

February 22, 2018

Staci Rubin, Kate Tohme
Hearing Officers
Department of Public Utilities
One South Station
Boston, MA 02110

RE: D.P.U. 17-146; Inquiry by the DPU on its own Motion into the eligibility of energy storage systems to net meter pursuant to G.L. c. 164, §§ 138-140 and 220 CMR 18.00, and application of the net metering rules and regulations relating to the participation of certain net metering facilities in the Forward Capacity Market pursuant to Net Metering Tariff, D.P.U. 09-03-A (2009)

Dear Hearing Officers Rubin and Tohme:

The Northeast Clean Energy Council (NECEC), on behalf of its member companies and Clean Energy Group (CEG), Energy Storage Association (ESA), Solar Energy Business Association of New England (SEBANE), Solar Energy Industries Association (SEIA), and Vote Solar,¹ appreciates the opportunity to respond to initial comments submitted by stakeholders in the second phase of the Department of Public Utilities' ("Department" or "DPU") inquiry in D.P.U. 17-146, relative to net metering facility participation in the Forward Capacity Market (FCM). The issues raised by stakeholders underscore the continued importance of the inquiry for the deployment and evolution of clean energy net metering-eligible technologies and business models in Massachusetts, under both current and future incentive program regimes.

NECEC is a clean energy business, policy, and innovation organization whose mission is to create a world-class clean energy hub in the Northeast, delivering global impact with economic, energy, and environmental solutions. We are the only organization in the Northeast that covers all the clean energy market segments, representing the business perspectives of investors and

¹CEG is a leading national, nonprofit advocacy organization working on innovative policy, technology and finance programs in the areas of clean energy and climate change (<https://www.cleanegroup.org>); ESA is the national trade association for energy storage in the U.S. and the leading voice for companies that develop and deploy energy storage technologies (<http://energystorage.org>); SEBANE comprises approximately 70 member solar-related companies based in and/or doing business in New England (<https://www.sebane.org>); SEIA is the national trade association of the U.S. solar energy industry (www.seia.org); Vote Solar is a non-profit organization working to foster economic development and energy independence by bringing solar energy to the mainstream nationwide (www.votesolar.org).

clean energy companies across every stage of development. NECEC members span the broad spectrum of the clean energy industry, including energy efficiency, wind, solar, energy storage, microgrids, fuel cells, and advanced and “smart” technologies. Many of our members are already doing business in Massachusetts, and many more are interested in doing so in the near future.

RESPONSE TO STAKEHOLDER COMMENTS

Participation of Certain Net Metering Facilities in the Forward Capacity Market (FCM)

In the sections below, the co-signing organizations offer responses and reactions to the issues raised by stakeholders in the initial round of comments, organized by the six (6) questions laid out in the Department’s October 3 Vote and Order opening this inquiry.²

We note at the outset our agreement with the Department of Energy Resources’ (DOER) assertion that “it is in the best interests of ratepayers for a net metering facility to participate in the capacity market to the extent it is commercially reasonable to participate.”³ We particularly concur with DOER that ratepayers “could still receive benefits if the Host Customer bids the net metering facility’s capacity into the FCM,”⁴ outcomes that will increase competition in the FCM and reduce the cost of the FCM to all ratepayers, given that the electric distribution companies (EDCs) have claimed but largely failed to bid the capacity of net metering facilities into the FCM to date. We urge, therefore, that the Department give close scrutiny to the proposals advanced by National Grid in initial comments, proposals that threaten to foreclose the opportunity for beneficial FCM participation by Host Customers and third party designated entities. The Department must preserve third parties’ ability to qualify and bid net metering facilities in the FCM unencumbered by rules and restrictions that would make FCM participation economically infeasible. Inhibiting third parties’ ability to fully monetize facility capacity rights will prevent developers from contributing to system-wide customer savings and from offering individual customers savings propositions. Doing so would also constrain third party innovation aimed at providing customer savings and grid benefits in a manner the EDCs may be unable to provide.

