



People's Energy Cooperative

Your Touchstone Energy® Cooperative 

July 15, 2015

To: Daniel P. Wolf
Executive Secretary
Minnesota Public Utilities Commission
350 Metro Square Building
121 7th Place East
St. Paul, MN 55101-2147

From: Elaine J Garry
People's Energy Cooperative
1775 Lake Shady Avenue South
Oronoco, MN 55960
egarry@peoplesrec.com

SUBJECT: Response to Comment on Dispute Resolution: Docket E-132/CG-15-255

Dear Mr. Wolf:

People's Energy Cooperative (PEC) respectfully submits the attached response to comments filed with the Public Utilities Commission in the matter of a Request for Dispute Resolution; Docket E132-32/CG-15-255.

Please contact me or Gary Fitterer (gfitterer@peoplesrec.com) for any questions on this response or additional questions related to the concerns raised by Mr. Miller.

Sincerely,



Elaine J Garry
President and CEO
(507) 367-7000
egarry@peoplesrec.com

Enclosure

**STATE OF MINNESOTA
BEFORE THE
MINNESOTA PUBLIC UTILITIES COMMISSION**

Beverly Jones Heydinger
Nancy Lange
Dan Lipschultz
John Tuma
Betsy Wergin

Chair
Commissioner
Commissioner
Commissioner
Commissioner

In the Matter of People's Cooperative Services dba Peoples Energy Cooperative – Request for Dispute Resolution with People's Energy Cooperative under the Cogeneration & Small Production Statutes and Rules

PUC Docket Number E132/CG-15-255

June 5, 2015

**Response to Comments
People's Energy Cooperative**

People's Energy Cooperative (PEC) respectfully submits the attached response to comments submitted to the Minnesota Public Utilities Commission (Commission or MPUC) in regards to the request for comments issued by the Commission in the above-referenced docket on May 5, 2015.

Comments submitted question (1) the authority of PEC to implement a monthly charge as part of PEC's distributed generation rate schedule under statute, (2) the PEC Board of Director's need to "provide balance" between distributed generation (DG) customers and all other customers is setting rates, (3) the fairness of the amount of the charge, (4) the ability of the utility to assess a charge to recover costs currently recovered through the energy charge of the applicable rate schedule for the original service the DG system is interconnect with, and (5) the ability of PEC to modify the DG rate schedule.

Authority to Implement a Monthly Charge

PEC's authority to implement a monthly charge within the DG rates schedule was questioned by Minnesota Solar Energy Industry Association (Industry Association), the Alliance for Solar Choice (Solar Choice) and Fresh Energy, Environmental Law & Policy Center, Institute for Local Self-Reliance and Minnesota Center for Environmental Advocacy (Clean Energy Organizations). The Clean Energy Organizations base state "Peoples' \$5.00 monthly distributed generation fee (DG charge) is not authorized by Minnesota's net metering stature, Minn. Stat. § 216B.164". This statement is not consistent with Minnesota Statues §216B.01 and § 216B.164 Subdivision 3(c).

Minnesota Statutes Section § 216B.01 states:

"Because municipal utilities are presently effectively regulated by the residents of the municipalities which own and operate them, and cooperative electric associations are presently effectively regulated and controlled by the membership under the provision of chapter 308A, it is deemed unnecessary to subject such utilities to regulation under this chapter except as specifically provided herein."

Under Minnesota Statue Section § 216B.01 cooperatives are regulated and controlled by the membership unless specifically directed otherwise in statue. Cooperative regulation and control is accomplished through its bylaws and the election of its Board of Directors. The Board of Directors of People's Energy Cooperative is identified as the rate setting authority. This authority is not removed by Minnesota Statue Section § 216B.164 in regards to setting DG rates. Minnesota Statue Section § 216B.164 does provide guidance to the cooperative board of directors in subdivisions 3(a), 3(c), 3(d) and 3(e). The guidance in the subdivision is both direct in its mention of cooperative associations and municipalities and indirect through direction to the Commission.

Minnesota Statutes Section § 216B.164 subdivision 3(c) states:

"In setting rates, the Commission shall consider the fixed distribution costs to the utility not otherwise accounted for in the basic monthly charge and shall ensure that the costs charged to the qualifying facility are not discriminatory in relation to the costs charged to other customers of the utility."

Minnesota Statue Section § 216B.164 subdivision 3(c) authorizes the implementation of a monthly fee to address costs in setting DG rates. The authority to set a fee to qualifying facilities to recover costs not otherwise accounted for was a part of Minnesota Statues prior to the time PEC implemented the \$5.00 base charge within its DG rates. Therefore, as the rate setting body for PEC, the Cooperative Board of Directors has the authority to include a charge within the DG rates.

The Need to Provide Balance

In comments submitted to the Commission, the Industry Association "still question whether a balancing test is even required here". It justifies its comment with Minnesota Statue Section § 216B.164 subdivision 1 which states:

"This section shall at all times be construed in accordance with its intent to give maximum possible encouragement to cogeneration and small power production consistent with protection of the ratepayers and the public"

This statement of intent has two components: “to give maximum possible encouragement to cogeneration and small power production” and “protection of the ratepayers and the public”. Further subdivision 1 requires the two to be “consistent with” each other. On the whole Minnesota Statute Section §216B.164 Subdivision 1 requires a balance of promoting cogeneration and small power production and protecting all ratepayers and the public.

The Fairness of the Amount

A sound approach was used in determining the amount to charge by PEC. People’s Energy Cooperative used common industry practice in setting its rates with the goal of accounting for cost unique to the existence of the qualifying facility and not recovered within the monthly service charge for the service the qualifying facility was interconnected at. Prior to implementing a base charge within its DG, People’s Energy Cooperative used its most recent Cost of Service Study to determine the amount. The Cost of Service Study was conducted during 2011 and published in 2012. Although the study did not specifically address the unique costs of interconnected facilities, PEC used information for a load management program in setting the rates.

