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ARKANSAS PUBLIC SERVICE COMMISSION

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| IN THE MATTER OF AMENDMENTS |) | |
| TO THE ARKANSAS PUBLIC SERVICE |) | DOCKET NO. 12-060-R |
| COMMISSION'S RULES CONCERNING |) | ORDER NO. 1 |
| METER AGGREGATION AND COMBINED |) | |
| BILLING FOR NET-METERING |) | |
| CUSTOMERS |) | |

ORDER

On June 15, 2012, by Order No. 6 in Docket No. 12-001-R, the Arkansas Public Service Commission (“Commission”) amended the Commission’s *Net Metering Rules* (“NMRs”) to provide that governmental entities may interconnect renewable energy facilities for net metering without being required to sign an agreement to indemnify public utilities or to purchase insurance.¹ Parties also commented regarding the issue of whether a customer should be able to count the production of energy by a net metering facility against the consumption measured at more than one of the customer’s meters. Order No. 6 indicated that the Commission would further address this issue forthwith.

This Order opens a proceeding to consider whether Arkansas statutes authorize the Commission to establish rules under which customers may aggregate metering and/or billing for the purpose of promoting net-metering and whether such meter aggregation is in the public interest. This Order also invites parties to comment on a “strawman” example of meter aggregation rules, based on *Model Net Metering Rules* developed by the Interstate Renewable Energy Council (“IREC”).

¹ Order No. 6 responded to a decision by the Arkansas Court of Appeals in *Entergy Ark., Inc. v. Ark. Pub. Serv. Comm’n*, 2011 Ark. App, which invalidated on Constitutional grounds an indemnity agreement between a state agency and a public utility company.

Net metering in Arkansas is authorized pursuant to the Arkansas Renewable Energy Development Act (“AREDA”).² AREDA proclaims that “it is in Arkansas’ long-term interest” to adopt net metering, and that net metering “promotes the wise use of Arkansas’ natural energy resources . . . reduc[es] dependence on imported fossil fuels. . .” and “fosters investments in emerging renewable technologies to stimulate economic development . . .” Ark. Code Annotated § 23-18-602(a).

In Docket No. 12-001-R, Mr. William Ball, appearing *pro se*, requested that the Commission amend the NMRs to require a utility to aggregate all meters of a net-metering customer and to credit net excess generation from the customer’s net-metering facility against the customer’s consumption at other meter locations. Ball Initial Comments, Docket No. 12-001-R, at 5-6. He stated that, of the eighteen states that have addressed this issue, only one does not allow meter aggregation. *Id.* at 5. Mr. Ball commented that renewable energy facilities should be sited based on the location at which they will generate maximum energy output, rather than based on the location of a utility meter, and that local governments, communities, and agricultural customers have a particular interest in being able to offset electricity used by multiple meters with an optimally-located renewable energy facility. Ball Surreply at 2 and Tr. at 259. He suggested that a windmill company left the state in part because of the unfavorable regulatory climate for renewable energy development in Arkansas, and that meter aggregation would promote both rural and neighborhood-based renewable energy

² AREDA is codified at Ark. Code Annotated §23-18-601, *et. al.* The Commission notes that Ark. Code Annotated § 23-3-404 also provides that energy conservation programs are a proper and essential function of public utilities regulated by the Commission, and Ark. Code Annotated § 23-3-403 defines “energy conservation programs and measures” to include “[p]rograms which encourage the use of renmewable energy technologies or sources . . .”

projects. Ball Initial at 6. Mr. Ball argues that the net-metering statute grants authority to the Commission to “establish appropriate rates, terms, and conditions for net-metering contracts,” which includes the authority to establish meter aggregation. Ball Surreply at 2, *citing* A.C.A. § 23-18-604(b)(1).

