Agenda Date: 8/13/25
Agenda Item: 8G

STATE OF NEW JERSEY
Board of Public Utilities
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Post Office Box 350
Trenton, New Jersey 08625-0350
www.nj.gov/bpu/

CLEAN ENERGY

IN THE MATTER OF THE PETITION OF DSM NUTRITIONAL PRODUCTS TO DIRECT JCP&L TO PROVIDE NET METERING CREDIT FOR EXISTING ON-SITE SOLAR GENERATION FACILITY	))))))	ORDER DOCKET NO. QO21071021

Parties of Record:

James A. Boyd, Jr., Esq., Archer & Greiner, P.C., on behalf of DSM Nutritional Products, LLC
Brian O. Lipman, Esq., **Director,** New Jersey Division of Rate Counsel
Gregory Eisenstark, Esq., Cozen O'Connor, on behalf of Jersey Central Power & Light Company

BY THE BOARD:

By this Order, the New Jersey Board of Public Utilities ("Board") considers a petition filed by DSM Nutritional Products, LLC ("DSM"), a limited liability corporation that operates a manufacturing facility in Belvidere, New Jersey ("Site"). DSM requests that the Board direct Jersey Central Power & Light ("JCP&L" or "the Company") to net meter the electricity produced by the second of two on-site solar facilities owned by DSM and provide DSM with a retail credit on its electric bill for all energy exported from the Site since that 12.3 megawatt direct current ("MWdc") solar system commenced operation on February 15, 2015.

BACKGROUND

Net Metering Law and Policy

New Jersey's net metering program is designed to incent installation of new solar energy systems. This program allows power exported from an eligible solar system to offset a customer's retail electric bill on a kilowatt-hour-for-kilowatt-hour basis; in other words, it effectively allows the customer's meter to "run backwards" when the amount of power produced by a solar system exceeds the host's consumption, which reduces the host's electric bill.

The statutory and regulatory authority for net metering is codified at N.J.S.A. 48:3-87(e) and implemented through N.J.A.C. 14:8-4. The statute limits net metering to customers "that generate electricity, on the customer's side of the meter, using a Class I renewable energy source, for the net amount of electricity supplied by the electric power supplier or basic generation service provider over an annualized period."[1] N.J.S.A. 48:3-87(e)(1). The rules establish the criteria for determining whether a renewable generation facility is on "the customer's side of the meter" and therefore eligible for net metering. However, the rules do not contemplate mixed generation (Class I renewable generation co-located with non-Class I generation) behind-the-meter facilities in the context of net metering.

DSM's Petition

On July 29, 2021, DSM filed a petition with the Board requesting that the Board direct JCP&L to: (1) net meter the electricity produced by an on-site solar facility owned by DSM; and (2) provide DSM with a retail credit on its electric bill for the value of the energy exported to the grid by the solar facility since February 2019.

DSM stated that it has three generation facilities behind the meter at the Site: (1) a 10.6 MW combined heat and power ("CHP") system installed in 2012; (2) a 6 MWdc solar facility installed in 2014;[2] and (3) the 12.3 MWdc solar system installed in 2018 that is the subject of the petition. According to the petition, the CHP plant and two solar generation facilities combined produce more electricity than the Site requires during peak solar production hours on most days; the CHP system produces approximately fifty-five percent (55%) of the Site's electrical needs, and the two solar systems together provide approximately fifteen percent (15%). DSM stated that during peak solar production periods, the excess electricity is exported to the JCP&L grid but noted that daily electricity demand and purchases from JCP&L are always greater than the total on-site electric generation. In addition, DSM asserted that, because the second solar generation system is completely separate from both the CHP system and the first solar generation system and is located and interconnected closest to JCP&L's site meter for the Site, only generation from the second solar generation system can reach the grid when energy from the Site is exported.