As explained in its response to information requests submitted to the Commission, PEC modeled its base charge for the DG rate on its Dual Fuel load management program. The program shares some similar physical and administrative characteristics to an interconnected qualifying facility. Both the dual fuel system and qualifying facility exist interconnected to an existing electrical service, involve processing readings for billing (or invoicing) in addition to readings for the customer’s electrical service, and both have an impact on the size of a the distribution service transformer and installation of other equipment that adds to the costs at the service point. Although the dual fuel systems and qualifying facilities share some characteristics, not all cost impacts unique to the existence of a qualifying facility being interconnected at a service point are included.

Use of the dual fuel program as a model allowed a fairer assessment of the unique costs associated with the qualifying facilities by utilizing information for over 1,000 dual fuel accounts instead of less the ten (10) qualifying facilities which had been interconnected during the study’s base year. The dual fuel load management program’s rate is also designed to account for benefits gained by the cooperative when the systems are dispatched to reduce overall distribution system demand. Use of the program as a model also accounts for similar benefits of a DG system even if the impact of qualifying facilities is not as great because their generation (sales) of electricity cannot be dispatched to match up with peak system demand.

By utilizing the available information in its most recent Cost of Service Study and striving to account for unique ongoing costs caused by the presence of the qualifying facility, while not charging in excess of what is assessed to non-generating customers, PEC was acting in a fair, reasonable and non-discriminatory manner toward DG customers in its implementation of the \$5.00 monthly base charge to DG customers.

Charge to Recover Costs Currently Recovered Through the Energy Charge

In its comments dated July 6, 2015, the Minnesota Department of Commerce (Department) addresses the topic of cost shifting. Cost shifting occurs when part of the cost to provide original service for the class of customer is recovered within the utility's rate and those costs are shifted to other customers when a qualifying facility is interconnected and paid under the average retail utility energy rate option. This cost shift occurs in two forms. First in costs not recovered when qualifying facility generated energy is consumed by the customer instead of purchasing from the utility. The second is when the utility pays the qualifying facility that part of the service delivery costs in purchasing generated energy. This happens because all revenue from kwh sales is part of the average retail utility energy rate calculation whether it was to recover wholesale energy costs or fixed costs. The level of the cost shift varies based on how fully applied the monthly service charge is, compared to the cost of service for that customer class. For example PEC's cost of service for residential customers was \$55.84 in its 2012 Cost of Service Study report and the current monthly service charge is \$37.00, or 66.3% of the cost of service. The cost shifting effect will vary but exists for all utilities. This is because by the nature of regulatory process (whether through the Commission, the municipal process, or in the cooperative association), as well as time factors, the cost of service will never be fully applied through the monthly service charge.

In the existence of cost shifting occurring through the interconnection of a qualifying facility PEC agrees with the Department that cost shifting occurs and should be considered. However, PEC respectfully disagrees with the Department in its conclusion "that assessing a charge on DG customers to cover the customer costs currently being recovered through the energy charge would constitute rate discrimination". PEC believes the issue is how best to implement such a charge so it is not discriminatory to cogeneration and small power production and is consistent with protection of the ratepayers and the public.

PEC also believes the matter of cost shift does not direct apply to the request for dispute resolution being considered by the Commission. The \$5.00 monthly charge implemented by PEC used its 2012 Cost of Study which did not consider the effects of cost shifting. Therefore recovery of service costs normally recovered in the energy charge is not a part of the monthly charge and should not influence the Commission's decision on whether the amount is fair.

Ability to Modify the DG Rate Schedule

The Department in its July 6 comments questions PEC's authority to "unilaterally implement future rate changes". PEC believes it has the authority to modify the rate as a rate schedule of the Cooperative. The basis of the question is the interconnection contract signed by Mr. Miller as well as the State Wide Uniform contract. Within both contract forms the attachment being referenced is identified as a rate schedule. The attachment given to the member with the contract is clearly identified as a rate schedule for People's Energy Cooperative which by its bylaws are "...from time to time be fixed by the Board". The language of the uniform contract in section three (3) states "rates for sales and purchases of electricity may change over the time of the contract is in force due to actions of the Utility, or of the Commission, and the QF agree that sales and purchases will be made under the rates in effect each month during the time this contract is in force". This language does authorize the updating of the Utility's rates that govern the purchase and sale of electricity. Further, the utility is required to update the DG rate by Minnesota rule based on the average retail utility energy rate. Therefore, the PEC Board of Directors, as the Cooperative rate setting body, has the authority to change all aspects of its DG rate schedule as long as it is consistent with Minnesota Statute.

Both the contract signed by Mr. Miller and the uniform contract neither explicitly grants nor prohibits PEC from adding a component to the rate schedules. PEC believes it can add a new component to its rate schedules. Specifically, PEC believes it can add a new component to its DG rate schedule as long as that component is for purposes allowable under Minnesota Statute and rule. As a monthly charge is allowable under Minnesota Statute Section §216B.164 Subdivision 3(c), PEC believes it can add the monthly charge to the rate schedule and apply it to the qualifying facilities interconnected prior to the addition of the charge as well as those who interconnected after the charge has been put in place.

In conclusion, People's Energy Cooperative believes it has authority under Minnesota State Statute to add a charge to the DG rate schedule to recover ongoing costs incurred due to a qualifying facility, and that PEC has acted in a fair and nondiscriminatory manner in setting the rates and its application of the new rate component to qualifying facilities in place prior to implementation.