Joint Utilities opposed Mr. Ball’s proposal to amend the NMRs to require a utility to allow meter aggregation. Joint Utilities Reply at 17. Joint Utilities stated that, because the net-metering statute refers to an interconnection “using *a standard meter*” (emphasis added), in the singular, and uses the singular to refer to “the applicable billing period” and to “the next applicable billing period,” that the General Assembly intended to authorize net metering on a per-meter basis and did not authorize aggregation of meters. *Id.* Joint Utilities added that meter aggregation is unsound policy because it would erode utility revenues, incur costs for billing software upgrades and interim manual billing, and could lead to cost-shifting for customers with meters in multiple rate classes. *Id.* at 18.

The AG indicated that it could support meter aggregation and that meter aggregation could be particularly helpful for small governmental entities, but that rules must be crafted to avoid abuse by “shell” companies. AG Reply at 5. The AG disagreed with Joint Utilities’ argument that AREDA does not authorize meter aggregation, stating that the provision granting explicit authority to expand the scope of net metering includes meter aggregation. AG and State Agency Surreply at 5.³

³ AREDA provides that the Commission “[m]ay expand the scope of net metering to include additional facilities that do not use a renewable energy resource for a fuel or may increase the peak limits for individual net-metering facilities, if so doing results in desirable distribution system, environmental, or public policy benefits . . .” Ark. Code Annotated § 23-18-701(b)(4).

Staff argued that meter aggregation was beyond the scope of Docket No. 12-001-R and that it is unclear whether or not AREDA provides statutory authority to authorize meter aggregation. Staff Reply at 8-9. Staff further noted that meter aggregation could have significant rate impacts, and that, in order to determine whether meter aggregation is in the public interest, the Commission should examine its potential costs and benefits. *Id.* at 9.

The Commission notes that the Commission's General Service Rules ("GSRs") generally promote separate metering, prohibit combined metering and billing, and restrict master metering. Specifically, GSR 5.20 is titled "Separate Metering and Billing." GSR 5.20 A (2) provides that premises that are on different, non-contiguous tracts of land shall be separately metered, and that contiguous premises may be master metered if they are owned by one customer, are physically integrated, produce a complete service or product, involve similar energy uses, and fall within the same utility service territory. GSR 5.20 (B) provides generally that

- (1) Utilities shall separately meter and bill separate premises even if under common ownership. *Utilities may not combine metering and billing unless some other part of this Rule allows it.*
- (2) Gas and electric utilities may not install master meters or combine the bills in any newly-constructed residential, commercial, and industrial complexes of 2 stories or fewer, and mobile home parks. This rule does not apply to dormitories, hotels, and motels. Gas and electric utilities shall offer to provide individual meters for all premises not covered by the Rule where multiple individual usage of gas and electricity could occur and where master metering would also be possible.

(Emphasis added).

Rule 5.20 (2)(C) provides exceptions to the Rule 5.20 (2)(B)(2) prohibition on master metering and combined billing in newly-constructed buildings. Newly-

constructed buildings may include master metering and combined billing if the Commission finds that it is in the public interest and if the costs of separate metering and billing would be greater than the long-term benefits to the utility's ratepayers as a whole, considering, without limitation, the following possible benefits:

- (1) Increased efficiency of consumption by individual devices;
- (2) Overall reduction of demand for present and future energy capacity;
- (3) Encouragement of systems using renewable fuel sources other than fossil fuels;
- (4) Providing accurate price signals which reflect the true value and cost of energy to individual customers; and,
- (5) Other benefits gained from energy efficiency and conservation.

Generally, therefore, in the case of newly-constructed buildings, the GSRs allow an exemption from the prohibition on master metering and combined billing when such an exemption would promote energy efficiency or renewable energy to reduce reliance on fossil-fueled, supply-side resources.⁴

Because the General Assembly has generally directed the Commission to promote net metering, and because the issue of whether meter aggregation may and should be adopted to promote net metering has been raised, the Commission directs parties to this docket to address the following issues:

- (1) The Commission's legal authority to adopt some form of meter aggregation or combined billing to promote net metering;
- (2) The impact of the current level of net metering on electricity rates and the impact that would be expected if meter aggregation were allowed for net metering;

⁴ See, Order No 7 in Docket No. 80-077-U (formerly Docket No. F-005), adopting these exceptions on an interim basis, on June 4, 1981.

