

**STATE OF ILLINOIS
ILLINOIS COMMERCE COMMISSION**

Illinois Commerce Commission)	
On Its Own Motion)	
)	No. 07-0483
Development of net metering)	
Standards required by P.A. 95-0420)	

ELPC REPLY COMMENTS REGARDING NET METERING “TARGET RULE”

ELPC again would like to express its appreciation to Staff for its efforts in narrowing the remaining disputed issues in this docket. The parties appear to agree on many of the provisions in the “Target” net metering rule, especially those provisions applicable to the “smaller” (i.e. < 40 kW) generators. However, there remain some very significant differences of opinion with respect to the appropriate billing calculation for the larger generators (40 kW – 2,000 kW). The resolution of these differences will determine whether the detailed provisions of the net metering statute provide anything new to this class of distributed renewable electricity generators, or whether the statute instead is merely an empty promise, offering nothing more than what is already required by PURPA.

These Reply Comments address the major billing issues first (comments 1, 2 and 3). Additional comments regarding the application process (comment 4) and reporting requirements (comment 5) follow.

- 1) The billing provisions for larger (40 kW-2,000 kW) generators at Section 465.50(b)(1)(i) must include the concept of “netting.”**

As explained in comment 3 of ELPC’s initial comments and on page 3 of the People’s initial comments, Section 465.50(b)(1)(i) must be revised to specify that avoided cost rates apply only to “excess kilowatt-hour credits,” which pertain to the “net electricity supplied to the electricity provider.” This interpretation is compelled by the plain language of the net metering

statute. *See* Sec. 16-107.5(f)(2) (customers are to be compensated at avoided cost rates for their “excess kilowatt-hour credits”); Sec. 16-107.5(d)(2) (“Kilowatt-hour credits” apply to the “net electricity supplied to the electricity provider”).

Charging at the tariffed rate and compensating at the avoided cost rate is not “net metering” -- it is no different that what is currently required by PURPA. In order to even nominally qualify as “net metering” there needs to be some “netting” involved. If the plain language of the statute is not followed, the new net metering law will not create any change in the status quo for generators between 40 kW and 2,000 kW. The statute should not be interpreted to be a nullity.

Some utilities may argue that it will be administratively difficult to determine which avoided cost rate to apply to a customer’s excess kilowatt-hour credits. Even assuming that this is true, there is no principle of law that would excuse compliance with the plain language of a statute based on perceived “administrative difficulty.” We would be happy to explore different options for calculating bills that would ease any administrative burdens yet still comply with the requirements of the statute.

In order to fix this problem, ELPC supports the revision proposed by the People at page 3 of their initial comments:¹

- i) The utility shall determine whether the customer is a net purchaser or a net seller of electricity during the billing period. If the customer is a net purchaser of electricity during the billing period, the electricity provider shall apply the applicable tariffed rate to the net amount purchased. If the customer is a net seller of electricity, the electricity provider shall compensate the customer at the electricity provider’s avoided cost of electricity supply, **multiplied by the net amount of electricity sold to the electricity provider.**

¹ Although ELPC offered its own suggested revised language at pg 5 of its initial comments, we think that the AG’s suggested revisions are clearer.

2) Section 465.50(b)(2)(i) should be clarified to reflect the statutory requirement that time-of-use billing be based on retail rates.

MidAmerican suggests clarifying Section 465.50(b)(2)(i) to reflect that the charge or credit applicable to billing non-residential customers taking service under time of use rates “is to be based on the avoided cost rate, not some other rate or charge.” MidAmerican Comments at 4. We agree that Section 465.50(b)(2)(i) should be clarified, but the statute requires net kilowatt-hours produced to be “valued at the same price per kilowatt-hour as the electric service provider would charge for *retail* kilowatt-hour sales during that same time of use period.” Sec. 5/16-107.5(f)(3) (emphasis added). This requirement applies to “*all* eligible net-metering customers taking service from an electricity provider under contracts or tariffs employing time of use rates.” *Id.* (emphasis added).

