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PUBLIC SERVICE COMMISSION

June 29, 2011

Ms. Terry J. Romine
Executive Secretary
Public Service Commission of Maryland
6 St. Paul St., 16th Floor
Baltimore, Maryland 21202-6806

ML #132411

Re: Net Energy Metering Revised Regulations
RM41

Dear Ms. Romine:

Enclosed for filing are an original and seventeen copies of the Staff's recommended revised regulations for Net Energy Metering, along with Staff's Comments responding to comments made by other parties on the previously published version of the proposed regulations.

Copies of this filing are being provided to the Working Group via electronic mail. Parties will receive paper copies if they so request. If you have any questions regarding this matter, please do not hesitate to contact me. Thank you for your consideration.

Very truly yours,

A handwritten signature in black ink, appearing to read "Lloyd J. Spivak".

Lloyd J. Spivak
Assistant Staff Counsel

cc: Net Energy Metering Working Group via electronic mail

FILED

JUN 29 2011

PUBLIC SERVICE COMM
OF MARYLAND

**BEFORE THE PUBLIC SERVICE
COMMISSION OF THE STATE
OF MARYLAND**

**REGULATION IN CONNECTION
WITH ELECTRICITY – NET ENERGY
METERING - CREDITS**

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**Administrative Docket
RM 41**

**REVISED REGULATIONS AND COMMENTS OF THE
STAFF OF THE MARYLAND PUBLIC SERVICE COMMISSION**

Summary

The Commission has requested that Staff provide a revised version of the net metering regulations published in the Maryland Register of February 25, 2011. The revisions are intended to address changes to the Net Energy Metering statutory provisions passed in HB 860 (Ch. 406 of the 2011 Laws of Maryland) during the 2011 session of the Maryland General Assembly. The utilities and others have offered comments on the previously published draft. However, those comments did not raise new issues that were not previously addressed in prior comments, or during the rulemaking session in October. Accordingly, Staff's proposed revisions are attached, and change only those portions of the regulations that were affected by the statutory change.

Analysis of Filed Comments and Legislative Changes

The Commission previously held a rulemaking session on October 26, 2010, at which it adopted proposed regulations implementing what was then the net energy excess generation credit provisions, as well as a cap of 200% of electricity requirements on the size of an

eligible net metered generation installation, and meter aggregation provisions for eligible customer-generators. The Commission published its proposed regulations in the Maryland Register dated February 25, 2011. Washington Gas Energy Services (WGES), Baltimore Gas and Electric Company (BGE) and the PHI Companies (Pepco and DPL, collectively referred to as PHI) filed timely comments.

By Ch. 406 (House Bill 860), Laws 2011, the General Assembly revised Pub. Util. § 7-306 to change and clarify the accrual of net excess generation credits by eligible customer-generators, as well as how and when eligible customer-generators may be compensated for any net excess generation. Under the revised provisions, there is an accrual period of up to twelve months, ending with the billing cycle that is complete immediately prior to the end of April of each year. An eligible customer generator will then be paid for any net excess generation accrued, at a value equal to the average generation or commodity rate they would have paid during the accrual period, whether they were customers of the utility or an electricity supplier. The utilities are required to make the payment within thirty days after the end of the April billing cycle. Customers of cooperatives serving a population of less than 250,000 may receive a monthly accounting and payment for their net excess generation.

The Commission has requested that Staff provide a revised version of the published net metering regulations, addressing the statutory revisions. Staff has reviewed the Comments filed by WGES, BGE, and PHI, and does not believe they warrant additional changes. WGES supported finalizing the regulations as published. BGE and PHI both objected to the Commission's policy decisions regarding the 200% size limitation and aggregation.

With respect to the 200% cap, both utilities argued that this was not consistent with the statutory requirement that net metered facilities be intended primarily to offset all or part of the customer's own electricity requirements. PHI added arguments that the higher limitation might cause reliability issues or limit neighboring customers' ability to install net energy metered facilities, and that the higher limit might require FERC approval for net sales of energy to utilities. Staff believes that the Commission's interpretation is a reasonable reading of the word "primarily," as being something more than half of the output. It will be up to PHI to solve the logistical issues raised. To the extent that FERC jurisdiction applies, that would be an issue to be resolved between the utility, the customer, and FERC. Staff notes, however, that the FERC Order cited by PHI applies only to generation that does not satisfy "qualifying facility" (QF) requirements or otherwise fall within FERC's own net energy metering exemptions.

BGE argues that the proposed aggregation provision is not within the Commission's existing legal authority, while PHI only makes this argument with respect to virtual aggregation. Staff notes that these concerns were aired during the rulemaking session and did not dissuade the Commission from adopting the aggregation provisions.