DSM stated that it disclosed all details regarding the CHP system to JCP&L during the permitting and planning process, and that JCP&L never indicated that the 12.3 MWdc solar system would not be eligible for net metering but rather authorized DSM to commence operation of the system as a net metered facility on February 15, 2019 through an Interconnection Agreement ("PTO"). However, on September 3, 2019, JCP&L denied any future Net Energy Metering ("NEM") for the second solar generation system because of the existence of the co-located CHP plant. The Company pointed to the statement in the 2015 PTO that, "in order to qualify for the full benefits of net metering, the non-renewable generation must be subtracted from any monthly export (kwhr)

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[1] "Class I renewable energy" is defined in the regulations as "electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells powered by renewable fuels, geothermal technologies, wave or tidal action, small scale hydropower facilities with a capacity of three megawatts or less and put into service after July 23, 2012, and/or methane gas from landfills or a biomass facility, provided that the biomass is cultivated and harvested in a sustainable manner. Types of Class I renewable energy that qualify for use in meeting the requirements of this subchapter are set forth at N.J.A.C. 14:8-2.5." N.J.A.C. 14:8-1.2.

[2] The first solar generation system has consistently operated as a non-exporting facility and is not addressed in the petition.

totals."[3] JCP&L stated that, unless DSM installed the additional metering necessary to separately measure the CHP kilowatt-hour production, this nonrenewable generation rendered the exported energy ineligible for net metering. DSM disputed this position, pointing out that the 2015 PTO states that this condition applies only if "the expected monthly export" is greater than "the nonrenewable on-site generation production."[4] Because of its operating history as a net importer of electricity and the fact that any monthly export from the Site is always less than the non-renewable on-site generation production, DSM asserted that it had no reason to be aware that it would be ineligible for net-metering. According to DSM, JCP&L's denial resulted in unexpected financial risk because DSM had designed and constructed the second solar generation system based on the assumption that they would be entitled to the NEM retail credits. Had JCP&L advised DSM that it would not be eligible for net metering earlier, DSM stated that it would have built a significantly smaller system.

Finally, DSM asserted the denial of net metering has caused a significant financial loss that began on the first day it would otherwise have received a net metering credit and continues to grow every day it exports energy. As a result, DSM argues that the Board must require JCP&L to credit for the value of the electricity exported to the grid since the system began operating in order to make DSM whole.

Other Parties and Participants

JCP&L, Bloom Energy ("Bloom"), and PSE&G sought to intervene in the matter. JCP&L was granted intervenor status, and Bloom and PSE&G were granted participant status.[5]

The parties and participants were provided the opportunity to submit comments by November 10, 2022, and reply comments by November 21, 2022.[6] Subsequently, the parties engaged in settlement discussions in 2023 and 2024, which did not lead to a resolution. The parties and participants were then given the opportunity to circulate and comment on items proposed for the record, to file briefs by March 7, 2025, and to file responsive briefs by March 14 and March 28, 2025.[7]

POSITIONS OF THE PARTIES AND PARTICIPANTS

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[3] 2015 PTO– Appendix F to DSM Discovery Responses (November 22, 2021).

[4] 2015 PTO. Id.

[5] In re the Petition of DSM Nutritional Products to Direct JCP&L to Provide Net Metering Credit for Existing On-Site Solar Generation Facility, Docket No. QO21071021, Order dated December 1, 2021 (the "December 2021 Order"); In re the Petition of DSM Nutritional Products to Direct JCP&L to Provide Net Metering Credit for Existing On-Site Solar Generation Facility, Docket No. QO21071021, Order dated January 28, 2022.

[6] https://publicaccess.bpu.state.nj.us/CaseSummary.aspx?case_id=2110646

[7] In re Petition of DSM Nutritional Products to Direct JCP&L To Provide Net Metering Credit for Existing On-Site Solar Generation Facility – Order Setting Procedural Schedule, BPU Docket No. QO21071021, Order dated February 28, 2025 ("February 28 Order"); In re Petition of DSM Nutritional Products to Direct JCP&L To Provide Net Metering Credit for Existing On-Site Solar Generation Facility – Order Setting Procedural Schedule, BPU Docket No. QO21071021, Order dated April 1, 2025. https://publicaccess.bpu.state.nj.us/CaseSummary.aspx?case_id=2110646.

In the comments and briefs, the parties and participants disputed five basic issues: (1) the proper interpretation of current net metering law and policy; (2) options available to DSM; (3) the need for rulemaking; (4) the availability of net metering credit for energy exported prior to the effective date of an Order granting net metering, if one should issue; and (5) the extent to which DSM was entitled to rely on JCP&L's communications at the time of system design as a guarantee of net metering at the Site. In addition, the parties disagreed over whether an Excel spreadsheet entitled DSM Facility Export Data ("DSM Spreadsheet") should form a part of the record before the Board.[8]

1. Current Law and Policy on Mixed Generation Behind the Meter

DSM argued that JCP&L should be required to net meter the power exported from its facility because no law, regulation, or Board Order prohibits net metering a solar system when a CHP system is in operation. According to DSM, a policy that denies net-metering to facilities that operate CHP would hinder the ability to properly size solar generation capacity because it would deprive such customer-generators of the net metering benefit and thus force them to reduce the size of their renewable generation facilities.