² http://170.63.40.34/DPU/FileRoomAPI/api/Attachments/Get/?path=17-146%2f17146_Vote_and_Order_10317.pdf

³ Initial comments from DOER, p. 3.

⁴ Ibid.

1. If an EDC does not assert title to capacity rights within the 30-Day Window, to whom does title revert?

The co-signing organizations strongly agree that, in instances where an EDC does not assert title to the capacity of net metering facilities, “ratepayers could still receive benefits if the Host Customer bids the net metering facility’s capacity into the FCM,”⁵ as DOER notes,⁶ thanks to reduced wholesale capacity costs resulting from increased market competition. In this manner, the continued timely reversion of title to capacity rights to Host Customers is vital to realizing capacity market benefits from projects not acted upon by EDCs.⁷ Ratepayers indeed “receive no benefit if the facilities never participate in the FCM,”⁸ an outcome that unfortunately describes the status quo qualification and bidding behavior of the EDCs. We concur with DOER that this inaction “potentially leads to higher than necessary [Net Metering Recovery Surcharges] and/or capacity market costs,”⁹ underscoring the critical need for title to revert to host customers after the 30-day window elapses.

We disagree with National Grid’s assertion that the receipt of FCM proceeds would constitute “double recovery” of capacity value for Host Customers.¹⁰ While capacity market costs are indeed a component of basic service/default service charges, actions taken by Host Customers and their designated entities to qualify, bid, and realize revenues from the FCM represent incrementally beneficial behavior – actions that will yield market savings for all customers *in addition to* or *on top of* the baseline capacity value that projects derive on a volumetric basis through the basic service component of net metering credits. For the reasons discussed above, Host Customer FCM participation will drive system-wide customer savings through increased market competition. We note that while FCM savings may not appear as direct reduction in the Net Metering Recovery Surcharge (NMRS), the savings do serve to offset customer costs by

⁵ DOER, p. 3.

⁶ DOER, p. 3.

⁷ We note that the terminology of 'Host Customer' and 'Host Customer and its designated entity' was used by the Department in the questions outlined in the original notice opening this proceeding, and we use those terms throughout these comments for that reason. 'Host Customer' is an intentionally broad term appropriate for a docket with bearing on net metering rules and regulations, since it is a defined term in 220 CMR 18.00. We note, however, that there may be instances where the 'Host Customer' may not be the same entity as the 'Interconnecting Customer' that executes an interconnection service agreement (ISA) with an EDC. As a result, we would recommend that the Department clarify that an 'Interconnecting Customer' is an appropriate recipient of reverted title to capacity rights as a designated entity acting on behalf of a 'Host Customer,' and that the reversion of title to capacity rights to a 'Host Customer' shall not preclude or interfere with the respective 'Interconnecting Customer' acting to monetize the capacity rights on the 'Host Customer's' behalf.

⁸ DOER, p. 3.

⁹ Ibid.

¹⁰ Initial Comments from National Grid, p. 4.

helping lower overall capacity market costs. Because FCM revenues are attributable to the proactive qualification and bidding of facilities by Host Customers and tied to the resulting beneficial market outcomes, customers' receipt of revenues above and beyond net metering credit compensation is well justified.

Regarding the three amendments to existing rules proposed by National Grid, we will address the second and third "sharing arrangement" amendments in our responses under question 5, below. We will note here, however, our opposition to National Grid's proposed amendment that would see title to the capacity "automatically vest in the EDCs without the need to make an election in the 30-Day Window."¹¹ National Grid has not provided a compelling case to justify this amendment. Given the EDCs' historic failure to qualify and bid the overwhelming majority of net metering facility capacity, approving the automatic vesting of title to capacity will result in the stranding of even greater numbers of facilities, needlessly placing project capacity under EDCs' administrative control and interfering with Host Customers' ability to pursue market participation in a reasonably swift manner. EDCs already have sufficient discretion to claim title to capacity rights within the 30-Day Window as they see fit, and no automatic vesting is warranted.