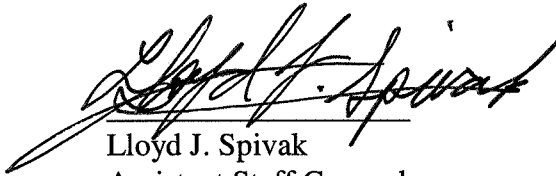
Lastly, PHI argued against the PJM Settlement provisions that the Commission adopted at the urging of WGES. Essentially, PHI said that the Commission cannot tell PJM how to conduct its settlements. There is some truth to this assertion, but PHI does not seem to have raised the issue during the rulemaking session. Moreover, Staff does not believe that there will necessarily be a conflict between PJM practice and the proposed regulation. PJM could have offered its

own comments on the matter but did not do so. Should a conflict develop, Staff would expect any affected parties to bring the issue to the Commission's attention.

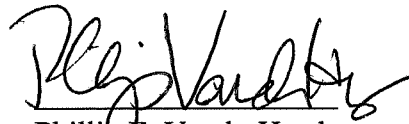
Recommendations

Staff recommends that the Commission adopt as final those portions of the previously published regulations that do not address the accrual of, and compensation for, net excess generation (20.50.10.01-04 and .06-08). Staff further recommends that the Commission publish as proposed regulations the revised draft of COMAR 20.50.01.03B and COMAR 20.50.10.05 attached to this Memorandum.

Respectfully submitted,



Lloyd J. Spivak
Assistant Staff Counsel



Phillip E. VanderHeyden
Director, Electricity Division

Title 20

PUBLIC SERVICE COMMISSION

Subtitle 50 SERVICE SUPPLIED BY ELECTRIC COMPANIES

Notice of Proposed Action

[11-096-P]

The Public Service Commission proposes to:

- (1) Amend Regulation .03 and adopt new Regulation .05 under **COMAR 20.50.01 General Provisions**; and
- (2) Adopt new Regulations .01—.08 under a new chapter, **COMAR 20.50.10 Net Metering**.

This action was considered at a scheduled rule-making meeting on October 26, 2010, notice of which was given under State Government Article, §10-506, Annotated Code of Maryland.

Statement of Purpose

The purpose of this action is to add new definitions, permit the waiver of regulations in the subtitle, and provide new regulations relating to the implementation of net metering for the purposes of utility billing.

Comparison to Federal Standards

There is no corresponding federal standard to this proposed action.

Estimate of Economic Impact

The proposed action has no economic impact.

Economic Impact on Small Businesses

The proposed action has minimal or no economic impact on small businesses.

Impact on Individuals with Disabilities

The proposed action has no impact on individuals with disabilities.

Opportunity for Public Comment

Comments may be sent to Terry J. Romine, Executive Secretary, Public Service Commission, William Donald Schaefer Tower, 6 St. Paul Street, Baltimore, Maryland 21202-6806, or call 410-767-8067. Comments will be accepted through _____, 2011. A public hearing has not been scheduled.

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20.50.01 General Provisions

Authority: Public Utilities Article, §§2-113, 2-121, 5-101, 5-303, [and] 7-203, and 7-306, Annotated Code of Maryland

.03 Definitions.

A. (text unchanged)

B. Terms Defined.

(1) "Baseline annual usage" means:

(a) The total of an eligible customer-generator's previous 12 months of electric energy use in kilowatt hours at the time of the installation or upgrade of an eligible customer-generator's generating system; or

(b) If an eligible customer-generator does not have 12 months of electric energy use in kilowatt hours at the time of the installation or upgrade of an eligible customer-generator's generating system, an estimate of 12 months electric use in kilowatt hours based on a methodology approved by the Commission.

(1-1) "Billing period" means the period of time covered by a bill issued by an electric company.

[(1)] (1-2) (text unchanged)

(2)—(6) (text unchanged)

(6-1) "Eligible customer-generator" has the meaning stated in Public Utilities Article, §7-306, Annotated Code of Maryland.

[(6-1)] (6-2) (text unchanged)

(6-3) "Excess generation" means the amount of electricity produced by an eligible customer-generator that exceeds the electricity used by the eligible customer-generator in a monthly billing period.

(7) (text unchanged)

(7-1) "Net Excess Generation" has the meaning stated in Public Utilities Article, §7-306, Annotated Code of Maryland.

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(8)—(11) (text unchanged)

(11-1) "Micro combined heat and power" has the meaning stated in Public Utilities Article, §7-306, Annotated Code of Maryland.