Bloom supported DSM's position, noting that the law that creates the right to net meter renewable generation does not contain an exception for solar that is installed behind the same meter as a non-renewable resource. Bloom also argued that supporting co-location of renewable and non-renewable generation is important in light of current load growth trends and the shortfall of dispatchable capacity in the PJM region. In Bloom's opinion, the widespread adoption of solar in New Jersey means that what it characterizes as a "prohibition" on co-location effectively eliminates a large number of locations that could otherwise provide dispatchable distributed generation.

Rate Counsel and JCP&L disagreed with this position, asserting that the Board has made clear that net metering credits for a combined renewable and non-renewable sourced electric generation behind the customer's meter may be provided only when there is a means to separately determine the renewable and non-renewable generation. Specifically, both parties pointed to a document entitled "Protocols for the Treatment of Mixed Generation Behind a Single Meter" ("2015 Protocols"), which recommended that mixed behind-the-meter generation be allowed to net meter only if the customer installed on the non-renewable generation either (1) controls or (2) metering to algorithmically differentiate between eligible and non-eligible generation. Board staff had posted the 2015 Protocols on the Board's website for public comment in 2015.[9] Rate Counsel, JCP&L, and PSE&G also asserted that if DSM's petition were granted, other similarly situated customers would seek the same relief.

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[8] In its 2025 Initial Brief, DSM stressed that the February 28 Order contemplated comments only on the issue of retroactivity and requested that the Presiding Commissioner strike those portions of the other parties' briefs that addressed issues other than retroactive recovery. As all parties were then afforded the opportunity to file an additional briefs responding to the others' arguments, this request is now moot.

[9] https://www.njcleanenergy.com/files/file/Committee%20Meeting%20Postings/inx/EDC%20Protocols%20for%20the%20Treatment%20of%20Mixed%20Generation%20Behind%20a%20Single%20Meter%20-%20091615F%20%20NMIX%20Stakeholder%20Mtg%2009172015.pdf. The document was created by the electric distribution companies ("EDCs") and posted by Board staff in connection with stakeholder meetings on the topic of solar net metering and interconnection. See Net Metering & Interconnection Standards Meeting Materials Archive, https://www.njcleanenergy.com/committees/net-metering-inx/archive

2. Potential Options for DSM's Facility

JCP&L has offered DSM three possible solutions to allow for net metering: (1) installation of JCP&L revenue metering, at DSM's expense, on DSM's non-renewable generation so that the non-renewable generation output could be subtracted from the site total monthly exports; (2) installation of a relay scheme that would monitor power flow on the main service lines from JCP&L and, when on-site generation exceeds site consumption, "trip off" the CHP plant, so that that all site exports would be from renewable energy sources only; and (3) modification of DSM's electrical operations by running a "split bus," effectively creating a new second account at the site and splitting the customer load to place the renewable generation on one account (which would be eligible for net-metering) and the non-renewable generation on the other account.

DSM stated in response that none of these solutions are feasible for its facility. With respect to the first proposal, because the CHP system generation is significantly greater than the combined generation of the solar systems, deducting the CHP generation from the total monthly exports would effectively eliminate net-metering credit. With respect to the second proposal, DSM asserted that it cannot turn off or ramp down the CHP system when generation exceeds consumption because the CHP system provides the steam required to manufacture the vitamins and other products that DSM produces and ramping down the system would affect manufacturing output. With respect to the third proposal, DSM stated that a second account for the site and separate additional metering would increase fail points and diminish reliability, a trade DSM was not willing to make in exchange for net metering credit. In sum, DSM stated that had these options been offered prior to construction of the second solar generation system, DSM would not have constructed the system or would have sized it not to export.

3. Rulemaking

In addition to asserting that the relief sought by DSM is not allowed under current law, JCP&L, PSE&G, and Rate Counsel argued that any revision to net metering policy should be done prospectively, in a generic proceeding, with all stakeholders having an opportunity to weigh in and participate.