(3) The public interest benefits if the Commission were to adopt meter aggregation to promote net metering; and

(4) Any amendments to Commission Rules that would be required if the Commission were to adopt meter aggregation to promote net metering.

The Commission also invites parties to comment on the whether the attached strawman rule amendment language, which is based upon the IREC *Model Net Metering Rules* provisions concerning meter aggregation, would be in the public interest. The Commission offers this strawman language merely as a means of focusing discussion and of leveraging the expertise and experience that has been accumulated in other jurisdictions, and not for promulgation, at this time.

For purposes of this proceeding, the Commission takes administrative notice of the full record of Docket No. 12-001-R as a matter of efficiency and to avoid the necessity for parties to repeat prior testimony, comments, and pleadings. In this proceeding the Commission invites all parties to address, in addition to the matters listed above, any other issues and/or possible rule changes associated with the implementation of meter aggregation to promote net metering.

The Commission therefore orders and directs as follows:

- (1) All jurisdictional electric utilities are hereby made parties to this proceeding;
- (2) Any person granted intervention in Docket No 12-001-R shall be automatically granted party status in this proceeding upon the filing of a notice of intent to participate in this Docket;
- (3) Other persons seeking intervention shall file an appropriate motion on or before noon on August 21, 2012;

- (4) Parties shall file by noon on September 10, 2012, legal briefs addressing the Commission's legal authority to adopt some form of meter aggregation or combined billing to promote net metering;
- (5) Parties shall file by noon of September 10, 2012, comments regarding the degree to which the current level of net metering impacts electricity rates; the degree to which expected levels of net metering under meter aggregation might affect electricity rates; whether adoption of meter aggregation to promote net metering would be in the public interest; and any new rules or amendments of existing rules to accomplish meter aggregation if the Commission were to find that such aggregation is in the public interest, including but not limited to the attached strawman;
- (6) Reply legal briefs and comments shall be filed by noon on September 24, 2012.
- (7) A public hearing in this docket is set for 9:30 AM on October 31, 2012, in Hearing Room 1 in the Arkansas Public Service Commission Building located at 1000 Center Street, Little Rock, Arkansas.

BY ORDER OF THE COMMISSION,

This 24th day of August, 2012.

I hereby certify that this order, issued by the Arkansas Public Service Commission, has been served on all parties of record on this date by the following method:

U.S. mail with postage prepaid using the mailing address of each party as indicated in the official docket file, or
 Electronic mail using the email address of each party as indicated in the official docket file.

Colette D. Honorable, Chairman

Olan W. Reeves, Commissioner

Elana C. Wills, Commissioner

Kristi Rhude-Coxing
Secretary of the Commission

Attachment A

GSR 5.20 is amended by the addition of the following subsection:

D. Meter Aggregation for Net-Metering

- (1) For customers participating in net-metering, the following provisions apply:
 - i. For the purpose of measuring electricity usage under the Net Metering Rules, an electric utility must, upon request from a net-metering customer, aggregate for billing purposes a meter to which the net metering facility is physically attached (“designated meter”) with one or more meters (“additional meter”) in the manner set out in this subsection. This rule applies only when:
 - a. The additional meter is located on the customer’s non-separate premises; and
 - b. The additional meter is used to measure only electricity used for the customer’s requirements.
 - ii. A customer must give at least 30 days notice to the utility to request that additional meters be included in meter aggregation. The specific meters must be identified at the time of such request. In the event that more than one additional meter is identified, the customer must designate the rank order for the additional meters to which net-metering credits are to be applied.
 - iii. The net-metering credits will apply only to charges that use kWh as the billing determinant. All other charges applicable to each meter account will be billed to the customer.
 - iv. If, in a monthly billing period, the net-metering facility supplies more electricity to the utility than the energy usage recorded by the customer’s designated meter, the utility will apply credits to additional meters in the rank order provided by the customer, and any remaining credits after doing so will be rolled over to the designated meter for use during the subsequent billing period, except as limited by the expiration of net excess generation credits at the end of an annual billing cycle.
 - v. Customers participating in meter aggregation do not have to have all meters on the same rate schedule.