

**ARKANSAS PUBLIC SERVICE COMMISSION**

IN THE MATTER OF NET METERING AND )  
THE IMPLEMENTATION OF ACT 827 OF )  
2015 )

DOCKET NO. 16-027-R  
ORDER NO. 22

**ORDER**

On April 29, 2016, by Order No. 1 in this docket, the Arkansas Public Service Commission (Commission) initiated this rulemaking proceeding to implement Act 827 of 2015, which amended the Arkansas Renewable Energy Development Act of 2001 (AREDA), Ark. Code Ann. § 23-18-604 *et seq.* AREDA established net-metering in Arkansas and is implemented through the *Net-Metering Rules* (NMRs) of the Commission, which were last amended by Order No. 10 on March 8, 2017, and which became effective on September 15, 2017, in Phase 1 of this Docket, and which were pending further action by the Commission and possible modification in Phase 2 of this Docket when the Arkansas General Assembly convened in January 2019.

Act 464 of 2019<sup>1</sup> made fundamental changes to net-metering law in Arkansas; thus the positions, arguments, and legal analyses of the Parties underpinning the alternatives to the existing net-metering rate structure that had been under consideration by the Commission in Phase 2 during the previous two years may also have changed or been mooted by the passage of Act 464. Accordingly, the Commission has determined that it is necessary and appropriate to open Phase 3 of this Docket to consider and implement changes to the Commission’s NMRs, including the rate structure that will be adopted pursuant to the requirements of and authorization granted in Act 464.

<sup>1</sup> Act 464 is effective July 24, 2019.



The Commission notes that a number of provisions in Act 464 appear to be either noncontroversial or not subject to debate (*e.g.*, provisions that authorize third-party leasing of net-metering facilities; changing the threshold size of net-metering facilities that are exempted from compliance filings with the Commission from 300 kilowatts (kW) to 1,000 kW; allowing the Commission to approve certain non-residential net-metering facilities up to 20,000 kW under certain circumstances; and including as a net-metering facility an energy storage device that is configured to receive electric energy solely from a net-metering facility).

With regard to the rate structure issues, the Commission notes that the General Assembly left entirely to the Commission the decision to choose one of various options set forth in the Act, or a hybrid thereof – for example, whether to:

- retain the current one-for-one net excess generation credit approach favored by SubGroup 1 in Phase 2;
- adopt the 2-Channel net excess generation credit approach proposed by SubGroup 2;
- develop an avoided cost approach for net excess generation credits, with an “additional sum” up to 40 percent of avoided cost; and/or
- recognize in net excess generation credits the monetary value provided to a utility by the use of net metering as specified by market mechanisms, if any, of the regional transmission organization of which the electric utility is a member and market mechanisms, if any, that measure utility distribution system benefits.

Given the removal of certain legal constraints and uncertainties that were present under the previous net-metering law and the creation of new rate structure options by Act 464, the Commission believes that Parties to this Docket should be afforded an additional opportunity to comment on the rate issues bifurcated by Order No. 4 in this Docket and other issues raised by the passage of Act 464. The Commission therefore directs Staff to re-convene the Net Metering Working Group (NMWG), established by the Commission in Order No. 4, to engage in collaborative processes for Phase 3, assisted by a facilitator if feasible and desired, to further address rate issues and other issues raised by the passage of Act 464 and explore whether the Parties can converge on an agreement for rate structure and other amendments to the NMRs that:

- establish a net excess generation credit mechanism with market-based features for net-metering customers, utilities, and third-party project developers;
- offer increased protections to non-net-metering customers against unreasonable allocations of or increases in costs;
- encourage and incentivize utility transparency and amenability to streamlined and expedited accommodation of prospective net-metering projects in exchange for gaining increased visibility into the distribution grid as net-metering customers and third-party aggregators install net-metering projects using Advanced Metering Infrastructure (AMI)-enabled smart meters and IEEE 1547-2018-compliant smart inverters; and

- offer enhanced net excess generation credit opportunities for net-metering customers, third-party developers, and aggregators of renewable resources that are open to sharing with their electric utilities the load, energy, and other data that will be produced as AMI-enabled smart meters and smart inverters that are compliant with IEEE-1547-2018 standards for interconnection are deployed across the state in net-metering projects.

More particularly, the Commission requests the NMWG to consider and make recommendations whether market-based incentives should be developed to both increase net excess generation credits for net-metering customers that agree to share data and visibility information with utilities and to incentivize utilities to rapidly increase the transparency of their distribution systems and offer net-metering developers enhanced hosting capacity visibility into circuits and feeders that would be most suitable for development.

The Commission further directs the NMWG to consider and make recommendations whether there is a need to develop regulatory mechanisms to guard against the gaming of the new 1,000 kW threshold for net-metering projects, below which non-residential customers and project developers need not apply to the Commission for approval of net-metering projects. Should the NMWG determine that such gaming is a possibility that should be addressed, the Commission requests the NMWG to propose a remedy.

For those rate issues and additional Act 464 issues for which the NMWG can come to an agreement, the Commission directs the NMWG to file proposed rules to

address those issues. For those rate issues and additional Act 464 issues for which the NMWG cannot come to an agreement, the Commission directs Staff to file a strawman proposal to begin the comment process.

In order to facilitate the timely consideration of the issues that will be considered in Phase 3, the Commission adopts the following procedural schedule, with all filings to be made by noon:

NMWG Filing of Agreed-upon Rules and Staff Strawman Filing on Contested Issues	September 17, 2019
Initial Comments on Contested Issues	October 15, 2019
Reply Comments on Contested Issues	November 5, 2019
Surreply Comments on Contested Issues	November 19, 2019

A public evidentiary hearing is scheduled to begin at **9:30 a.m. on Tuesday, December 5, 2019**, in the Commission Hearing Room located in the Arkansas Public Service Commission Building, 1000 Center Street, Little Rock, Arkansas.

BY ORDER OF THE COMMISSION.

This 30<sup>th</sup> day of May, 2019.



Ted J. Thomas, Chairman



Kimberly A. O'Guinn, Commissioner



Justin Tate, Commissioner



Mary Loos, Secretary of the Commission

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  
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