DSM countered that existing law and regulations permit the relief it seeks and that a rulemaking proceeding would be required before restrictions on net-metering could be imposed on renewable generation co-located with non-renewable generation. Specifically, DSM asserted that the 2015 Protocols were an informal policy guidance document, published outside of a formal rulemaking proceeding, that cannot substitute for a law, rule, or Board order. In support of this position, DSM argued that application of the 2015 Protocols would violate the six-part test established by the New Jersey Supreme Court in its 1984 Metromedia decision[10] because the Protocols created a new prohibition on net metering that was not clearly expressed in the enabling legislation; expressed a policy that was intended to have broad application; and were not subject to public notice and an opportunity to be heard prior to posting on the New Jersey Clean Energy Program website.

Although Bloom supported DSM's position that the relief it requests may be granted, Bloom also called on the Board to conduct an expedited rulemaking proceeding to provide clarity for the increasing number of "hybrid" installations of renewable and non-renewable generation. In

[10] Metromedia, Inc. v. Dir. Division of Taxation, 97 N.J. 313 (1984) ("Metromedia").

support of this request, Bloom asserted the 2015 stakeholder proceeding provided sufficient stakeholder input for the Board to commence "immediate" rulemaking.

4. Retroactive Relief

Rate Counsel and JCP&L contended that, if the Board were to order JCP&L to provide a credit to DSM for the value of the energy exported to the grid since the second solar system began operating, this would be impermissible retroactive ratemaking in favor of one customer. In support of this position, they argued that neither the net metering statute nor the Board's net metering rules authorize the Board to order a utility to provide credits for energy generated in a prior energy year. JCP&L further asserted that providing a credit for past generation would penalize it for complying with existing law and, moreover, is not possible because the Site does not have a separate meter for the CHP plant and therefore past solar generation cannot be "disentangled" from the mix of total generation.

DSM disagreed with this characterization and asserted that allowing it to receive net metering credit for its solar generation from the date the second solar generation facility received PTO would be consistent with the Board's standard practice when granting solar petitions.

5. DSM's Reliance on JCP&L Statements at Time of System Design and Installation

In support of its position that it is entitled to net metering for its second solar generation system, DSM stated that JCP&L had conducted an extensive load study over the course of six months prior to approving the interconnection, worked closely with DSM during the construction phase, and became intimately familiar with every aspect of on-site generation including the CHP system. DSM also noted that the February 2019 PTO authorizes operation of DSM's second solar generation system "as a net metering customer" and does not mention subtraction of non-renewable generation. In response, JCP&L and Rate Counsel reiterated that the March 18, 2015 notice that accompanied the approval to operate the first solar facility ("2015 PTO") put DSM on notice of the net-metering restrictions.

Items Comprising the Record

On February 28, 2025, in response to the opportunity to circulate items proposed for the record, DSM provided an Excel spreadsheet entitled "DSM Facility Export Data" ("DSM Spreadsheet"), proposing that it should be included in the record in this matter to inform the Board of the amount of energy exported from the Site. Rate Counsel and JCP&L objected, arguing that, due to the late production, there had been no opportunity to verify the accuracy of the Spreadsheet or conduct discovery. Rate Counsel further noted that the data did not include the generation of the CHP facility. In response, DSM acknowledged that JCP&L's records might differ and offered to add the word "Estimated" to the Spreadsheet's title but continued to assert it should be part of the record.

DISCUSSION AND FINDINGS

The Clean Energy Act specifies that net metering shall be available to customers "that generate electricity, on the customer's side of the meter, using a Class I renewable energy source, for the net amount of electricity supplied by the electric power supplier or basic generation service provider over an annualized period."[11] N.J.S.A. 48:3-87(e)(1) (emphasis added). In this matter, DSM asked for net metering of its entire electrical export, despite the existence of a non-renewable generation resource behind the same meter as the solar systems. In support of this position, DSM and Bloom argued that there is no express prohibition on the net metering of mixed generation in law, rule, or Board Order.

The Board's rules do not expressly address net metering treatment for mixed generation, and the Board concurs with Rate Counsel and JCP&L that the plain language of the net metering statute itself makes clear that net metering is available only for electricity generated by Class I renewable resources. By contrast, where renewable and non-renewable generation is aggregated together behind a single meter, it is no longer possible to say that net-metering is only being provided for electricity generated by the renewable energy resource. The Legislature's inclusion of the net metering provisions as part of a larger statutory provision aimed at reducing greenhouse gas emissions, providing environmental benefits, and promoting the development of renewable generation resources further demonstrates that the purpose of net metering is to provide payments of public ratepayer funds for electricity generated from renewable sources only.[12] No further legislation or rulemaking is needed to effectuate that limitation.

