



The Commonwealth of Massachusetts

DEPARTMENT OF PUBLIC UTILITIES

D.P.U. 16-64-H

November 6, 2017

Investigation of the Department of Public Utilities, on its own Motion, Commencing a Rulemaking pursuant to G.L. c. 164, §§ 138 and 139; G.L. c. 30A, § 2; 220 CMR 2.00; and Executive Order 562, to Amend 220 CMR 18.00.

ORDER CLARIFYING EXPANSION OF CAP EXEMPT AND GRANDFATHERED FACILITIES

I. INTRODUCTION AND PROCEDURAL HISTORY

This Order follows a series of Orders issued by the Department of Public Utilities (“Department”) in connection with An Act Relative to Solar Energy (“Act”).¹

St. 2016, c. 75. The Act gives the Department the authority to establish a date of notification (“Notification Date”) that will trigger the implementation of market net metering credits for all new Class I, II, and III solar net metering facilities (“new regime”).

St. 2016, c. 75, § 4; G.L. c. 164, §§ 138, 139(b½). Net Metering Rulemaking,

D.P.U. 16-64-C at 1 (2016). In D.P.U. 16-64-C, the Department stated that existing solar net metering facilities that expand after the Notification Date will generate net metering credits under 220 CMR 18.04(1), as calculated by electric distribution companies prior to the Act (“old regime”), if the entire facility, including the expanded generation capacity, remains a Class I net metering facility (*i.e.*, less than or equal to 60 kilowatts (“kW”)).

D.P.U. 16-64-C at 27-28. The “Department’s narrow exception is to allow residential and small commercial and industrial customers the opportunity to expand their systems to serve

¹ Orders include: Order Adopting Emergency Net Metering Regulations, D.P.U. 16-64 (May 11, 2016); Order Clarifying Emergency Net Metering Regulations, D.P.U. 16-64-A (May 19, 2016); Order Certifying the Threshold Certification Date, D.P.U. 16-64-B (July 7, 2016); Order Adopting Final Net Metering Regulations, D.P.U. 16-64-C (July 15, 2016); Order Announcing Notification Date and Directives to Distribution Companies, D.P.U. 16-64-D (July 29, 2016); Order Outlining the Scope of Monthly Minimum Reliability Contribution Proposal, D.P.U. 16-64-E (January 13, 2017); Vote and Order to Reopen Proceeding to Request Comments on the Monthly Minimum Reliability Contribution Date, D.P.U. 16-64-F (June 2, 2017); and Order Establishing the Monthly Minimum Reliability Contribution Date, D.P.U. 16-64-G (September 8, 2017). The Department separately approved a revised model net metering tariff and compliance filings. Net Metering Tariffs, D.P.U. 16-151 (January 6, 2017).

additional load while avoiding negative impacts to the electric distribution system.”

D.P.U. 16-64-C at 28.

The Department has fielded recent inquiries from host customers regarding facilities generating net metering credits under the old regime that seek to expand post-Notification Date. The nature of the inquiries is whether a facility that was not required to obtain a cap allocation to generate net metering credits in the old regime expands post-Notification Date and subsequently is required to obtain a cap allocation for the capacity of the entire facility, including the expanded portion, will result in the host customer generating market net metering credits under the new regime rather than generating 100 percent net metering credits under the old regime. The Department takes this opportunity to provide clarification.

II. CLARIFICATION OF EXPANSIONS AND NET METERING CREDITS

The Department viewed the transition to market net metering credits as a two-step process. D.P.U. 16-64-C at 5. First, the Department determined the triggering actions that governed whether a solar net metering facility generates net metering credits under the old regime, or generates market net metering credits under the new regime. D.P.U. 16-64-C at 5. Second, the Department established the triggering date that governed when a solar net metering facility generates net metering credits under the old regime or the new regime.

D.P.U. 16-64-C at 5-6; Net Metering Rulemaking, D.P.U. 16-64-D at 18 (2016). The triggering actions that demarcate the old regime from the new regime are the: (1) submission of an application for a cap allocation (“ACA”) to the System of Assurance of Net Metering

Eligibility (“System of Assurance”)² before the Notification Date; (2) receipt of notification from the Administrator of the System of Assurance that the ACA is complete; and (3) receipt of cap allocation by January 8, 2017. D.P.U. 16-64-C at 10-13. The triggering date, determined to be the Notification Date, was established as September 26, 2016, at 2:00 p.m. D.P.U. 16-64-D at 18.

