



Agenda Date: 5/12/10
Agenda Item: 8B

STATE OF NEW JERSEY
Board of Public Utilities
Two Gateway Center
Newark, NJ 07102
www.nj.gov/bpu/

OFFICE OF CLEAN
ENERGY

IN THE MATTER OF AGGREGATED ON-SITE NET)
METERING - EXPANSION OF THE PILOT TO OTHER) ORDER
SMALL GENERATORS IN ATLANTIC CITY ELECTRIC)
(ACE) TERRITORY)
)
) DOCKET NO. EX08060410¹
)

Sharrott Estate Winery, 370 South Egg Harbor Road, Winslow, New Jersey 08037

Solar Home Energy Solutions, 227 Mill Run Court, Mount Laurel, New Jersey 08054

Larchmont Farms, 238 Rt. 77, Elmer, New Jersey 08318

Overdevest Nurseries, 578 Bowentown Road, Bridgeton, New Jersey 08302

Cynthia Holland, DAG, Division of Law, Dept. of Law & Public Safety, 124 Halsey Street,
Newark, New Jersey 07102

BY THE BOARD:

This Order memorializes the actions taken by the Board of Public Utilities ("Board") and sets forth the reasons for the Board's determination at its May 12, 2010 public agenda meeting regarding the above-captioned matter. In this Order, the Board considers and renders its decision regarding the expansion of the eligibility criteria for participation in its aggregated on-site net metering pilot ("the Pilot") and, concurrently, renders its decision on three applicants which seek entrance into the Pilot.

Background

¹ This matter mistakenly published on the May 12, 2010 agenda with an incorrect Docket Number of EO08060410. The correct Docket Number is EX08060410.

Net metering refers to the economic treatment of the electricity generated by an electric generating facility located on an electric customer's premises ("customer-generator" facility). The rules and eligibility criteria governing net metering are found at N.J.A.C. 14:8-4.3. The net metering rules have historically been interpreted by Staff and stakeholders as interrelated with the state's interconnection rules, which govern the connection of a customer-generator facility to an electric distribution system. The interconnection rules are found at N.J.A.C. 14:8-5. The rules have historically been implemented on a one customer-generator facility per meter basis; however, in June 2008, the Board was petitioned to expand this interpretation to allow the electricity generated by one customer-generator facility to offset the consumption of electricity from multiple meters on the same premises.

On June 13, 2008, William Skye, d/b/a Redskye Farms ("Redskye") petitioned the Board for approval to aggregate the three meters on his property on one bill and "net out" the electricity produced monthly on his property with the electricity used monthly on one electric bill. This process is known as aggregated on-site net metering. In the case of Redskye, it meant that three solar systems would be installed on one or two meters rather than three solar systems, one for each meter. In addition, Petitioner sought to locate a 13.86 kW solar system on a residential meter where its generation would exceed consumption and on an account then billed at a commercial rate.

At the time it received this petition, the Board was engaged in a rulemaking process to amend its net metering rules, and Staff sought stakeholder comment upon aggregated net metering. As a result of the comments received, Staff determined to proceed with the amendments in two stages, with aggregated net metering to be considered in the second stage. Having found that a pilot program would provide valuable data for the consideration of aggregated on-site net metering, the Board granted the petition and voted to establish the Pilot on July 30, 2008. The Board directed Atlantic City Electric ("ACE") to provide the necessary services for the aggregation of consumption and generation for the Petitioner. To facilitate the rulemaking process, the Board also directed ACE to provide to Board Staff ("Staff") the available data on usage and generation at each meter. The Board also directed Staff to develop the Pilot for implementation by ACE, such that aggregated on-site net metering would be provided to customers who have:

1. mixed residential and non-residential use renewable generation projects
2. located their renewable generation projects on a single agricultural property within ACE's service territory; and,
3. waited in a CORE program queue for rebate approval.²

