

PUBLIC UTILITIES

BOARD OF PUBLIC UTILITIES

Renewable Energy And Energy Efficiency

Adopted Amendment: N.J.A.C. 14:8-4.3(a)

Proposed: January 4, 2010

Adopted: June 7, 2010 by the Board of Public Utilities, Lee A. Solomon, President; Jeanne M. Fox, Joseph L. Fiordaliso, Nicholas Asselta, and Elizabeth Randall, Commissioners.

Filed: June 10, 2010, as R.2010 d. , **without change.**

Authority: N.J.S.A. 48:2-13, 48:3-87

BPU Docket Number: EX09110910

Effective Date: July 6, 2010

Expiration Date: April 18, 2011

The New Jersey Board of Public Utilities is herein adopting a change to its rules regarding Net Metering for Class 1 Renewable Energy Systems, found at N.J.A.C. 14:8-4. The net metering rules require each electric power supplier, basic generation service provider, and electric distribution company to offer net metering to customers who install class 1 renewable energy generating systems on the customer's side of the electric meter. This adoption removes a two megawatt limit on the size of a renewable energy generating unit that is eligible for net metering.

Summary of Hearing Officer Recommendation and Agency Response:

The Board held a public hearing on this amendment on February 2, 2010 in the Board of Public Utilities hearing room at 2 Gateway Center, Newark, New Jersey. The hearing officer was Michael Winka, Director of the Board's Office of Clean Energy. No member of the public spoke at the hearing. The hearing officer recommended that the amendment be adopted as proposed. A record of the hearing can be obtained by contacting Kristi Izzo, Secretary, New Jersey Board of Public Utilities, Two Gateway Center, Newark, New Jersey 07102

The purpose of this amendment is to allow the further development of renewable energy in a manner that achieves the goals of the New Jersey Energy Master Plan at the lowest cost for ratepayers. Larger renewable energy generating units (above 2 MW) will generate renewable energy at a lowers cost per kwh, thus driving down the cost of

renewable energy and also the cost of compliance with the New Jersey renewable portfolio standards (RPS) rules. The Board recognizes that net metering does shift the cost of maintaining the electric distribution system to those customers that do not have renewable energy generating systems and do not net meter. The Board will address this issue in a separate proceeding, or as part of rate cases filed by the individual electric distribution companies (EDCs).

It should be noted that, after this amendment was proposed, the Solar Energy Advancement and Fair Competition Act (SEAFCA, P.L. 2009, c. 289) was signed into law on January 17, 2010. SEAFCA established new solar RPS requirements and removed the 2 MW cap on net metering. The new law takes effect on July 1, 2010.

Summary of Public Comment and Agency Response:

The following commenters submitted timely comments on the proposal:

1. Gregory Eisenstark, Public Service Electric & Gas Service Corporation (PSE&G);
2. Tom Leyden, SunPower Corporation (SunPower);
3. Carrie Cullen Hitt, Solar Alliance (Solar Alliance); and
4. Ruben Brown, E Cubed Company (E Cubed).

1. **COMMENT:** The proposal retains the requirement that the “generating capacity of the customer-generator's facility does not exceed the amount of electricity supplied by the electric power supplier or basic generation service provider to the customer over an annualized period.” We strongly support this requirement. Allowing customer-generators to oversize generation facilities would be contrary to the main purpose of net metering -- to allow customers to offset their electric usage with behind the meter, renewable generation. (PSE&G)

RESPONSE: The Board appreciates the commenter’s support for the amendment.

2. **COMMENT:** We strongly support the elimination of the 2 MW cap on net metering eligibility and believe the proposal is consistent with legislation recently passed and signed into law. Net Metering rules are one of the most important parts of the regulatory fabric critical to building a robust solar energy industry in New Jersey. This amendment ensures the New Jersey market is no longer artificially limited, it improves project efficiency, and it encourages continued development and investment in our state. (SunPower)

RESPONSE: The Board appreciates the commenter’s support for the amendment.

3. **COMMENT:** We wholeheartedly endorse and support this rule change as necessary for New Jersey to achieve its RPS goals and maintain a robust solar industry. This change will allow customers and facilities to size photovoltaic (PV) systems based on their requirements and not on an arbitrary limit and should allow even greater adoption of solar PV in New Jersey. It will also streamline the administrative and regulatory structure governing PV and align New Jersey with

other jurisdictions that allow larger systems to be net metered. (Solar Alliance)

RESPONSE: The Board appreciates the commenter's support for the amendment.

4. **COMMENT:** The remaining provision would read that the generation capacity of the customer-generator facility does not exceed the amount of electricity supplied by the electric power supplier or BGS provider to the customer over an annualized period. Our concern is the reference period. Is it the going forward annualized period after the installation and operation of the customer-generator facility? Also, how would you define what the power supplied by the outsiders is versus is there against a baseline of prior period. Since the reference states the generating capacity is related to the amount of kwh, we think you should tie it to the prior base period, rather than trying to jiggle what it might be in the going forward period because you are already producing some of your generation with your renewable generator and some not. For example, if the supply is 50,000 kwh from the supplier/provider and you now are producing 25,000 kwh yourself, then are you compared against the 25,000 kwh that remain from the outside supplier, or are you comparing it to the 50,000 kwh that you would have been acquiring before. (E Cubed)

RESPONSE: The intent of the rules, and the interpretation which has consistently been applied since the beginning of the net metering program, is that the customer-generator facility's capacity must not exceed the amount of electricity that the customer-generator used during the previous year.

Federal Standards Statement

Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. require State agencies that adopt, readopt or amend State rules that exceed any Federal standard or requirement to include in the rulemaking document a Federal Standards Analysis. N.J.A.C. 14:8-4.3 is not promulgated under the authority of, or in order to implement, comply with or participate in any program established under Federal law or under a State statute that incorporate or refers to Federal law, Federal standards, or Federal requirements. Accordingly, Executive Order No. 27 (1994) and N.J.S.A. 52:14B-1 et seq. does not require a Federal Standards Analysis for this amendment.

Full text of the adoption can be found in the New Jersey Administrative Code at N.J.A.C. 14:8-4.3.