Thus, the section should be clarified to reflect that the charge or credit applicable to such customers shall be based on the utilities’ *retail* rate, as required by the statute. This could be accomplished simply by revising the language in Section 465.50(b)(2)(i) to be consistent with the language in Section 465.50(a)(2)(i):

i) The utility shall determine whether the customer is a net purchaser or a net seller of electricity during each discrete time period. For each time period, the electricity provider shall multiply the **tariffed or contract energy rate for electricity supply, as appropriate**, by the amount purchased or sold by the customer to determine each time period’s charge or credit. These amounts shall be summed to determine the net energy charge or credit for the billing period.

3) In order to implement “true” net metering, “demand” charges should be prorated in accordance with energy charges for the < 40 kW customer class.

This comment is fully addressed at pp. 2-3 of ELPC’s initial comments (comment 2). The Commission should not allow a quirk in the rules to diminish the benefit of the net metering

program for non-residential customers that are subject to kW-based demand charges. The statute does not distinguish between residential and non-residential customers with generators smaller than 40 kW. Therefore, the rules should not be interpreted to create such a distinction.

4) Customers that are diligently seeking an interconnection agreement should not be subject to the potential cancellation of their authorization to net meter.

This comment is fully addressed at p. 2 of ELPC's initial comments (comment 1). Although we proposed that the authorization deadline should "toll" while a customer's interconnection application is pending, we are open to other suggestions that would accomplish the same purpose. We simply want to protect customers that are seeking an interconnection agreement in good faith from unexpected and unwarranted cancellation of their net metering authorization for circumstances that are out of their direct control.

5) Electricity providers should report the results of their "consideration" of meter aggregation.

The statutory provision requiring electricity providers to consider meter aggregation is not optional. *See* Sec. 5/16-107.5(1) ("each electricity provider *shall* consider whether to allow meter aggregation") (emphasis added). The Commission is responsible to ensure that all parties comply with the requirements of the statute. In order to determine whether this requirement was complied with the Commission needs to know what was considered. This should not be an onerous burden for electricity providers and it will generate valuable information that will assist the General Assembly in determining whether meter aggregation represents a viable policy in Illinois. Without reporting, this requirement is likely to go unfulfilled.

Respectfully submitted this 23rd day of January, 2008.

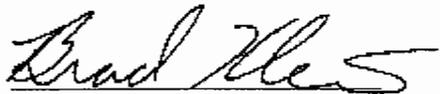
/s/ Brad Klein_____

Bradley D. Klein
Environmental Law & Policy Center

STATE OF ILLINOIS)
)
COUNTY OF COOK) SS

VERIFICATION

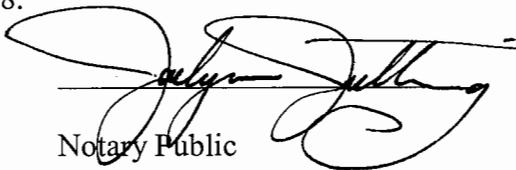
Bradley D. Klein, being first duly sworn upon oath, deposes and states that he has read the foregoing verified comments in ICC Docket 07-0483, that he knows the contents thereof, and that to the best of his knowledge, information and belief, based upon reasonable inquiry, that said contents are true and correct.



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Subscribed and sworn to me on January 23, 2008.



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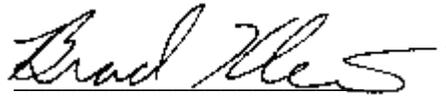


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NOTICE OF FILING

PLEASE TAKE NOTICE that on this date, January 23, 2008, I caused to be filed with the Chief Clerk of the Illinois Commerce Commission via e-docket the enclosed verified comments.



Bradley D. Klein
One of the Attorneys for the
Environmental Law & Policy Center

CERTIFICATE OF SERVICE

PLEASE TAKE NOTICE that on this date, January 23, 2008, I hereby certify that I did electronically file with the Illinois Commerce Commission the foregoing verified comments and electronically served the same upon the persons identified on the attached Service List.



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