Finally, the Board ordered that the Pilot would exist until such time as new rules were adopted. I/M/O William C. Skye d/b/a Redskye Farms Net Metering Determination for Solar System by

² The Board's Customer On-site Renewable Energy ("CORE") program offered prescribed financial incentives to New Jersey property owners to encourage the installation of Class I renewable energy technologies. Eligible applicants were able to receive rebates for a portion of the cost of installing solar, wind, or sustainable biomass at their site. Redskye had submitted its rebate applications when the number of applicants for CORE funding caused the Board to approve the establishment of queues for particular market segments. Applications remained in queue until funding sufficient for the CORE program to issue a rebate commitment to a given application becomes available. The Board suspended the acceptance of applications to the CORE program in December 2007.

August 31, 2008, Docket No. EO08060410 (February 3, 2009) ("February 3 Order"). It should be noted the correct Docket Number for this matter is EX08060410.

On March 2, 2010, ACE submitted a report on the experience with Redskye in the Pilot, because there were no other participants in the Pilot at that time. The report contained useful data on generation, usage, and billing regarding that one participant. ACE reported that in 12 of the last 18 months, the kWhs generated by the solar installations on 2 of the Redskye meters exceeded usage on all 3 of the meters, resulting in a net credit kWh production amount carried over to future billing months. ACE also stated that it was supportive of allowing similarly situated customers to participate in the Pilot, but opposed any modification to the eligibility criteria for the Pilot for several reasons. ACE noted a concern over system reliability failures, stating that two of the Redskye generation systems were adjacent to each other in such close proximity that there would be challenges to maintaining distribution system voltage levels if aggregated net metering were to encourage a concentration of renewable generation systems with excess generation. In this regard, ACE noted in particular the importance of the requirement that participants be located on a single agricultural property owned by one entity. ACE also noted the cost of manually distributing excess generation to the meters involved. ACE opposed any modification to the eligibility criteria and proposed limiting the number of eligible program meters per site to five.

Subsequently, however, ACE approved the interconnection of two entities which sought approval of renewable energy projects requiring aggregated net metering. These two entities, Larchmont Farms ("Larchmont"), and Overdevest Nurseries ("Overdevest") have not waited on a CORE queue and thus do not meet the existing Pilot criteria.³ These entities are discussed further below.

On September 16, 2009, Sharrott Estate Winery and their solar installer, Solar Home Energy Solutions, L.L.C. (collectively referred to as "Sharrott") submitted a solar rebate application to the NJCEP Renewable Energy Incentive Program ("REIP") for a 25.92 kW solar photovoltaic system on its 50 acre farm. The system will produce generation in excess of the meter upon which it is installed. The solar system for which Sharrott submitted the application would not serve mixed residential and non-residential use. The meters to be served by the system are all non-residential.

Since the start of the Pilot, three entities that are similarly, but not identically, situated to Redskye have requested the ability to participate in the Pilot. While all three are located on single agricultural properties located within the service territory of ACE, none has waited on a CORE queue. In addition, one entity, Sharrott, does not have mixed residential and non-residential use on site. Thus, none of the three interested entities meet all of the criteria for participation.

On January 22, 2010, Sharrott filed a Petition for Emergent and Expedited Relief with the Board, seeking admission into the Pilot, Docket No. EG10010050. Sharrott maintains that representatives of the New Jersey Clean Energy Program ("NJCEP") informed them that their "otherwise conforming application" was rejected on the ground that it was a "multiple meter project." Sharrott argues that the Board approved a "similar 'multiple meter'/net meter project when it granted the petition of Redskye Farms." Petition at 2-3. Sharrott gives cause for

³ REIP became the successor rebate program to the CORE Program in January 2009.

treating the petition as emergent, requiring expedited review, due to the expiration on September 23, 2010 of a United States Department of Agriculture grant awarded to it on September 23, 2009.