Solar net metering facilities that are cap exempt facilities are not required to submit an ACA or obtain a cap allocation. G.L. c. 164, § 139(i).³ A Cap Exempt Facility that seeks to expand post-Notification Date will not have evidence of an ACA submission by September 26, 2016, or a cap allocation by January 8, 2017, because a cap allocation was not required due to the size of the original facility. Therefore, the Department takes this opportunity to clarify its prior directives to state that a Cap Exempt Facility that was interconnected by September 26, 2016, at 2:00 p.m. and subsequently seeks to expand may continue to generate net metering credits under the old regime, pursuant to 220 CMR 18.04(1), so long as the combined capacity of the facility generating net metering credits under the old regime and the expanded capacity totals not more than 60 kW.

² The Massachusetts System of Assurance was established by the Department pursuant to M.G.L. c. 164, § 139(g) and is set forth in Appendix A to Net Metering, D.P.U. 11-11-A (2012).

³ A cap exempt facility is a Class I net metering facility that is: “(a) is a renewable energy generating facility; and (b) has a nameplate capacity rating equal to or less than: (1) ten kilowatts on a single-phase circuit, or (2) 25 kilowatts on a three-phase circuit.” 220 CMR 18.02. For the purposes of this Order, the Department shall refer to a facility that meets this definition as a “Cap Exempt Facility.”

The Act's emergency preamble discusses the Legislature's intent to transition to a stable and equitable solar market at a reasonable cost to ratepayers. St. 2016, c. 75. The Act permits existing solar net metering facilities to continue generating net metering credits as otherwise provided by G.L. c. 164, § 139, for 25 years from the date upon which the facility was authorized to interconnect to the electric distribution system. G.L. c. 164, § 139(k). As such, Cap Exempt Facilities that are solar net metering facilities that were interconnected in the old regime and that later (i.e., after September 26, 2016 at 2:00 p.m.) expand and remain a Class I net metering facility, will transition to market net metering credits after 25 years from the date upon which the facility was first authorized to interconnect to the electric distribution system, and then will generate market net metering credits valued at 60 percent of the net excess kilowatt-hours. G.L. c. 164, § 139(k); 220 CMR 18.04(1)(b).⁴

Certain net metering facilities that were interconnected or already under construction and certified to interconnect within a specified time period at the time that the Department was developing the System of Assurance were grandfathered, meaning that they were exempt from the System of Assurance ("grandfathered facilities"). D.P.U. 11-11, at 7-8 (2011); System of Assurance, § 5(B). Grandfathered facilities that are solar net metering facilities will not have evidence of an ACA submission by September 26, 2016, or a cap allocation by

⁴ Cap Exempt Facilities that are solar net metering facilities and were interconnected in the old regime (i.e., prior to September 26, 2016 at 2:00 p.m.), and subsequently expand above 10 kW on a single-phase circuit or 25 kW on a three-phase circuit, and remain a Class I net metering facility are required to obtain a cap allocation under the private net metering caps.

January 8, 2017. The Department clarifies that grandfathered facilities that are solar net metering facilities that were interconnected before the end of the transitional period on April 24, 2013, and subsequently seek to expand after September 26, 2016, at 2:00 p.m., may continue to generate net metering credits under the old regime pursuant to 220 CMR 18.04(1), so long as the combined capacity of the facility generating net metering credits under the old regime and the expanded capacity totals not more than 60 kW. System of Assurance, § 4(A); Net Metering, D.P.U 11-11-D App. C (2012); D.P.U 11-11, Hearing Officer Memorandum at 2 (January 2, 2013).⁵

⁵ Grandfathered facilities that are solar net metering facilities and were interconnected in the old regime and subsequently expand above 10 kW on a single-phase circuit or 25 kW on a three-phase circuit post-Notification Date and remain a Class I net metering facility are required to obtain a cap allocation under the private net metering caps. Such facilities will transition to the new regime after a period of 25 years from the date that the net metering facility was first interconnected and then will generate net metering credits at 60 percent of the net excess kilowatt hours. G.L. c. 164, § 139(k); 220 CMR 18.04(1)(b). Under these circumstances, if a Cap Exempt Facility or a grandfathered facility that is a solar net metering facility was interconnected by the Notification Date and later expands to become a Class II or Class III net metering facility, the entire net metering facility would generate net metering credits under the new regime. D.P.U. 16-64-C at 27-28. If a Cap Exempt Facility that is a solar net metering facility was interconnected after the Notification Date and later expands, the entire net metering facility would generate net metering credits under the new regime.

