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MEMORANDUM

TO: The Ohio Manufacturers' Association Energy Group

FROM: Kimberly W. Bojko, Carpenter Lipps & Leland LLP

DATE: January 12, 2018

SUBJECT: Oral Arguments Before the Public Utilities Commission of Ohio Regarding Net Metering Rules

On January 10, 2018, the Public Utilities Commission of Ohio (PUCO) held oral arguments regarding its review of the net metering rules in Case No. 12-2050-EL-ORD. Several parties, including utilities, environmental groups, and the Office of the Ohio Consumers' Counsel (OCC), were afforded an opportunity to present oral arguments in front of the PUCO regarding their requests to revise net metering rules adopted by the PUCO in its November 8, 2017 Order. Commissioners and Staff questioned these groups about their proposals over the course of several hours.

Throughout the various arguments, a number of issues that affect OMAEG members were discussed. In particular, the presentations and questions covered the form and amount of compensation available to net metering customers for excess generation, the availability of net metering tariffs to shopping customers, and the rules governing which facilities qualify for net metering. Additionally, OCC, along with other parties, suggested that the PUCO use the upcoming PowerForward Conference and future rule reviews to gather additional information on these matters.

Compensation for Excess Generation

In the November rules, customers are permitted to generate up to 120% of their electricity needs through net metering and are eligible for a credit for electricity generated in excess of their own consumption up to that 120% threshold. During oral arguments, the parties discussed both the establishment of the 120% cap on excess generation and the calculation of the credit consumers will receive for said generation.

The utilities and IGS advocated for lowering the cap to 100%. This would prohibit customers from ever receiving compensation for excess generation that they put back on the grid. As the environmental groups pointed out, this is an impractical approach because it is impossible for any customer to size their generation to perfectly align with their consumption. Moreover, the utilities benefit from the excess generation put back on the grid because they use the generation to serve other customers, who then pay the utility for that electricity. Thus, it is reasonable to compensate customers for that excess generation.

The parties also discussed the amount of compensation customers should receive for the generation that they produce and put on the grid. The November rules allow compensation for only the value of the energy component of the generation, and do not afford any value for the capacity component. The environmental groups pointed out, however, that the General Assembly has made it clear that net metering customers should be treated like all other customers, and thus, their compensation should include both energy and capacity components. Additionally, those groups argued that the utilities receive capacity value from excess generation and should compensate their net metering customers for that value. The utilities responded that the excess generation does not provide capacity value because the capacity is not sold and doesn't reduce the capacity obligations of non-net metering customers.

Availability of Net Metering for Shopping Customers

Another issue discussed was the availability of net metering for customers who take service from a CRES provider. In the November rules, shopping customers are not entitled to the same credits for excess generation as customers who take service under the Standard Service Offer (SSO). IGS argued that shopping customers should not be discriminated against by the rules. Meanwhile, AEP advanced statutory and policy arguments for denying shopping customers the same credits afforded to SSO customers.

Permissible Net Metering Locations

Finally, arguments were heard on the required location of any customer-sited generation used for net metering. The November rules required net metering facilities to be located on a customer-generator's premises or a contiguous lot, so long as the electric utility determines that using the contiguous lot is not unsafe or hazardous. One Energy argued that the rules should define contiguous to include lots separated by roads, easements, or other rights of way. One Energy noted that issues with rights of way exist on almost every customer's premises. One Energy further stated that allowing the utility to give ultimate approval of the use of such a lot for net metering infringes on private property rights and gives utilities unfettered discretion to create arbitrary standards on a case-by-case basis. On the other hand, DP&L and FirstEnergy argued that lots separated by easements or other rights of way should not be considered contiguous. All the utilities agreed that utility involvement in determining whether net metering on a contiguous lot is sufficiently safe was important.

Conclusion

The PUCO will take the oral arguments into consideration when rendering its decision adopting final net metering rules. We will continue to monitor the issues of importance to OMAEG members such as the applicability of the net metering rules to shopping customers, where the customer-sited generation may be built, and compensation received.