On or about November 25, 2009, a request for aggregated onsite net metering was submitted to ACE on behalf of Larchmont. On December 15, 2009, Larchmont received confirmation from ACE of its willingness to accommodate Larchmont's request for aggregated onsite net metering services for its mixed residential and non-residential accounts on a single agricultural property in ACE service territory.⁴ On December 29, 2009, Larchmont submitted registration documents for a 371.25 solar PV system to the NJCEP toward receiving acceptance in the SREC Registration Program ("SRP").⁵ On January 7, 2010, NJCEP Staff issued an SRP acceptance letter to Larchmont. The system will produce generation in excess of the meter upon which it is installed and Larchmont seeks to aggregate usage upon two meters to offset the generation. Larchmont, which has not waited in a CORE queue, now seeks entry into the Pilot. Larchmont contacted Staff, who encouraged the entity to work with ACE. ACE then reported to Staff their willingness to accommodate the requests via email and phone conversations with Staff. The customers also followed up with both Staff and ACE. Larchmont's request for entrance, is now before the Board.

On or about December 15, 2009, Mr. Ed Overdevest of Overdevest requested aggregated onsite net metering from ACE for five electric accounts including four commercial accounts serving his farm and one residential electric account. On December 30, 2009, Overdevest received confirmation from ACE of its willingness to accommodate Overdevest's request to receive aggregated onsite net metering services. On January 25, 2010, Overdevest submitted a REIP application for a 100 kW wind turbine, which will generate energy in excess of that consumed at its meter. NJCEP Staff have informed Overdevest that approval of its REIP rebate application would be conditioned upon Overdevest's acceptance into the Pilot.⁶ Overdevest has not waited on a CORE queue and seeks entrance into the Pilot. Overdevest contacted Staff, who encouraged the entity to work with ACE. ACE then reported to Staff their willingness to accommodate the requests via email and phone conversations with Staff. The customers also followed up with both Staff and ACE. Overdevest's request is now before the Board.

Discussion

The Electric Discount and Energy Competition Act ("EDECA"), N.J.S.A. 48:3-49 et seq. and the Board's net metering rules provide that a customer-generator shall receive credit from its EDC, electric power supplier, or basic generation provider at the full retail rate for each kilowatt-hour produced by a class I renewable energy system installed on the customer-generator's side of

⁴ In communications between ACE and Larchmont and ACE and Overdevest, the parties referred to aggregated on-site net metering as 'virtual net metering.' 'Virtual net metering' is not a term defined in New Jersey statute or rule and has no commonly accepted meaning in the renewable energy industry. In this Order, references will be to aggregated on-site net metering.

⁵ The SRP permits those New Jersey residents which own solar energy facilities, and who meet program requirements, to register their facility to generate SRECs. The SRP is the successor to the SREC-only Pilot Program, which was renamed in January 2009 via Secretary's letter.

⁶ The practice in the rebate program has always been to require the ability to interconnect using the Board's rules at N.J.A.C. 14:8-5. In practice, this means that a system generating in excess of consumption at its meter must be admitted to the Pilot.

the meter, up to the total amount of energy used by that customer during an annualized period. N.J.S.A. 48:3-87(e)(1); N.J.A.C. 14:8-4.1. At the end of the annualized period, the supplier or provider must compensate the customer-generator for any excess kilowatt-hours generated at the electric power supplier's or basic generation service provider's avoided cost of wholesale power. N.J.A.C. 14:8-4.3(e). A customer-generator's generating capacity can not exceed the amount of electricity supplied by the electric power supplier or basic generation service provider to the customer over an annualized period. N.J.A.C. 14:8-4.3(a). This provision aims to limit customer-generators from becoming suppliers by exporting electricity to the grid.

In its February 3 Order, the Board noted that neither the statute nor the rules speak directly to the question of aggregated onsite net metering. The Board further discussed the proceeding to amend the net metering rules, noting that Staff had taken steps to address these issues in that proceeding. Staff had sought stakeholder comment upon the question of aggregated on-site net metering. Following consideration of the input at a public meeting held on July 23, 2008, it was decided to proceed with amendments to the net metering rules in two stages. Aggregated on-site net metering was among the modifications to be considered in the second stage. (February 3 Order at 3).