Moreover, the lack of explicit discussion of mixed generation in the Board's net metering rules clearly assume that only renewable generation will be net metered. For example, N.J.A.C. 14:8-4.1(a) states that the rules apply to "customers who generate class I renewable energy, as defined at N.J.A.C. 14:8-1.2, on the customer's side of the meter," while N.J.A.C. 14:8-4.2 defines "[c]ustomer-generator" as "an electricity customer that generates electricity on the customer's side of the meter, using a class I renewable energy source." The Board expressly affirmed this aspect of net metering when it first adopted net metering rules in 2004, where it stated in response to comments that the net metering rules "are limited to class I renewable energy sources."[13]

The Board notes that this interpretation of the net metering statute does not prohibit facilities from installing mixed generation or prohibit renewable energy sources from receiving net metering when there is non-renewable generation on-site. Rather, this interpretation simply requires such facilities to install appropriate metering to distinguish the renewable and non-renewable generation, as was offered to DSM by JCP&L in this matter.[14]

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[11] "Class I renewable energy" is defined in the regulations as "electric energy produced from solar technologies, photovoltaic technologies, wind energy, fuel cells powered by renewable fuels, geothermal technologies, wave or tidal action, small scale hydropower facilities with a capacity of three megawatts or less and put into service after July 23, 2012, and/or methane gas from landfills or a biomass facility, provided that the biomass is cultivated and harvested in a sustainable manner. Types of Class I renewable energy that qualify for use in meeting the requirements of this subchapter are set forth at N.J.A.C. 14:8-2.5." N.J.A.C. 14:8-1.2.

[12] See L. 1999, c. 23, section 38, codified at N.J.S.A. 48:3-87 (requiring implementation of environmental disclosures and adoption of emissions and renewable energy portfolio standards, as well as net metering for customers with wind and solar generation facilities). The Legislature specifically recognized the cost to ratepayers of net metering and that its purpose was to support the development of renewable generation when it allowed the Board to remove net metering requirements after certain generation capacity or financial impact thresholds were met. Id. at section 38(e)(1), codified at N.J.S.A. 48:3-87(e)(1).

[13] 36 N.J.R. 4489(c) (October 4, 2004).

[14] Any future requests to net meter renewable generation that is co-located behind the meter with non-renewable generation will be reviewed on a case-by-case basis.

The policy behind the net metering statute—that renewable energy generation specifically, and not other forms of generation, merits subsidization by other electric customers—further supports the conclusion that appropriate controls are required for net metering in a mixed-generation scenario. The Board does not dispute DSM's assertion that the added generation of CHP and the solar fields at the Site has benefited other customers by increasing the reliability of the transmission of power to the region and by helping to reduce commodity pricing by increasing the supply-side availability. However, the Legislature has not made the determination that on-site non-renewable generation, such as CHP, should receive the ratepayer subsidy that net metering provides. That is why any net metering for the Site must include separate meters or other appropriate controls in order to prevent an increase to the net metering credit from the CHP generation.

Although nothing in the record contradicts DSM's assertion that, because it depends on the CHP plant's reliable steam generation for the Site's operations, the CHP plant will not be operated in a manner that would artificially increase net metering credits, DSM's representations regarding the Site do not preclude the possibility noted by JCP&L that similarly situated customers could "ramp up" their non-renewable generation to increase their net metering credits. The Board recognizes that a dispatchable non-renewable behind the meter system could be operated in such a manner, and that this is a possibility that must be prevented.

Nor is the Board persuaded by DSM's argument that, because the second solar generation system is located nearest to the point of interconnection, only the output of that system reaches the grid. Regardless of each system's location, the output of all three systems supports the usage of the Site and thus contributes to the amount of electricity that can be exported. DSM's description of the layout of its on-site generation is not disputed in the record, but without additional metering at the Site, it is impossible to know how much of the exported energy results from the output of the CHP plant; the Board has an obligation to ensure that net metering revenues are reserved exclusively for exports of renewable generation.

