

Comments of Energy Freedom Coalition of America, LLC on July 2016 Draft NARUC Manual on Distributed Energy Resources Compensation Prepared by the Staff Subcommittee on Rate Design

September 2, 2016

The Energy Freedom Coalition of America, LLC ("EFCA") represents a broad range of distributed energy resources ("DER") product and services providers -- including providers of rooftop solar, battery storage, demand response and load management services, and smart energy home services -- in administrative, judicial, and legislative proceedings across the country. EFCA's principal business address is 601 Thirteenth Street NW, Suite 900 North, Washington, DC 20005.

In order for EFCA's members to provide their valuable DER products and services, EFCA's members' customers must face appropriate tariffs and other price signals that will lead them to want to choose to avail themselves of DERs. As a result, EFCA's members are keenly attuned to the price signals sent by electricity tariffs, and strongly interested in any guidance NARUC may issue on DER compensation.

In light of the distinct business interests at stake for EFCA's members, EFCA offers the following comments, and highlights several important trends that the Draft does not address. However, EFCA recommends that the Manual not be issued in final form without additional and meaningful opportunity for stakeholder input.

General Comments

EFCA's overarching comment is to recommend that the Draft Manual adopt a neutral tone. The authors of NARUC's 1992 "Electric Utility Cost Allocation Manual" noted on p. ii of the preface that they set certain objectives for that seminal document, including that "[t]he writing style should be non-judgmental; not advocating any particular method but trying to include all currently used methods with pros and cons." (Emphasis added.) EFCA urges the present authors to follow suit in this equally important document.

Presently, the Draft reads as if it was written by several different people, each of which brought their own views to the table. For example, Chapters 2 and 3 portray DER as an expensive problem, or even a dire threat, that must be appropriately managed in order to ensure the utility's financial health (Draft Manual, p. 6). By contrast, it is not until Chapter 4 that the Draft Manual

begins to discuss the potential benefits DER can bring to the grid, and how it can help utilities meet their objectives. *See, e.g.*, Draft Manual, p. 25, which states:

... The services and benefits from DER at question are often provided by the utility on a system-wide basis, or at the feeder level. However, some services, such as local reliability or resilience, may be more cost effectively provided by resources distributed across the system, rather than developed and procured at wholesale levels.

EFCA recommends that the Manual not pick sides when it comes to DER, but rather, that in characterizing DER's impacts, the Manual continue to acknowledge that DER may pose both costs and benefits; and that the degree to which DER poses either is jurisdiction-specific, and highly dependent upon cost-benefit analysis. NARUC's provision of guidance on monitoring the growth of DER, and on identifying features regulators should consider during different stages of DER adoption, would be particularly beneficial.

Specific Comments

The Draft Manual appropriately tackles several areas that have proven contentious in ratemaking proceedings. For example:

-- EFCA appreciates that the Draft Manual acknowledges there is no one-size-fits-all solution, and emphasizes the importance of a jurisdiction's identifying its current status regarding DER, the role it expects DER to have in the future, the nature of DER adoption rates, and the policy developments that are needed to accommodate the future that the jurisdiction envisions. Draft Manual, pp. 3 - 4. EFCA also appreciates the Draft Manual's acknowledgement that as the pace of change develops, the Manual should also evolve (Draft Manual, p. 4), and that in light of the rapidity of change and technological advances, there are a variety of options a jurisdiction may wish to adopt. *Id*.

-- The Draft Manual also appropriately acknowledges the importance of the process being datadriven (*see e.g.*, p. 15, which stresses the importance of regulators "empirically establishing at what adoption level [DER] will affect the grid");¹ as well as the potential for data transparency to itself provide solutions. *See e.g.*, the discussion of Hosting Capacity on p. 66.

-- The Draft Manual repeatedly states that "it tends to cost more to serve customers during peak periods due to increasing marginal costs of generation (*i.e.*, peaking generation plants have higher operational costs, which is reflected in wholesale electricity costs), and shortage of available capacity on the transmission and/or distribution grid." Draft Manual, Section II.B.1.a., p. 8.² Statements such as these should aid stakeholders and Commissioners, who are now

¹ See also p. 21: "The issues presented by DER in the current regulatory landscape primarily involve the costs that DER impose on the grid, and recovering the cost of the grid from DE customers; properly incorporating and compensating the benefits DER provide; dealing with other physical challenges that the technologies imposes on the physical grid; and ownership issues."