The Board established the Pilot and granted the petition of Redskye for aggregated onsite net metering in the context of this rulemaking proceeding. The Board recognized Redskye as a concrete example of aggregated net metering from which the Board could obtain data to inform the rulemaking process. In discussing its reasons for establishing the Pilot, the Board stated that

the rulemaking process will benefit from an aggregated on-site net metering pilot program available to customers similarly situated to Petitioner. . . . This pilot may provide more data for consideration in the rulemaking proceeding and guard against the extrapolation of results from circumstances that might prove to be unique to Petitioner.

[(February 3 Order at 4-5).]⁷

The Pilot has produced data on generation, consumption, billing, and technical concerns which may be useful in informing the stakeholder consideration of aggregated net metering amendments to the rules. However, the data is very limited due to the participation of only one entity in the Pilot. At this time, the Pilot is not fully performing the function for which it was created, that of providing the stakeholders and the Board with information from multiple entities. It appears that the criteria for participation in the Pilot are so restrictive that they have prohibited further entrants into the program, contrary to the Board's Order. Staff recommends a modification of the Pilot criteria so that additional entities would be eligible to participate and further the rulemaking process by providing additional needed data. Appropriate modifications to the criteria would increase the number of participants without expanding the Pilot to the

⁷ The Board also considered the Redskye petition in the context of the Community Solar initiative directed by the Board in its Decision and Order Regarding Solar Electric Generation, In the Matter of the Renewable Energy Portfolio Standards – Alternative Compliance Payments and Solar Alternative Compliance Payments, Docket Number EO06100744, (Dec. 6, 2007) (December 6th Order). Community Renewable Energy subsequently became the subject of legislative activity and any rule amendments addressing this subject are postponed pending the outcome of legislative efforts. See, e.g., A-915, S-463.

extent of unduly increasing the cost to ACE or causing reliability concerns.

The Board now considers the Sharrott request in the context of the ongoing rulemaking proceeding. Sharrott seeks to install a 25.92 kW solar system to serve multiple non-residential meters. Sharrott also seeks admission to the Pilot as one part of their efforts to receive approval of their REIP rebate application. Sharrott is located on a single agricultural property located in the service territory of ACE. Sharrott's project has the potential, if admitted to the Pilot, to generate data on the implementation of aggregated net metering by a customer similarly situated to Redskye.

Like the other possible entrants, Sharrott does not meet all of the Pilot criteria as they currently exist. Sharrott has never waited in a CORE queue and the renewable generation system would serve only non-residential accounts, not mixed residential and non-residential accounts. The Board does not consider that these facts must be dispositive of Petitioners' request.

As stated above, Staff's review has found that the criteria for participation in the Pilot are so restrictive that they have prohibited further entrants into the program, contrary to the Board's Order. Due to the limited size of the Pilot, one party, Staff has not received sufficient data to inform the rulemaking process as envisioned by the Board when it established the Pilot. Therefore, Staff recommends a modification of the Pilot criteria so that additional entities would be eligible to participate and further the rulemaking process by providing additional needed data.

Specifically, Staff recommends: (1) eliminating the requirement that a project wait in the CORE rebate queue and (2) allowing customers with mixed residential and non-residential use renewable generation projects or exclusively non-residential use to participate in the Pilot. As noted above, the CORE program no longer exists and applicants who have waited on a CORE queue have already been processed. As a result, the requirement of having waited on a CORE queue is no longer relevant to seeking approval for aggregated on-site net metering. Leaving the CORE queue requirement effectively ensures that no further entrants will be allowed into the Pilot, which was not the Board's intent. Entities like Sharrott have applied to the successor rebate program, but still other entities may opt not to receive a rebate. Staff thinks that eliminating the CORE requirement will allow it to gather the greatest amount of data, without unduly burdening ACE. In addition, experience with the Pilot indicates that the criterion of mixed residential and non-residential use may be overly restrictive. By opening the Pilot to agricultural properties which have only non-residential use, the Board may significantly expand the universe of eligible agricultural properties. The converse – that a property containing only a residential building may utilize more than one meter – is less likely to hold true. Thus, a modification to this criterion to provide for projects having only non-residential use as well as projects with mixed residential and commercial use could result in the participation of additional entities in the Pilot. If the Board approves Staff's recommendations, the Pilot will be available to renewable generation projects used for exclusively non-residential use, as well as for mixed residential and non-residential use, on a single, agricultural property within ACE's service territory.