2. Does the 30-Day Window reset every time a new Schedule Z is filed?

We agree with DOER that the 30-Day window should not reset every time a new Schedule Z is filed.¹² DOER correctly characterizes the filing of a revised Schedule Z as only implying a change to net metering credit off-taker(s), not indicating a change to the operational capacity of a facility or any other substantive alteration that would warrant the resetting of the 30-Day Window.¹³ For these reasons and the arguments we laid out in initial comments, we disagree with National Grid and Eversource that the 30-Day Window should reset every time a revised Schedule Z is filed.¹⁴ In comments, National Grid states "the terms of a Schedule Z only remain in effect until the Host Customer executes a revised Schedule Z and submits it to the EDC."¹⁵ It is our position that this ignores the fact that changes to net metering credit off-takers have no material impact on facilities' prospective FCM participation, as such changes are wholly unrelated to an EDC's potential consideration of asserting title to capacity. We do agree with

¹¹ National Grid, p. 4.

¹² DOER, p. 4.

¹³ Ibid.

¹⁴ National Grid, p. 5. Initial Comments from Eversource, p. 3.

¹⁵ National Grid, p. 5.

National Grid that EDCs must not in any circumstance be allowed to reassert title to capacity “in instances where the Host Customer had registered the capacity in the FCM before filing a revised Schedule Z,”¹⁶ since this would result in the entirely unworkable market outcomes we discussed in our initial comments.

3. If an EDC does not assert title to capacity rights within the 30-Day Window, does the EDC have an obligation to work with the Host Customer to provide any necessary information to allow the Host Customer or its designated entity to qualify the asset in the FCM?

a. What information, if any, must the EDC provide?

b. What is a reasonable timeframe for the sharing of such information?

In comments, National Grid attests that the EDC’s role in facilitating the qualification of assets in the FCM to which it has not asserted title to the capacity rights “is limited to confirming for ISO-NE that it has not asserted title to the capacity of those assets.”¹⁷ They assert that it would be reasonable for the EDC to provide this confirmation to ISO-NE within 15 business days of ISO-NE’s request for information. Eversource commits to working with the Host Customer to “allow the Host Customer or its designated agent to become the Lead Market Participant of the Resource (“LMPR”) to qualify the asset in the FCM,”¹⁸ but argues that all other needed information should be in the custody or control of the Host Customer or the project developer. We would reiterate arguments raised in our initial comments that a reasonable level of cooperation from EDCs would extend to additional information necessary for asset qualification in the FCM. In addition to the efforts acknowledged by the EDCs, it should also be necessary for the EDC to assist in identifying ISO-NE Asset IDs that they have registered as settlement only generators at ISO-NE, so that ISO-NE can map them to the asset owner’s capacity resource. Additionally, the EDCs may also need to provide interconnection points so that the ISO can conduct analysis regarding the deliverability of capacity. The provision of this information should not be unreasonably burdensome for EDCs, and we support the adoption of 15- to 30-day timeframes for the sharing of these data.

¹⁶ Ibid.

¹⁷ National Grid, p. 6.

¹⁸ Eversource, p. 3.

4. Once an EDC asserts title, must the EDC qualify and bid the asset in the FCM?

- a. If so, what is a commercially reasonable amount of time to allow the EDC to qualify and bid the asset in the FCM?**
- b. Should there be consequences if the EDC does not act within a set timeframe? If so, what types of consequences are appropriate?**

In comments, National Grid argues that having the flexibility to evaluate project participation on a case-by-case basis is necessary to ensure their ability to manage their capacity portfolio in a beneficial manner. They note: “It would not be in the best interest of distribution customers to require EDCs to bid all NM facilities to which they claim capacity title. Rather, EDCs should use their judgment to evaluate each NM facility to which they claim capacity title, and to monetize that NM facility in the FCM in the manner that they determine is in the best interest of their distribution customers.”¹⁹ Eversource largely agrees, adding “there should not be set timeframes or consequences if the EDC does not qualify and bid an asset in the FCM.”²⁰

We disagree with arguments made by National Grid and Eversource on this issue. We support DOER’s comments that, if an EDC asserts title to the capacity of a net metering facility but does not act within a reasonable timeframe, “the EDC should be required to provide the net metering facility with notice that it will not be qualifying or bidding the capacity into the FCM and the capacity rights should revert to the facility owner.”²¹ We reiterate that several instances of EDC inaction or market outcomes should trigger the transfer of title back to Host Customers, including failure to enroll in the Show of Interest (SOI), failure to submit a Qualification Package, receipt of a negative Qualification Determination Notice, and withdrawal from the FCA. Once again, the worst outcome for ratepayers is capacity not being bid into the FCM, and the transfer of title to capacity rights back to Host Customers in these circumstances will be critical to increase opportunities for this capacity to be bid.

