



**OFFICE OF THE ATTORNEY GENERAL
STATE OF ILLINOIS**

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NARUC Staff Subcommittee on Rate Design
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*Re: Comments of the People of the State of Illinois by Attorney General Lisa Madigan
on the DRAFT NARUC Manual on Distributed Energy Resources Compensation*

The People of the State of Illinois (the “People”) by Attorney General Lisa Madigan are pleased to submit comments on the 2016 DRAFT NARUC Manual on Distributed Energy Resources Compensation prepared by the NARUC Staff Subcommittee on Rate Design (“Draft Manual”). The Draft Manual is comprehensive and identifies the multitude of factual and policy questions associated with the growing adoption of distributed energy resources (“DER”).

The People of the State of Illinois will address the following three issues:

1. The importance of basing rate design decisions on actual data, including the extent of DER adoption in the service area and the effect of the adoption of DER on revenue recovery and the rates of consumers who have not adopted DER.
2. The role of cost of service studies in assessing the fairness of inter- and intra-class allocations and rate design options.
3. The need to preserve rate design flexibility when advanced meter infrastructure (AMI) is available to maximize benefits for consumers and to allow rates that promote a state’s overall energy policy, including goals such as affordability, energy efficiency, and resource diversity.

1. The People Support the Draft Manual’s Emphasis On Actual Data And Empirical Analysis.

A. Regulators Should Insist On A Threshold Amount Of Data Before Embarking On Rate Design Changes To Address DER.

At the outset, the Draft Manual recognizes that DER are still in their infancy in many jurisdictions, and that their adoption must “pass certain levels” in order to affect traditional rates

and ratemaking.¹ It recommends that regulators should first empirically establish the level of adoption that will affect the grid both to assure that the response to DER is “data driven” and to provide regulators with sufficient time and experience to accurately evaluate the effect of DER on the grid and the local utility.²

The People support this premise, and request that the final manual further emphasize the importance of actual experience and the need to have actual data available in order to evaluate the effect of DER on utility revenue, rates, and whether and/or what rate design changes are appropriate.

B. Regulators Should Develop A Definition of DER That Reflects The Experience and Policies of Their Jurisdiction.

Among the important preliminary questions that need to be addressed before an analysis of DER can be done is how DER is defined. Should DER include only distributed renewable energy or should it also include, *e.g.*, non-renewable fuels such as natural gas generators, or sources of load reductions such as energy efficiency and demand response, microgrids, voltage control, and battery storage? The Draft Manual properly points out that this is a threshold question and there is not a consensus on this definition today.³ States may have differing priorities and experiences (including the rate of adoption of various types of DER) that drive the both the effect and the scope of their definition of DER, which in turn will be an important factor in their analysis of the opportunities and challenges presented by DER.

C. Regulators Should Insist On A Record Based On Discovery And A Comprehensive Data Analyses Of Costs, Revenue Erosion, Effects On Cost Recovery, Cost Shifting, and Benefits Associated With DER Before Addressing Rate Design Changes.

The Draft Manual identifies four categories of costs plus a discussion of possible benefits associated with DER, noting that “economic pressures DER puts on the utility and non-DER customers within a rate class is one of the most divisive issues facing regulators today.” Draft Manual at 22. The Draft Manual appears to accept many of the assertions about revenue erosion and cost recovery,⁴ and cost shifting⁵ made by utilities to justify major rate design changes to address DER.

The People request that the manual refrain from accepting the premises that DER will cause significant revenue erosion, cost recovery challenges (and the notion of fixed costs this discussion includes), and cost shifting within rate classes. Rather, the manual should recommend

¹ Draft Manual at 15.

² *Id.*

³ *Id.* at 15-20.

⁴ Net metering “negatively impacts [the utility’s] revenue collection, though the effect is different in vertically integrated jurisdictions versus restructured jurisdictions.” Draft Manual at 22.

⁵ “Thus, the decline in usage would be shifted to other customers when the billing determinants are reset to account for the decreased revenue from the DER customers.” Draft Manual at 23.

that regulators require empirical data on these issues. Once a threshold level of DER has been established in a jurisdiction, the manual should require the utility to produce an analysis of utility costs and revenue recovery to determine how they have been affected by DER as well as other factors present at the time the analysis is done (are costs and revenues the same, increased or decreased?). Regulators should also require an updated cost of service study to assess whether there should be changes in customer class allocations and cost recovery as well as whether new customer classes are justified by the effect of DER.

The Draft Manual discusses DER benefits and states that “[a] growing number of parties ... acknowledge some benefits of DER.” Draft Manual at 25. Similar to the need to develop a full record on costs, revenue and cost shifting, an investigation into the effect of DER on rate design should include a comprehensive analysis of the benefits of DER. An analysis of the benefits of DER should be included in any rate design investigation irrespective of whether the jurisdiction has a policy to promote DER.⁶ If there are benefits to the grid, they should be identified in any analysis of or investigation into DER.