ACE has raised a concern over the potential for system reliability failures that could occur if the eligibility criteria for participation in the pilot program are modified in a way that significantly increases customer eligibility. ACE referenced the proximity of Redskye's two renewable energy systems, stating that this proximity would present challenges to maintaining distribution system voltage levels, causing problems for feeders and transformers if aggregated net

metering were to encourage concentration of renewables with excess generation. In this regard, ACE discussed the Pilot's requirement that participants be located on single agricultural properties with a single owner. Sharrott, Larchmont, and Overdevest meet this requirement. There may be valid technical reasons for not interconnecting a renewable energy system as a customer-generator without first requiring distribution system upgrades. No such reasons have been presented at this time. If a proposed facility meets the Board's interconnection requirements, the lack of mixed residential and commercial accounts is not a satisfactory justification for denying interconnection.

Were the Pilot criteria to be modified as discussed above, the Board anticipates that additional interested customers in ACE's service territory would be eligible to participate. Larchmont seeks entrance for a solar system serving mixed residential and non-residential use serving a single agricultural property in ACE's territory. ACE has informed Larchmont that it is willing to accommodate its request to participate in the Pilot. Larchmont has been admitted to the SRP. Overdevest seeks entrance into the Pilot for a wind system serving mixed residential and non-residential use serving a single agricultural property in ACE's territory. ACE has also informed Overdevest that it is willing to accommodate its request for aggregated net metering. Staff has told Overdevest that approval of its REIP rebate application would be conditioned upon its acceptance into the Pilot. Finally, Sharrott would be eligible for the Pilot as modified. However, Staff notes that Sharrott does not have ACE's approval of its interconnection as provided for at N.J.A.C. 14:8-5. Staff recommends that any approval of Sharrott's entrance into the Pilot be contingent upon an interconnection approval from ACE. As intended by the Board when it established the Pilot, the three projects noted above are not intended to be an exhaustive list of Pilot participants. Staff recommends that ACE admit any entities meeting the modified criteria into the Pilot.

Additional participants would result in additional data on the working of aggregated net metering for customers on single, agricultural properties in the ACE service territory. By providing more data on the implementation of aggregated net metering for the consideration of the Board and of the stakeholders in the rulemaking process, the Pilot would better inform the rulemaking process as it pertains to single agricultural properties in ACE's service territory. In addition to Staff's recommendations, the Board considers that to inform rule amendments, which would have effect throughout the State, more must also be known about aggregated net metering for different types of customers with differing usage patterns and energy loads. In order to generate data on the implementation of aggregated net metering under these differing conditions, the Board believes that subsequent, separate pilot programs must be established. Narrowly drawn criteria for each such pilot program would be developed in a stakeholder process initiated by Staff. These criteria would be brought to the Board for review and approval. These pilot programs will be designed to provide the data necessary to fashion an efficient and equitable aggregated net metering rule.