5. Is it appropriate for the EDCs to collect a fee or margin to manage risk associated with FCM obligations? If so, how should the amount of the fee or margin be determined?

¹⁹ National Grid, p. 8.

²⁰ Eversource, p. 6.

²¹ DOER, p. 5.

National Grid proposes a sharing arrangement to retain 10% of FCM proceeds and return the remaining portion of revenue generated by monetizing net metering facility capacity to all distribution customers. In addition, in cases where the Host Customer retains title to the capacity, National Grid proposes a similar sharing arrangement for the Host Customer to return the majority of revenues generated by monetizing the capacity of a net metering facility in the FCM to all distribution customers, retaining just 10% of proceeds. The co-signing parties oppose this proposal on substantive grounds, as discussed below, and we furthermore contend that such a proposal is procedurally inappropriate in the context of this ongoing inquiry, which does not afford sufficient opportunity for appropriate stakeholder review and discovery on the matter.²² We recommend that the Department reject this proposal.

National Grid argues that it is appropriate for the EDCs to share in net FCM proceeds to manage the participation of net metering facilities in the FCM. Specifically, the Company proposes a “sharing arrangement” in which an EDC will be authorized to retain 10 percent of the annual net FCM proceeds, meaning “10 percent of the proceeds received from, or fees, charges, or penalties assessed by ISO-NE as a result of the EDC bidding the capacity of qualified customer-owned NM facilities into the FCM.”²³ Grid proposes that the EDC would pass through 90 percent of the net FCM proceeds to distribution customers through the NMRS. In the event that performance incentive penalties outweigh gross FCM revenue, National Grid seeks to shoulder just 10 percent of the net cost, with the remaining 90 percent of the net cost, as well as the EDC administrative costs, to be recovered from ratepayers through the NMRS.

We strongly disagree with the National Grid proposal on the grounds that it unreasonably shifts risks and costs to customers. National Grid argues that it should have the right to the capacity to offset net metering program costs for customers. Where FCM proceeds exceed fees, charges, and penalties assessed by ISO-NE, we see no justification for why EDCs should be paid a fee or margin on top of administrative costs. National Grid argues that retaining 10 percent of the Net FCM Proceeds will “appropriately align the interests of an EDC and its distribution customers and ... effectively incent EDCs to balance market risk with the potential for increased

²² We would refer the Department to the Sur-rebuttal Testimony filed by the Solar Energy Industries Association (SEIA) in the SMART tariff proceeding, D.P.U. 17-140, for further information on and reaction to this proposal. Available online at http://170.63.40.34/DPU/FileRoomAPI/api/Attachments/Get/?path=17-140%2fPhelps_Surrebuttal_Testimony.pdf, p. 17.

²³ National Grid, p. 10.

FCM revenue.”²⁴ We submit that the interests of the EDC should *already* be fully aligned with the interests of its customers when they oversee a capacity portfolio whose revenues will be fully dedicated to offsetting NMRS costs. The EDCs will *already* be balancing market risk with the potential for increased FCM revenue when they manage a capacity portfolio with the intent of maximizing customer savings. With administrative costs recovered, EDCs should need no further incentive other than to act on behalf of their customers in the most beneficial manner possible.