(12) (text unchanged)

(12-1) "Net energy metering" has the meaning stated in Public Utilities Article, §7-306, Annotated Code of Maryland.

(13)—(15) (text unchanged)

(15-1) "PJM" has the meaning stated in COMAR 20.52.01.02B.

(16)—(25) (text unchanged)

.05 Waiver.

The Commission may waive a regulation in this subtitle for good cause shown.

20.50.10 Net Metering

Authority: Public Utilities Article, §§2-113, 2-121, 5-101, 5-303, and 7-306, Annotated Code of Maryland

.01 General.

A. Net Energy Metering. An electric company shall provide net metering of electric service to eligible customer-generators using a meter capable of net energy metering until the rated generating capacity of all eligible customer-generators in the State reaches 1,500 megawatts.

B. Maximum Size of Electric Generating System — Net Metering. An electric company may not provide net energy metering to an eligible customer-generator operating an electric generating system that has a rated capacity of more than 2 megawatts.

C. Micro Combined Heat and Power Electric Generating System. An electric company may not provide net energy metering to an eligible customer-generator operating a micro combined heat and power electric generating system that has a rated capacity of more than 30 kilowatts.

D. Qualifying for Net Energy Metering.

(1) In order to initially qualify for net energy metering:

(a) An eligible customer-generator shall comply with the provisions of COMAR 20.50.09; and

(b) The eligible customer-generator's proposed electric generating system may not exceed 200 percent of the eligible customer-generator's baseline annual usage.

(2) Upgraded Electric Generating Systems.

(a) When an eligible customer-generator receiving net energy metering proposes an upgrade to an existing electric generating system, an electric company shall re-evaluate the baseline annual usage to determine whether the electric generating system continues to meet the requirements of §D(1)(b) of this regulation.

(b) If the eligible customer-generator's upgraded electric generating system does not meet the requirements of §D(1)(b) of this regulation, an electric company may discontinue net energy metering.

.02 Metering.

An electric company shall ensure that a meter installed for net energy metering is capable of measuring the flow of electricity in two directions.

.03 Tariffs and Contracts.

A. An electric company shall offer net energy metering service to an eligible customer-generator under a Commission-approved standard contract or tariff.

B. An electric company's tariff or contract for net metering shall contain an energy rate, a rate structure, and any monthly charge identical to the monthly contract or tariff charge paid by a customer of the rate class in which the eligible customer-generator would be a member if they were not receiving net energy metering service.

C. An electric company may not include in an eligible customer-generator's bill rates, charges or fees that raise the eligible customer-generator's minimum monthly charge above that of customers of the same rate class to which the eligible customer-generator would otherwise be assigned.

D. An electric company may not charge to an eligible customer-generator new or additional demand charges, standby charges, customer charges, or minimum monthly charges.

E. An electric company may not require an eligible customer-generator whose electric generating system meets the requirements of this chapter to:

- (1) Install additional controls;
- (2) Perform or pay for additional tests; or
- (3) Purchase additional liability insurance.

.04 Calculation of Net Energy.

A. Net Energy Calculation. An electric company shall calculate net energy in accordance with this regulation.

B. Metering Net Energy — The electric company shall meter net energy produced or consumed on a regular basis in accordance with standard metering practice under this subtitle.

C. Energy Usage Exceeds Generation — Billing. If the electricity used by an eligible customer-generator exceeds the electricity generated by the eligible customer-generator in a billing month, an electric company shall bill the eligible customer-generator for usage under the terms of Regulation .03 of this chapter.

D. Generation Exceeds Usage — Billing. If the electricity generated by an eligible customer-generator exceeds the customer's usage, an electric company shall only bill the eligible customer-generator a customer charge.

E. Conversion of Excess Generation — Billing. An electric company shall convert any excess electric generation described in §D of this regulation into generation credits upon billing, consistent with the provisions of Regulation .05 of this chapter.

F. Commercial Customers.

(1) An electric company shall use the net hourly energy consumed or produced to assign the energy requirement for commercial eligible customer-generators with interval metering equipment.

(2) PJM shall use the net energy metered each hour, positive or negative, for the settlement process, even in cases when the total usage by the customer in a month exceeds the electricity generated by a commercial eligible customer-generator with interval metering equipment.

.05 Net Excess Generation.

A. Generation Conversion — Dollar Amount. An electric utility shall convert an eligible customer-generator's net excess generation to a dollar amount according to this regulation.

