

Current Summary of PSC Docket #12-001-R

In 2001, the Arkansas Legislature passed the *Arkansas Renewable Energy Development Act of 2001*, the statute providing net metering for Arkansans. In 2002, the Arkansas Public Service Commission (APSC) set the Docket to promulgate the Rules and Procedures with which utilities would use to develop their tariffs and interconnection contracts. Among the issues being debated was a request by utilities for net metering system owners to be required to carry liability insurance. The compromise was mutual indemnification, which left the net metering customer not having to buy insurance, but still liable for any damages to utility property or personnel. Most homeowners and businesses carry insurance for their homes or businesses, so it was not seen as much of an impediment to net metering.

Over the last few years, however, several net metering systems have been installed that are owned by either the US government, state government, state educational institutions or municipalities. Because of *sovereign immunity*, these agencies cannot sign the utility interconnection contracts that would open them to liability. The requirement has turned out to be much more of a barrier than any of us thought at the time, and the Commission and Parties are now revisiting this issue in Docket 12-001-R. In Order #1 of the Docket, the Commission left open the opportunity to raise other issues that may also be impediments to net metering in Arkansas.

Five entities have intervened as Parties to the Docket, the Joint Utilities, the Attorney General, a state government group known as State Agencies, the APSC Staff, and William Ball. The process to date has involved the filing of *Initial Comments*, *Reply Comments*, and *Surreply Comments*. With regard to the issue of insurance or indemnification, the Joint Utilities have maintained throughout their comments that they require indemnification or insurance in lieu there of. Though the reasons varied from the other Parties, they all have recommended that indemnification language be stricken from the net metering interconnection agreements and that

no insurance be required. Absent a single incident, anywhere in the nation, of a net metering system causing damage to utility equipment or injury of utility linemen, the Commission may move to strike indemnification requirements.

In his *Initial Comments*, William Ball provided arguments and asserted four other issues that should be included in the debate. The positions taken in *Reply* and *Surreply* comments by the other Parties are summarized following a brief explanation below of the four other issues.

(1) Meter Aggregation: Arkansans would benefit from the ability to aggregate numerous meters in order to take advantage of a single net metering facility they may own and operate. Examples include a 50kW wind machine that the City of Burdett, Arkansas installed. Aside from the fact that they have yet to operate the equipment because of the indemnification clause in the utility agreement, when the system is connected to the grid, it will generate much more energy than the City uses at the net metering location. The current *Rules* dictate that any net-excess generation credit remaining at the end of the year is granted to the utility. Meter aggregation would allow the City to receive credit for net-excess generation at other city owned utility meter locations. Another example might be a farm with dozens of irrigation pumps, each with their own meter. The farmer could install one larger net metering system with the renewable energy generation credited against energy usage by the entire farm.

(2) Capacity Limits for Net Metering Facilities: The current capacity limitations in the existing net metering rules are 25kW and 300kW for residential and commercial, respectively. Along with other arguments, Mr. Ball cited the portion of the law which stipulates that net metering is intended to “*offset part or all of the net-metering customer*

requirements for electricity” and pointed out that in many cases the current capacity limits restrict larger consumers from offsetting all of their requirements for electricity.

(3) Forfeiture of Net Excess Generation at the End of the Calendar Year: Of the 47 states that currently have net metering programs, only 11 states, including Arkansas, grant excess generation from a net metering customer back to the utility. All others either carry over credits indefinitely or compensate net metering customers for net excess generation at the avoided cost rate or above, some being based on time of use/generation or energy supply rate. Citing possible consideration of the PURPA Act of 1978 requiring utilities to purchase electricity from small producers at the “avoided cost” rate, Mr. Ball asked the Commission and Parties to develop more favorable terms for net metering customers.

(4) Fair and Appropriate Compensation for Renewable Energy Generation: Mr. Ball asked that the Commission and Parties expand the Docket to consider moving beyond or expanding net metering to provide for *feed-in tariffs* (FIT) or some other means of offering long-term contracts that compensate renewable energy generation at rates that recognize the full range of benefits that RE offers. He argued that long term contracts requiring utilities to purchase RE generation will provide the stability needed to attract investment in RE generation facilities and RE equipment manufacturing facilities.

The *Joint Utilities* argued against all four of the issues introduced by Mr. Ball. The Attorney General saw merit in the issues and deemed them worthy of further consideration, although perhaps in a separate Docket regarding the FIT. The *State Agencies* did not take positions on the four issues in their *Reply Comments*, however were more supportive in their *Surreply Comments*. The APSC Staff suggested a need for more evidence supporting Mr. Ball's assertions, or contended that the Commission might not have the statutory authority to address some of the issues. The *Public Hearing* is April 10th, and it is unlikely that the Commission

will include all of the issues introduced by Mr. Ball. However, there is a chance that renewable energy may get a little more attractive in Arkansas.

04/02/2012