Furthermore, in circumstances where FCM proceeds do *not* exceed fees, charges, and penalties assessed by ISO-NE, National Grid’s proposal will result in customers being unfairly exposed to the EDCs’ actions and decisions to monetize capacity value in the FCM. It would be inappropriate to burden ratepayers with downside FCM risk, irrespective of whether net costs are the result of factors within or outside of EDCs’ control. We note that Eversource cites factors outside of its control in explaining why it is not proposing to implement something similar: “any net FCM proceeds will remain highly dependent on actions taken by the owners of net metered facilities to maintain and operate those facilities and when Capacity Scarcity events occur in summer months.”²⁵ If, after evaluation of market opportunities and risks, EDCs decide to act to qualify and bid capacity in the FCM, they should be held accountable for any failures of their market participation strategy, not ratepayers. To be sure, there are risks associated with FCM obligations, but we disagree with the AGO that EDCs should recover the costs of any penalties that they may incur as a result of bidding net metering capacity into the FCM.²⁶ After all, utilities retain the discretion to not assert title or not bid project capacity if they feel risks outweigh the opportunities, in which case title would revert to Host Customers. We strongly agree with DOER on this issue: “DOER does not believe a fee or margin to manage risk associated with FCM obligations would be appropriate. The EDC should make a prudent judgment regarding the risk of participating in the FCM, and should not be externally protected from poor judgment, especially if the EDC has the option of not obtaining the capacity rights of a net-metering facility.”²⁷

²⁴ Ibid., p. 11.

²⁵ Eversource, p. 7.

²⁶ Initial Comments of the Attorney General’s Office, p. 3.

²⁷ DOER, p. 6.

National Grid also proposes a similar sharing arrangement for future Host Customers that monetize the capacity of net metering facilities to which the EDC did not assert title.²⁸ The Company's proposal is again premised on the flawed logic that net metering rates already compensate Host Customers for the value of wholesale energy and capacity, as we addressed above in question 1. Because of this "double recovery" argument, National Grid asserts that 90% of resulting FCM revenue that would otherwise flow to Host Customers should be passed through to all distribution customers to offset the cost of net metering, with just 10 percent retained for the Host Customer. National Grid's proposal is silent on who would shoulder the burden of any net costs from Host Customer-driven FCM participation, but Host Customers/third parties do not have ratepayers to fall back on as EDCs have proposed for themselves. Such a sharing ratio – one that would impose all of the risk on developers but offer them just 10 percent of possible returns – would render FCM participation economically impossible for Host Customers and third party designated entities. This would result in a vanishingly small number of projects that would seek to monetize capacity value in the FCM, which in turn will bring negative market outcomes to the detriment of the entire customer base.

We recommend that the Department reject both sharing arrangement proposals. They will result in negative consequences for Host Customers' ability to realize value from the FCM and for customers' broad ability to reap savings from beneficial FCM participation.

6. Should EDCs be required to qualify and bid all Class II and Class III net metering facilities in the FCM?

In comments, the Attorney General asserts: "The Department should require the EDCs to maximize the benefits associated with that capacity by bidding it into the FCM."²⁹ The AGO specifically recommends that the Department require that the EDCs bid a certain percentage, approximately 80%, of the capacity of Class II and Class III net metering facilities into the FCM, positing that such a threshold would ensure that the benefits of capacity payments are being maximized and returned to customers while also allowing the companies to identify risks and avoid situations where the costs of bidding facilities would outweigh the potential benefits.³⁰

²⁸ National Grid, p. 12.

²⁹ AGO, p. 3.

³⁰ *Ibid.*, p. 4.

While we appreciate the AGO's desire to ensure that FCM savings are realized for the benefit of ratepayers, we believe that preserving the alternative course of FCM participation – that involving Host Customer qualification and bidding – has the potential to accomplish similar savings without subjecting ratepayers to the risk of FCM non/under-performance. We agree with DOER that if, after a prudency review, the EDC's judgment is to not qualify and bid the facility into the FCM, then the title to capacity rights should simply be returned to the Host Customer or third-party designated entity.³¹ This is the most sensible framework for ensuring that net metering facilities can participate in the capacity market if not acted upon by EDCs, an opportunity for participation that must be upheld to serve the best interests of ratepayers.