The Board notes DSM's uncontested explanation of why the methods of differentiating its non-renewable generation proposed by JCP&L would be infeasible for the Site. The fact that the addition of controls at this specific site may not be practical or preferable for DSM does not invalidate the policy concerns discussed above or the applicable statutory requirements.

DSM further contended that, in the absence of Board rules specifying the treatment of mixed generation for net metering, the parties relied on the 2015 Protocols to prohibit net metering at the Site, and that such application of the 2015 Protocols violates Metromedia. This argument fails for two reasons.

First, as discussed above, the language of the net metering statute and the Board's rules make clear that net metering credit is only available for the electricity generated by renewable resources, and the logical corollary to this language and the policy behind it is that, at a site with mixed generation, appropriate metering is necessary to differentiate the renewable and non-renewable generation. No reliance on the 2015 Protocols is needed to reach this conclusion. Therefore, no Metromedia analysis is necessary.

Second, even if the Board were to consider the 2015 Protocols, and to the extent JCP&L and Rate Counsel relied on their arguments on the Protocols, there would still be no violation of

Metromedia. Metromedia holds that whether an administrative agency's action or determination requires formal rulemaking depends on whether the action or determination:

> (1) is intended to have wide coverage encompassing a large segment of the regulated or general public, rather than an individual or a narrow select group; (2) is intended to be applied generally and uniformly to all similarly situated persons; (3) is designed to operate only in future cases, that is, prospectively; (4) prescribes a legal standard or directive that is not otherwise expressly provided by or clearly and obviously inferable from the enabling statutory authorization; (5) reflects an administrative policy that (i) was not previously expressed in any official and explicit agency determination, adjudication or rule, or (ii) constitutes a material and significant change from a clear past agency position on the identical subject matter; and (6) reflects a decision on administrative regulatory policy in the nature of the interpretation of law or general policy.[15]

Consideration of factors (4), (5), and (6) clearly demonstrates that rulemaking was not necessary with respect to the 2015 Protocols. Specifically, because the statute itself limits net metering to renewable generation, the need to accurately meter non-renewable generation when co-located behind the meter is clearly inferred from the enabling statutory authorization as discussed above. Moreover, the 2015 Protocols did not mark a change to or expansion of that policy. Rather, they simply described two options for handling one scenario that could arise from the statutory and regulatory restriction of net metering to renewable energy generation: (1) using metering to enable subtraction of the non-renewable energy from the total exported generation; or (2) installing controls to prevent the non-renewable generation from operating at times when export was occurring. Finally, the 2015 Protocols was a document put forward for stakeholder comment and did not reflect a final or official decision or interpretation by the Board. The Board is not basing its decision on the Protocols. Thus, there was no need for the formal notice and comment period of a rulemaking proceeding.

The Board does acknowledge Bloom's position that updating and clarifying New Jersey's net metering policies involving behind the meter mixed generation will facilitate the development of renewable generation resources, support facilities in deploying an optimal mix of efficient and clean energy resources to meet site-specific needs, and help meet the growing need for new generation capacity in the state and the PJM region. The Board also agrees with Rate Counsel, JCP&L, and PSE&G that a rulemaking proceeding is the appropriate venue for addressing these highly technical issues and establishing broadly-applicable new policies.

In this context, the Board notes that a grid modernization report[16] was developed by the Board's consultant in the context of its ongoing stakeholder proceeding to determine how to best move forward on modernizing New Jersey's electrical grid and interconnection processes ("Grid Modernization Proceeding"). That report included a recommendation that the Board conduct a rulemaking that would require non-renewable fuel sources such as combined heat and power ("CHP") generation facilities, when co-located behind the meter with renewable resources, to be separately metered so that the renewable generation might receive full net metering credit without a penalty for the co-located non-renewable generation. This recommendation was categorized as

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[15] Metromedia at 331-332. The six factors may be considered singly or in combination.

[16] In re Modernizing New Jersey's Interconnection Rules, Processes, and Metrics - Order Accepting the Grid Modernization Consultant Final Report and Initiating Rulemaking, BPU Docket No. 0021010085, Order dated November 9, 2022 ("Grid Modernization Order").

"longer term" due to the need for additional analysis and stakeholder input. The Board intends that this recommendation, along with other long-term recommendations from the report, will be considered by the grid modernization working groups that are currently in development.

Because the Board has determined that DSM is not eligible for net metering under New Jersey law, the Board does not reach the question of whether DSM is entitled to net metering credit dating back to when the second system received PTO.

