

**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. 1

**ORDER**

This order establishes a docket to gather information to be used to determine appropriate rates, terms, and conditions under Act 827 of 2015 (Act 827) for net metering contracts, including any changes necessary to the Commission’s Net Metering Rules (NMRs). A companion order issued today in Docket No. 16-028-U establishes a docket to gather information more broadly regarding distributed generation.

Act 827 provides, *inter alia*, that the Commission, after notice and an opportunity for public comment:

(1) Shall establish appropriate rates, terms, and conditions for net-metering contracts, including:

(A)(i) A requirement that the rates charged to each net-metering customer recover the electric utility’s entire cost of providing service to each net-metering customer within each of the electricity utility’s class of customers.

(ii) The electric utility’s entire cost of providing service to each net-metering customer within each of the electric utility’s class of customers under subdivision (b)(1)(A)(i) of this section:

(a) Includes without limitation any quantifiable additional cost associated with the net-metering customer’s use of the electric utility’s capacity, distribution system, or transmission system and any effect on the electric utility’s reliability; and

(b) Is net of any quantifiable benefits associated with the interconnection with and providing service to the net-metering customer, including without limitation benefits to the electric utility’s capacity, reliability, distribution system, or transmission system . . .

Act 827 at § 3, codified at Ark. Code Ann. § 23-18-604(b)(1)(Repl. 2015). Act 827 amended the Arkansas Renewable Energy Development Act of 2001 (AREDA), in which the General Assembly found that net-metering “encourages the use of renewable energy resources and renewable energy technologies” and that:

[i]ncreasing the consumption of renewable resources promotes the wise use of Arkansas’s natural energy resources to meet a growing energy demand, increases Arkansas’s use of indigenous energy fuels while reducing dependence on imported fossil fuels, fosters investments in emerging renewable technologies to stimulate economic development and job creation in the state, including agricultural sectors, reduces environmental stresses from energy production, and provides greater consumer choices.

Ark. Code Ann. § 23-18-602(a). Act 827 therefore requires the Commission to examine the balance of costs and benefits of net metering, within the framework of a statutory subchapter aimed at promoting customer-owned, distributed renewable energy production.

Act 827 also provides that the Commission:

May allow a net-metering facility with a generating capacity that exceeds three hundred kilowatts (300 kW) if:

(A) the net-metering facility is not for residential use; and

(B) Allowing an increased generating capacity for the net-metering facility would increase the state’s ability to attract business to Arkansas.

Ark. Code Ann. § 23-18-604(b)(7). AREDA also provides that the Commission:

May increase the generating capacity limits for individual net-metering facilities if doing so results in distribution system, environmental, or public policy benefits...

Ark. Code Ann. § 23-18-604(b)(5).

Act 827's provisions regarding the costs and benefits of net metering and approval of net-metering facilities larger than 300 kW raise a series of reasonable questions that should be considered in the development of net metering policy and any resulting changes to the NMRs. This Docket is therefore opened for the purpose of considering possible changes to the NMRs to implement Act 827 and those provisions of AREDA concerning facilities larger than 300 kW (Ark. Code Ann. §§ 23-18-604(b)(5) and (7)). As part of consideration of any such changes, the Commission makes all electric public utilities party to this docket, directs that Staff propose a "strawman" of any such NMR rule changes, and directs that the parties provide comments and/or expert testimony that includes, but is not limited to, answers to the following questions:

A. Establishing appropriate rates, terms, and conditions for net metering contracts under the provisions of Ark. Code Ann. § 23-18-604(b)(1) as amended by Act 827, including valuation of costs and benefits of net metering:

1. With respect to an electric utility's entire cost of providing service to each net-metering customer within each of the electric utility's class of customers, does a net-metering customer's use of the electric utility's capacity, distribution system, or transmission system impose additional costs?
  - a. If so, which, if any of the additional costs are quantifiable?
  - b. How should any such quantifiable, additional costs be valued, for the purpose of Act 827?
  - c. Are there existing or emerging technologies or policies that could mitigate such costs?

