single agricultural property within ACE's service territory by customers, who have waited in a CORE program queue for rebate approval, subject to further rulemaking. The Board ORDERS that this pilot program shall be made available to other customers who have waited in CORE program queues for commitment letters and who have usage and/or generation metered at both residential and non-residential rates on a single agricultural property within the ACE service territory. The Board further ORDERS that this pilot program shall exist until new regulations are in place.

The Board further ORDERS that Petitioner's project shall be utilized as a demonstration case for the implementation of net metering in the Community Solar initiative and DIRECTS ACE to provide to Staff, on a mutually satisfactory timeframe from issuance of each month's bill, the available data on usage and generation at each meter. In addition, the Board DIRECTS Staff to compile this data into reports to facilitate stakeholder review of applicability of aggregated net metering to the Community Solar proceeding.

DATED: 2/3/09

BOARD OF PUBLIC UTILITIES
BY:


JEANNE M. FOX
PRESIDENT

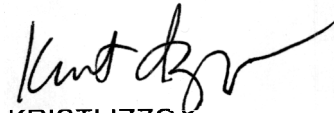

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