ADDITIONAL CONSIDERATIONS

Treatment of capacity of energy storage systems co-located with net metering facilities

In comments, National Grid modifies its proposal to exclude capacity of energy storage systems co-located with net metering facilities: "Since the Company filed its reply comments in Part A, the Company's position on the capacity of energy storage system ("ESS") paired with a NM facility ("Paired Systems") in the FCM has evolved....As an ESS itself is not eligible to NM, the Company is not asserting the right to claim title under the NM rules and regulations to the capacity of the ESS component of a Paired System."³² We support this interpretation. It is our position that it is accurate and appropriate for the multitude of reasons raised by the co-signing parties in Phase One of the inquiry and in initial comments of Phase Two.³³

³¹ DOER, p. 6.

³² National Grid, p. 2. We also note our strong disagreement with the Company's claim to title to capacity of ESS under other programs, including the Solar Massachusetts Renewable Target ("SMART") program for systems eligible for the Storage Adder. Our parties have raised these objections in D.P.U. Docket 17-140, which remains ongoing.

³³ We note for the Department a related issue that has recently been brought to our attention regarding barriers to the wholesale market participation of distributed generators, such as solar net metering facilities, co-located with demand response (DR) resources, such energy storage systems. On October 17, 2017, the Federal Energy Regulatory Commission approved a tariff change filing from ISO-NE with the following provision: "A Demand Response Asset and a Generator Asset may not be registered at the same end-use customer facility unless the Generator Asset is separately metered and reported and its output does not reduce the load reported at the Retail Delivery Point of the Demand Response Asset." Essentially, this means that if any party, including an EDC, has previously registered a solar facility at a customer site as a settlement only resource (SOR, a Generator Asset) in the ISO-NE market, the customer is ineligible to participate in the ISO-NE active DR program. While we recognize that this issue may be beyond the scope of the immediate proceeding, we recommend future exploration of the issue by the Department and interested stakeholders. We would support a solution(s) that would allow customers to locate net metering facilities and demand response assets, including energy storage and other measures, at the same location, including giving Host Customers the option to request the disenrollment/de-registration of systems as SOR/Generator Assets so that they can participate in the more valuable active DR program.

We continue to strongly disagree, however, with the assertion that EDCs should be allowed to implement operational requirements for co-located storage, especially at the customer's expense, in efforts to "preserve the value of the NM component of Paired Systems in the ISO-NE energy market and FCM."³⁴ Our previous comments have discussed at length why the imposition of such operational restrictions on non-net metering equipment behind customer meters is highly problematic, constituting an infringement on customers' autonomy over their energy consumption and management. Furthermore, operational requirements imposed by the EDC would hinder the ability of the energy storage system to participate in the FCM. Under no circumstances does a facility's participation under the net metering tariff entitle EDCs to dictate the operations and behavior of non-net metering equipment such as energy storage systems; indeed, the net metering tariff does not entitle the EDCs to dictate the operations and behavior of net metering equipment either. We urge the Department to rule that any such operational restrictions, whether on non-net metering equipment or net metering devices, will be impermissible.³⁵

CONCLUSION

Thank you for your consideration of these comments. We look forward to remaining engaged throughout the remainder of this inquiry. Please let us know if we can be of any assistance to the Department as the investigation proceeds.

Sincerely,



Peter Rothstein
President



Janet Gail Besser
Executive Vice President

Cc: Jamie Dickerson, NECEC

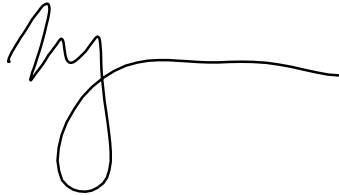
³⁴ Ibid., p. 2-3.

³⁵ We further note that there is a greater issue with allowing the EDCs to exert title to capacity rights or impose operational restrictions, unrelated to safety, on distributed energy resources (DER) sited behind the meters of their customers. These systems are privately owned, either by those customers or through third-party owners. This would infringe on the rights of customers to make energy choices behind their own meter. Accepting the EDC proposals would be an unprecedented expansion of EDC authority over their customers' private energy choices.

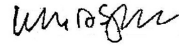
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