These benefits should include but not be limited to a reduction in energy production or procurement, a reduction in peak usage, a reduction in operations and maintenance costs, and the availability of ancillary services such as voltage support, and targeted DER investment for reliability or to reduce or eliminate utility costs. For example, in New York, Consolidated Edison has been working on the Brooklyn Queens Demand Management Program to avoid a large investment in a new substation.⁷ New York State has also embarked on the New York Prize program to encourage the development of private microgrids to provide grid resiliency in part to address the threat of extreme weather.⁸ These targeted uses of DER should be included in an assessment of the costs and benefits associated with widespread adoption of DER. If cost savings can be achieved through these investments, they should be considered in designing rates.

The Draft Manual notes that “currently one of the biggest issues, if not currently the biggest, is the dearth of empirical data available on the impacts and specific pros and cons of the different ways regulators can address DER.”⁹ The rate design manual should clearly emphasize the need for the utility or other proponent of rate design changes to produce an empirical and comprehensive analysis of revenues, costs, and benefits associated with DER; and further, that all parties to the investigation are entitled to full discovery so that a complete record based on actual data and experience is available to regulators when asked to redesign rates to address the effect of DER.

⁶ See, e.g., “the regulator should first decide whether he or she is interested *in using rate design options to promote DER* and calculating the attendant benefits.” Draft Manual at 25 (emphasis added).

⁷ See New York PSC, Reforming the Energy Vision, at <https://www.ny.gov/sites/ny.gov/files/atoms/files/WhitePaperREVMarch2016.pdf> at page 8 (“In December of 2014, the PSC approved a plan for the Brooklyn/Queens Demand Management (BQDM) Program. Rather than building a new \$1 billion substation to meet these two borough’s growing energy needs, [Consolidated] Edison will invest in energy efficiency, locally produced clean power and better energy storage to meet the demands of the community at a far lower cost to ratepayers, the utility, and the environment.”). Accessed on August 31, 2016.

⁸ See *id.* at 11.

⁹ Draft Manual at 28.

2. Properly Developed Cost Of Service Studies Are Key To Assessing The Fairness Of Rate Design And Should Be Required When Addressing The Effect Of DER On Rates.

Among the questions raised in the Draft Manual are what rates are “fair” to customers with DER and those without, and whether a separate rate class for DER customers should be created.¹⁰ These questions cannot be answered without a cost of service study that reflects the actual impact that DER customers have on the grid. A cost of service study that functionalizes and allocates costs according to customer class and that identifies differences among customers with and without DER will enable informed decision-making based on the assumptions and analyses of the cost of service study. The final manual on rate design should emphasize the need for a cost of service study that incorporates the presence of DER and can identify its effect on the homogeneity of customer classes, cost recovery and fairness.

3. The Existence Of DER On The Grid Should Not Limit Rate Design Options Available To Regulators And Consumers.

The Draft Manual contains a discussion of the various rate design tools generally used today.¹¹ Flat rates, block rates, time-of-use rates, and riders such as decoupling provide important tools that regulators can use to give consumers flexibility to control their bills, to send appropriate price signals, to address concerns about cost recovery in a time of declining usage, and to promote state public policy goals. With the growing installation of advanced meter infrastructure, or “smart meters,” more rate options are becoming available.

At the same time that more rate flexibility is becoming available, some utilities are proposing increased fixed charges that give consumers less control over their utility bills. In addition to the important observation that these proposals should be viewed in light of utilities’ attempts to use “various justifications to attempt to get increases in fixed charges for a century,”¹² the availability of DER and AMI should result in more – not fewer – rate options for residential customers. Residential customers’ use of the grid is already varied both in terms of when they use the grid and at what usage and demand levels, indicating that more flexible rate options could be beneficial. For example, AMI allows time-of-use rates, peak-time rebates, and real-time pricing, as well as some forms of demand rates.¹³ This broad range of available rate options should not be foreclosed by adoption of a single rate for all residential customers when the uses of resources available to consumers are expanding.

The Draft Manual recognized that rate design often reflects a state’s public policies.¹⁴ Public interest and policies, such as affordability, promotion of energy efficiency, and economic development, should be part of a regulator’s consideration of rate design options. A proposal for

¹⁰ *Id.* at 32-33; 37-38 (fairness); *id.* at 29 (separate rate class).

¹¹ *Id.* at 8-11.

¹² *Id.* at 34.

¹³ While AMI does not measure instantaneous demand directly, the kilowatt-hours used in a 30- or 60-minute period can be converted to a demand measure.

¹⁴ Draft Manual at 12.

a single rate approach, such as the use of demand rates to recover distribution costs, should not be allowed to foreclose adoption of rate structures that will allow consumers to obtain a reasonable benefit from energy efficiency measures; that will provide lifeline or other rate protections for low-income consumers; or that will allow consumers to benefit from installing DER.

Conclusion

The People of the State of Illinois thank the NARUC Subcommittee on Rate Design for circulating its comprehensive Draft Manual and for the opportunity to provide these comments.

Very truly yours,

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