2. With respect to an electric utility's entire cost of providing service to each net-metering customer within each of the electric utility's class of customers, are there any quantifiable benefits associated with the interconnection with and providing service to the net-metering customer, including without limitation benefits to the electric utility's capacity, reliability, distribution system, or transmission system?
  - a. If so, which, if any, of these benefits are quantifiable?
  - b. How should any such quantifiable, additional benefits be valued, for the purpose of Act 827?
  - c. Are there existing or emerging technologies or policies that could enhance such benefits?
  
3. As a matter of rate-making:
  - a. How should the Commission take into account immediate, or short-term cost or benefit causation, versus projected or expected longer-term cost or benefit causation?
  - b. Does evidence demonstrate that net-metering customers are materially different in terms of cost causation from other customers in their customer class (i.e., are net-metering customers their own class)?
  - c. Should rates incorporate time-differentiated rates for net-metering customers (either residential or commercial)?
  
4. What role might net-metered generation play in assisting with compliance with the Clean Power Plan or other environmental regulations?

5. How should the Commission consider or take into account economic costs or benefits beyond the utility's entire cost of providing service, including:
  - a. Any public interest associated with economic development or job creation in the distributed energy sector, including the potential impact of federal tax benefits?
  - b. Any public interest, beyond the direct costs and risks associated with compliance with environmental regulation, associated with environmental impacts?
6. Should policies related to net metering in Arkansas take into account developments in smart grid, demand response, storage, or other technologies?
7. What can be learned from the recent consideration of these net-metering valuation issues in other states?
8. What other issues, if any, should be addressed in implementation of Act 827?

B. Guidelines for approval of non-residential net-metering facilities exceeding 300 kW

1. Do projects exceeding 300 kW present significant opportunities or concerns that make them different from smaller non-residential facilities?
  - a. Do such systems provide distribution system, environmental, or public policy benefits, as referenced in Ark. Code Annotated § 23-18-604(b)(5)?
  - b. How should the Commission assess whether such systems increase the state's ability to attract businesses to Arkansas, as referenced in Ark. Code Annotated § 23-18-604(b)(7)?

2. California, Colorado, Connecticut, Delaware, the District of Columbia, Florida, Indiana, Maryland, Massachusetts, North Carolina, New Hampshire, Oregon, Rhode Island, Utah, Vermont, and West Virginia appear to have net metering facility size limits ranging between 1 MW and 5 MW, while Arizona and Ohio appear to have no upper limit:<sup>1</sup>

a. Are there reasons based on the physics, engineering, or transmission and distribution characteristics of the grid that reasonably dictate an upper limit to the size of net metering projects?

b. Are there reasonable size ranges of net-metering projects (such as 300 kW to 1 MW, or 1 MW to 5 MW, for instance) that merit similar or uniform regulatory treatment?

c. Are there model rules or policies that the Commission should adopt or pursue to facilitate the development and grid integration of such facilities?

3. Are there other factors that the Commission should consider in establishing guidelines for the approval of net-metering facilities in excess of 300 kW?

The Commission establishes the following procedural schedule to begin consideration of the topics and issues identified here:

1. Petitions to Intervene shall be filed by noon on June 15, 2016.

2. Staff shall file a “strawman” proposal with proposed amendments to the

Net Metering Rules no later than noon on July 22, 2016, along with initial supporting testimony and/or comments.

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<sup>1</sup> *DSIRE Solar Policy Guide: A Resource for State Policymakers*, North Carolina Solar Center, Sept. 2012, at 70.

3. Reply testimony and/or comments addressing Staff's proposed amendments to the NMRs and Staff's Initial testimony and/or comments may be filed by any other party no later than noon, on August 19, 2016.

4. Simultaneous Surreply testimony and/or comments may be filed by any party no later than noon, on September 9, 2016.

5. Any Settlement Agreement regarding proposed amendments to the Net Metering Rules may be filed on or before September 23, 2016.

6. A public hearing is set for 9:30 AM on October 4, 2016 at the Commission's Hearing Room located in the Arkansas Public Service Commission Building at 1000 Center Street, Little Rock Arkansas.

BY ORDER OF THE COMMISSION,

This 29<sup>th</sup> day of April, 2016.

Ted J. Thomas, Chairman

Elana C. Wills, Commissioner

Lamar B. Davis, Commissioner

Michael Sappington, 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 docket file.