Finally, as summarized above, the parties vigorously contested the relative responsibility of DSM and JCP&L regarding knowledge of how New Jersey net metering law applies to the Site and whether DSM was entitled to rely on or obtain relief based on statements made by JCP&L. Because detrimental reliance is an equitable claim that does not fall within the Board's jurisdiction, the Board takes no position on this dispute.

In conclusion, consistent with existing law and policy, the Board continues to adhere to the goal of ensuring that non-renewable generation production does not result in a greater net metering credit. For facilities with mixed generation behind the meter, the non-renewable energy generation must be accounted for in a manner that ensures that it does not increase the amount of generation counted as renewable, and therefore eligible to receive net metering credit. Thus, the Board **FINDS** that any net metering treatment of DSM's mixed generation must entail appropriate resource submetering to ensure the appropriate export bill credit. Regardless of the configuration of DSM's electrical system, any export to the grid is supported—whether directly or indirectly—by all the existing behind the meter generation, including the CHP generation. The Board **FINDS** that the second solar generation system's separate interconnection point and its location nearest the substation are irrelevant to the determination of how to account for the nonrenewable contribution to the excess generation. The Board **FINDS** that in the absence of appropriate metering, DSM has not shown that its excess generation should be eligible for net metering credits. Therefore, the Board **FINDS** that the relief requested is not consistent with existing net metering law and policy and **DENIES** DSM's request for net metering credit for its excess generation.

The Board **FURTHER FINDS** that the grid modernization working groups that are presently being organized, along with public stakeholder discussions on modification of net metering, will be the appropriate proceedings to begin development of any revision or amendments to the net metering rules. The Board **DIRECTS** Staff to work with stakeholders to create a durable and standardized framework that can be applied in the future to mixed renewable and nonrenewable generation installed behind the meter.

Lastly, the Board rules on the dispute over the DSM Spreadsheet circulated on February 28, 2025. The Board **FINDS** that, considering the late date on which it was provided, the other parties did not have the opportunity to verify its accuracy or to conduct discovery. Thus, the Board **ORDERS** that the DSM Spreadsheet is not part of the record in this matter. The list of Items that all parties agreed to as part of the record before the Board is attached as Appendix A.

The effective date of this Order is August 20, 2025.

DATED: August 13, 2025

BOARD OF PUBLIC UTILITIES
BY:

CHRISTINE GUHL-SADOVY
PRESIDENT

DR. ZENON CHRISTODOULOU
COMMISSIONER

MICHAEL BANGE
COMMISSIONER

ATTEST:

SHERRI L. LEWIS
BOARD SECRETARY

I HEREBY CERTIFY that the within document is a true copy of the original in the files of the Board of Public Utilities.

IN THE MATTER OF THE PETITION OF DSM NUTRITIONAL PRODUCTS TO DIRECT JCP&L TO PROVIDE NET METERING CREDIT FOR EXISTING ON-SITE SOLAR GENERATION FACILITY

DOCKET NO. QO21071021

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IN THE MATTER OF THE PETITION OF DSM NUTRITIONAL PRODUCTS TO DIRECT JCP&L TO PROVIDE NET METERING CREDIT FOR EXISTING ON-SITE SOLAR GENERATION FACILITY

DOCKET NO. QO21071021

Appendix A – List of Items that Parties Agreed to Comprise the Record Before the Board

Item	Date	Document/Description
A-1	10/23/2013	DSM Project 1 – Interconnection Application
A-2	01/27/2014	DSM Project 1 – Interconnection Approval
A-3	03/18/2015	DSM Project 1 – JCPL PTO
A-4	12/22/2015	DSM Project 2 – Interconnection Application
A-5	06/09/2016	DSM Project – JCPL Preliminary Approval to install
A-6	01/20/2017	JCPL Load Study of DSM Facility for Net Metering Interconnection
A-7	02/16/2016	SRP Acceptance – NJOCE NJSRRE 1533912369
A-8	02/21/2018	JCPL Letter Regarding Meter Scheme for Solar Net Metering
A-9	02/15/2019	DSM Project 2 – JCPL PTO
A-10	09/03/2019	JCPL Letter Denying Net Metering
A-11	09/17/2015	Protocols for the Treatment of Mixed Generation Behind a Single Meter

2015 Protocols