² See also, p. 10: "Peak coincident demand charges can be useful in sending a price signal to the customer regarding when the system peaks, and consumption during that period is charged accordingly; however, non-coincident peak demand charges merely charge a customer fir its peak consumption, regardless of the time it occurs."

spending scarce resources litigating over whether non-peak demand drives costs, as some utilities have argued as a way to seek to increase recoveries of "fixed" distribution system costs.

--The Draft Manual also appropriately acknowledges that there is no one single answer to whether the majority of a utility's <u>costs</u> are fixed or variable (*see* Draft Manual, pp. 7, 30), but notes that fixed <u>charges</u> are essentially no more than blunt instruments with which to increase utility revenues. *See* Draft Manual, p. 34, which states:

Utilities have seized on the potential impacts on other customers as a justification for increasing fixed charges. [internal citations omitted.] Utilities, however, have been using various justifications to attempt to get increases in fixed charges for a century. Their claims related to fixed charge increase and DER should be taken in that context and also with an eye toward authorized return if larger portions of revenue recovery shift to more fixed components, making the utility potentially less risky, all else remaining equal.

-- The Draft Manual is also helpful insofar as it appears to discourage residential demand charges. *See*, *e.g.*, Draft Manual, p. 11, which states:

There is also disagreement on the amount of costs that are actually related to demand [internal citation omitted]. [S]ystem peak is often only known after the month, so a customer has to best guess when the system peak occurs.

See also Draft Manual, p. 53 (noting that with empirical data for demand-based rate designs being lacking, "regulators should be wary of counting on supported promised benefits and cautious when plausible harm may represent itself.") To this end, the Draft Manual appropriately cites the important paper generated by the Regulatory Assistance Project, "Smart Rate Design for a Smart Future," Lazar, J. and Gonzalez, W., Regulatory Assistance Project (2015). *See* Draft Manual, p. 10, n. 7.

-- As noted above, the Draft Manual not only offers objective views as to the benefits of DER, it also highlights the importance of conducting cost-benefit analyses <u>before</u> assigning responsibility for costs.³ *See e.g.*, p. 25, which states:

The challenge of acknowledging, identifying, quantifying, planning for, and optimizing the benefits DER provide to utilities and customers, both with and without DER, is <u>an</u> issue on par with identifying appropriate utility costs . . . "

³ Note that the Manual stresses that such evaluation should transpire whether or not the jurisdictions are:

^{...} exploring different long-term options for planning, evaluating and compensating DERs. Some jurisdictions are already moving in the direction of significantly changing the way utilities recover its [sic] costs. Others are looking at implementing a distribution system operator model and/or market models for requesting and compensating DERs based on need, tine, and location. Other states have moved to greatly expand the transparency for, and participation of, regulators into the planning of a utility's distribution system. ... Regardless of what direction regulators of any particular jurisdiction would like to head in the future, the acknowledgement and study of these benefits will most likely be necessary. [internal citations omitted.]

(Emphasis added). See also, Id., stating:

... [W]hen using the traditional model for rate design, which does not compensate (or charge) customers for producing benefits (or costs) for the grid (except through DR programs), it is possible that a portion of the cost benefit analysis for DERs would be missing.

-- Finally, the Draft Manual helpfully suggests that changing the rate structure that applies to all customers is preferable to novel ideas such as creating a special rate to apply only to DER customers. *See* Draft Manual, p. 28, which states:

There is a strong argument to be made for changing the rate structure that applies to all customers, as sending all customers the most appropriate price signal should result in the most economically efficient outcomes related to electricity consumption, as well as decisions on the installation of DER. For a number of reasons, regulators may decide this is not the best approach to recommend, or they may decide this is not the best approach to approve (*e.g.*, promotion or demotion of DER, availability of data, customer acceptance, or fears related thereto).

At the same time, there are several important items in or omissions from the Draft that warrant attention. For example:

-- EFCA cautions against the Draft assuming that DERs pose a challenge to grid operations (*see* pp. 4, 22, and 27), or that they cause a cost-shift. *See e.g.*, Draft Manual p. 22, which states: "These economic issues [posed by DER] include revenue erosion and cost recovery issues as well as inter-class cost shifting apparent in traditional utility rate design . . . " Consistent with the Draft Manual's repeated emphasis on the need for empirical data, EFCA recommends that the Manual refrain from conclusory statements absent such data.