In its February 3 Order, the Board noted that, should aggregated on-site net metering result in an increase in the number of customers who wish to net meter, an issue regarding the equitable treatment of net metering in rate design may arise. Net metering customers' bills include transmission and distribution charges for equipment investments that serve customers every hour of the day, while they are permitted to offset those charges with renewable generation that is produced for only a portion of a given day. The transmission and distribution equipment is critical to the practical use of net metering. The Board noted that a solar installation, such as that of Redskye, produces electricity only during daylight hours, but ACE's net metering tariff does not differentiate between daytime and nighttime hours. Thus, either

ACE or its non-net metering customers are in effect paying for the portion of the transmission and distribution investment utilized during the hours when no generation is occurring because service is still required. Should the extension of the Pilot or the adoption of an aggregated on-site net metering tariff result in an appreciable increase in the number of net metering customers, the Board may revisit this issue and make a determination notwithstanding any provision of this Order or the February 3 Order.

Findings and Conclusion

The Board FINDS that the Pilot has provided data on aggregated net metering, but the Pilot criteria are so narrowly drawn as to prevent the entry of enough participants to provide sufficient useful data to adequately inform the current rulemaking process. The Board FINDS that modifications to the criteria will permit additional entities to enter the Pilot and result in more data for the consideration of aggregated net metering and community solar in the second stage of the rulemaking proceeding. Therefore, the Board HEREBY APPROVES Staff's recommendations and AUTHORIZES an aggregated on-site net metering pilot program for mixed-use residential and non-residential use or solely non-residential use renewable generation projects on a single, agricultural property within ACE's service territory. The Board FURTHER ORDERS that the Pilot, as modified, shall exist until new regulations are in place.

The Board AUTHORIZES the admission to the Pilot of Larchmont Farms and Overdevest. The Board further AUTHORIZES the admission to the Pilot of Sharott Winery, conditional upon a determination by ACE that the request meets all the technical standards for Level 2 interconnection in the Board's rules at N.J.A.C. 14:8-5.5 and other technical standards as applicable. The Board DIRECTS Atlantic City Electric Company to provide the necessary services for the aggregation of consumption and generation at the meters of these entities, to be netted out monthly, with an annual true-up at the Company's avoided cost of wholesale power, as set forth in the Board's regulations at N.J.A.C. 14:8-4.3. The Board DIRECTS Staff to issue letter to Sharott Winery informing it that its petition is granted, conditional upon fulfilling the requirements set out above.

The Board DIRECTS ACE to provide to Staff, on a mutually satisfactory timeframe from issuance of each month's bill, the available data on usage and generation at each meter for each entity in the Pilot. In addition, the Board DIRECTS Staff to compile this data into reports to facilitate stakeholder review and inform the rulemaking process.

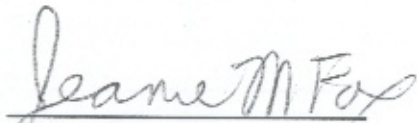
The Board DIRECTS Staff to continue the stakeholder process and the discussion of aggregated net metering. The Board FURTHER DIRECTS Staff to initiate a stakeholder discussion on the development of separate pilot programs in other utility service territories. Such proposed pilots should include appropriate criteria for entrance and a mechanism to gather additional information to inform the rulemaking process. Upon conclusion of the stakeholder discussions, Staff may bring meritorious pilot program proposals to the Board for consideration.

DATED: 6/23/10

BOARD OF PUBLIC UTILITIES
BY:



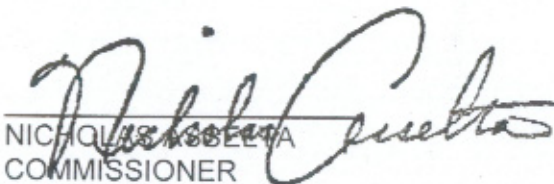
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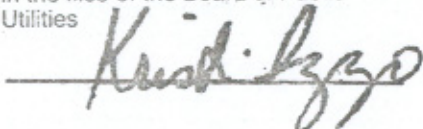
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ATTEST:



KRISTI IZZO
SECRETARY

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IN THE MATTER OF AGGREGATED ON-SITE NET METERING - EXPANSION OF THE
PILOT TO OTHER SMALL GENERATORS IN ATLANTIC CITY ELECTRIC (ACE)
TERRITORY

DOCKET NO. EO08060410

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