B. Conversion Calculation.

(1) Except as provided in §C of this regulation, an electric company shall convert net excess generation from kilowatt-hours to dollars \$ by multiplying the net excess generation by the generation or commodity portion of the rate that the eligible customer-generator would have been charged by the electric company averaged over the previous 12-month period ending with the billing cycle that is complete immediately prior to the end of April.

(2) For customers served by an electricity supplier, the utility shall convert net excess generation in the same manner as described in §B(1) except that the dollar value of the net excess generation shall be equal to the generation or commodity rate that the customer would have been charged by the electricity supplier multiplied by the number of kilowatt-hours of net excess generation.

Ç. Cooperative Electric Company — Conversion Calculation.

(1) When net energy metering is provided by a cooperative electric company that serves a population of less than 250,000 in its distribution territory the eligible customer-generator may choose to be paid for the dollar value of net excess generation remaining at the end of each month instead of at the end of the accrual period specified in §E of this Regulation. (2) If an eligible customer-generator chooses to be paid for the dollar value of net excess generation remaining at the end of each month:

(a) The customer-generator may accrue net excess generation on a monthly basis

(b) The dollar value of the net excess generation shall be equal to the generation or commodity portion of the rate that the eligible customer-generator would have been charged by the electric company for the previous month multiplied by the number of kilowatt-hours of excess generation; and

(c) on or before 30 days after the end of each month, the electric cooperative shall pay the eligible customer-generator for the dollar value of net excess generation remaining at the end of the previous month.

D. Net Excess Generation — Carry Forward. An electric company shall carry forward accrued net excess generation on a customer's bill until the net excess generation has been used by the customer or the electric company has paid the customer for the credit under §E of this regulation.

E. Payment for Generation Credits.

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(a) The weighted average locational marginal price based on the hourly amounts of generation being supplied to the grid by the eligible customer-generator with interval metering equipment; ¶

(b) The average locational marginal price for generation being supplied to the grid by a wind, biomass, and micro combined heat and power eligible customer-generator without interval metering equipment; or ¶

(c) The average locational marginal price based on 7 a.m. to 6 p.m. prevailing time during the summer months of June through September and 7 a.m. to 5 p.m. prevailing time during the winter months of October through May for generation being supplied to the grid by a solar eligible customer-generator without interval metering. ¶

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(1) On or before 30 days after the billing cycle that is complete immediately prior to the end of April of each year the electric company shall pay each eligible customer-generator for the dollar value of any accrued net excess generation remaining at the end of previous 12-month period ending with the billing cycle that is complete immediately prior to the end of April

(2) On the closure of a net energy metering account of an eligible customer-generator, an electric company shall pay an eligible customer-generator the dollar value of the net excess generation on their account within 15 days.

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.06 Safety Standards and Controls for Net Energy Metering.

An electric generating system used by an eligible customer-generator for net energy metering shall meet all applicable safety and performance standards incorporated by reference in COMAR 20.50.02.02.

.07 Meter Aggregation.

A. When requested in writing by a qualified eligible customer-generator under §B of this regulation, an electric utility shall provide meter aggregation.

B. Customers Qualifying for Aggregation. The following electric utility eligible customer-generators are qualified to request meter aggregation under §A of this regulation:

- (1) An eligible customer-generator using electrical service for agriculture;
- (2) An eligible customer-generator who is a not-for-profit organization or business; or
- (3) An eligible customer-generator who is a municipal government or its affiliated organizations.

C. An electric company shall require that an eligible customer-generator requesting meter aggregation under this regulation provide written allocation instructions detailing how to distribute its excess generation credits to each account prior to the commencement of any meter aggregation.

.08 Meter Aggregation Method.

A. This regulation applies to an eligible customer-generator qualifying for meter aggregation under Regulation .07 of this chapter.

B. Virtual Meter Aggregation.

(1) If an aggregation qualified eligible customer-generator's electrical services are not located close enough to physically interconnect metered service, the electric company shall sum the usage and excess generation of all applicable accounts on a kilowatt-hour basis over each billing period prior to calculating the customer's excess generation for that billing period.

(2) The electric company shall allocate generated electricity to each account per the instructions of the eligible customer-generator.

C. Physical Meter Aggregation.

(1) For an aggregation qualified eligible customer-generator whose electrical services are located close enough to physically interconnect and meter at a single point, the electric company shall allow the customer to make physical electrical connections and re-establish metering at a single location.

(2) Physically aggregated services must meet all applicable requirements of COMAR 20.50.01 and 20.50.02.

(3) The electric company shall allocate the net-energy used each billing period and the excess generation credit calculated each billing period to each account per the instructions of the customer.

TERRY J. ROMINE

Executive Secretary

Public Service Commission