-- EFCA is also concerned that the Draft fails to acknowledge the importance of DER sponsors' contributions to the grid (*i.e.*, that mitigate a purported "cost-shift") through their payment of interconnection fees, as well as their privately financing substantial grid upgrades that benefit <u>all</u> customers, including non-DER customers. For example, EFCA suspects that the prices of the Massachusetts interconnection fees cited in the Draft Manual on p. 58 ("from \$300 - \$7,500") refers only to the costs paid to, *e.g.*, cover staff hours reviewing interconnection applications, and do not refer to the system upgrades DG customers paid in order to interconnect. National Grid Massachusetts has conceded that over \$40 million dollars of system modifications have occurred since 2012, which were paid for by DG customers. (*See* National Grid's Response to Information Request EFCA 1-9 in D.P.U. 15-155).

-- The Draft Manual also treats rate design as if it can be discussed in isolation. To the contrary, EFCA believes that a cost-of-service rate-making approach for DER customers cannot be discussed without also commencing a robust discussion on the cost and benefits that DER provide, as well as on developing more transparent and integrated planning approaches that allow DERs to compete with utility investments in order to ensure system costs are minimized.

-- Finally, EFCA maintains that no meaningful discussion on reforming rate design can occur without also addressing the processes with which rates are set. Recently, Commissions have begun denying DER providers full party status in rate-making and related proceedings.⁴ As the grid evolves from its traditional form in which electricity flows only in one direction (from a centralized source to multiple consumers), into one in which electricity flow is two-way or multi-directional (from multiple, distributed, resources back to the grid, or from one customer to another), it is imperative that institutions also adapt so as to ensure that all resource providers have a seat at the table.

Conclusion

Please do not hesitate to contact Julia Jazynka, Associate, Energy Freedom Coalition of America, <u>jjazynka@energyfreedomcoalition.com</u>, (202) 600-0195, if you would like to discuss any of these comments, or if EFCA may provide any additional information.

⁴ EFCA and other "DG Intervenors" were denied intervention by the Massachusetts Department of Public Utilities (DPU) in D.P.U. 15-155 (Investigation by the Department of Public Utilities on its own motion as to the propriety of the rates and charges proposed by Massachusetts Electric Company and Nantucket Electric Company in their petition for approval of an increase in base distribution rates for electric service pursuant to G.L. c. 164, § 94 and 220 C.M.R. § 5.00 et seq., filed with the Department on November 6, 2015, to be effective December 1, 2015). All DG Intervenors appealed, and were subsequently granted full party rights. EFCA and for-profit "DG" parties were denied intervention in D.P.U. 15-120, 15-121 and 15-122 (collectively referred to as the Massachusetts DPU's Grid Modernization Proceedings), although only one utility, Eversource, opposed the parties' petitions. EFCA appealed the denial on June 1, 2016, but the DPU has not yet ruled thereon. EFCA was denied intervention on May 13, 2016 in Docket No. E-01345a-11-0224 (In the matter of the application of Arizona Public Service Company for a hearing to determine the fair value of the utility property of the company for ratemaking purposes, to fix a just and reasonable rate of return thereon, to approve rate schedules designed to develop such return). EFCA was denied intervention on June 8, 2016 in Docket No. 2015-0389, a proceeding before the Arizona Corporation Commission for Approval to Establish a Rule to Implement a Community-Based Renewable Energy Program and Tariff and Other Related Matters. EFCA was denied intervention on April 4, 2016 by the Public Utilities Commission of Nevada in Docket No. 16-02006 (Joint Application of Nevada Power Company d/b/a NV Energy and Sierra Pacific Power Company d/b/a NV Energy for approval of annual plans for the Solar Energy Systems Incentive Program, the Wind Energy Systems Demonstration Program, and the Waterpower Energy Systems Demonstration Program for Program Year 2016-2017). SolarCity was denied intervention in an August 29, 2016 Order issued by the Public Utilities Commission of Nevada, in Docket Nos. 16-07028 and 16-07029 (Application of Nevada Power Company d/b/a NV Energy filed under Advice Letter No. 466 to revise Tariff No. 1-B to modify Net Metering Rider-A Schedule NMR-A to establish separate rates for grandfathered private generation customers).