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Federal Trade Commission
Office of the Secretary
600 Pennsylvania Avenue N.W.
Suite CC-5610 (Annex B)
Washington, DC 20580

Via electronic submission through http://ftcpublic.commentworks.com/ftc/solarworkshop

RE: Solar Electricity Project No. P161200

The National Rural Electric Cooperative Association ("NRECA") appreciates the opportunity to submit additional comments following the Federal Trade Commission's workshop on "Competition & Consumer Protection Issues in Solar Energy" on June 21, 2016.

Based on the discussions during the workshop, NRECA has reached the following conclusions, and urges FTC to adopt them as recommendations:

1) **Compensation mechanisms for Distributed Energy Resources (DER), such as Net Energy Metering (NEM), should be formed by local governing bodies, such as electric cooperative boards of directors, and/or state regulatory bodies, such as individual state public utility commissions.**

2) **Because solar and other DERs provide a different product than utilities and thus do not compete with electric utility companies, there is no role for antitrust enforcement to encourage entry of solar and other DER providers.**

The following document provides support for these recommendations.

Recommendation #1: Local or state governing bodies should form DER compensation mechanisms

State and Federal Jurisdiction

During the workshop, there was a general consensus that states should continue to have jurisdiction over setting retail rates and DER compensation mechanisms. NRECA strongly agrees with this conclusion.

It is important to balance the current and future needs of consumers while providing safe, affordable, reliable, and environmentally-sustainable electricity. The job of balancing these priorities must go to an experienced decision-maker who can promote and implement good ideas with long-term value tailored to local conditions. The challenge for regulatory authorities is to see how each of the goals they seek to pursue fit together. Regulators must prioritize among goals, clearly set expectations, and hold utilities accountable while also leaving them free to find the best means to achieve them in light of their local conditions. Frequently, these are disparate

objectives and, as such, need one central decision-maker that understands all the components that go into finding a path to attain the objectives.

The electric cooperative model achieves this goal because it is centered on a regulatory compact. Co-op rights and responsibilities are balanced. The co-op structure is ideal for providing safe, reliable, and affordable electricity. The structure also provides the tools to incentivize solar deployments in ways that are reasonable and fair and do not shift costs to other customers. Co-ops can do this through 1) establishing rate structures that equitably compensate solar consumers for net excess generation, while also 2) ensuring that costs are appropriately allocated among customers, and 3) establishing standards for solar technologies to safely and reliably interconnect to the system.

NRECA represents more than 900 rural electric utilities across 47 states. In each of these states, cooperatives are subject to different state regulatory authorities, and must respond to their own unique, local conditions and consumer preferences. Each cooperative must find the solution that works best for them, and that solution is best decided at the local level.

Commissioner Ellen Nowak (Wisconsin PUC) provided additional support for this viewpoint. In her remarks, she asserted that states have an exclusive right to set rates, and that net metering is a state issue. In addition, she discussed how conditions in Wisconsin that lead to a certain decision may be different from other states. She concluded that a national or one size fits all approach to net metering is inappropriate.

Retail Rates and Net Metering

NRECA believes that there is no one size fits all approach to rate making and DER compensation. Such decisions are best made at the local level, and tailored to local system conditions and consumer desires. When designing rates and DER compensation mechanisms, it is important that DER is fairly compensated while costs are not shifted to non-DER customers.

During the workshop, a number of statements were made in regard to net metering. Jon Wellinghof (Solar City), for instance, stated: "we believe that the claim of cost shifting is not fact-based and has not been, in fact, determined with substantial evidence".

On the other hand, Professor Borenstein (University of California-Berkeley) argued that most studies show that DG reduces revenue by more than the value it's adding to the system. He also argued that rates should be set to meet the goal of achieving a reliable, efficient, environmentally-appropriate system.

In addition, Allen Mosher (APPA) stated that "with net energy metering, based on an energy only charge, it is never going to be an accurate price signal to customers or recover utility costs."

NRECA strongly agrees with Borenstein and Mosher's statements. As mentioned in NRECA's previous comments, on the whole DG solar creates more costs to the system than it reduces. As a result, under net metering, compensating DG solar production at the retail rate reduces utility

revenue and unfairly shifts costs to non-DG customers. This is especially difficult for co-ops, who are democratically governed and operate at cost.

As Borenstein mentioned, several studies show that DG solar leads to cost shifting under net metering. For instance, a study commissioned by the California Public Utilities Commission found that "to the extent that the NEM customer's bill reduction is greater than offsetting utility savings, NEM will create a cost shift from NEM customers to other customers as utilities adjust their rates to compensate for the shortfall." The study estimated that net costs were already $252 million in 2012, and that if the program grew to its full capacity "the costs associated with all NEM generation are forecast to be approximately $1.1 billion per year in 2020".[1]

A similar study on the impact of NEM was performed in New York. The study found that "after installing a NEM system, a customer experiences electric bill savings due to reduced consumption, which means the utility is receiving less revenue from that customer including reduced revenues for public purpose programs." In addition,

> "There is an annual net cost to non-participants of the NEM policy that ranges from $10 million to $60 million across our four defined scenarios ($38 million for the Untargeted Case) for the 500 MW of NEM systems in 2015. This represents the annual net cost for the 2015 snapshot year, based on aggregate results over all utilities and customer classes and is due to both the MW Block Incentive and the NEM programs."[2]

Finally, a study released this month showed that net metering in Nevada led to a substantial cost-shift between DG and non-DG customers. The study included the most recent utility data and incorporated the recent reforms enacted by the Nevada PUC. The study found that:

> "There is a cost-shift from NEM customers to non-participating customers for both existing installations and future installations. In total, existing installations shift approximately $36 million per year while an equivalent amount of hypothetical future installations would shift an additional $15 million per year".[3]

It is clear based on the testimony during the workshop and the available studies that NEM has already led to cost-shifting, and that unless rate designs and DER compensation mechanisms are improved this problem will only grow in the future. Professor Schmalensee put it simply: "that's arithmetic folks".

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[1] *California Net Energy Metering Ratepayer Impacts Evaluation*; Energy and Environmental Economics, Inc. (E3); October 28, 2013. <http://www.cpuc.ca.gov/uploadedFiles/CPUC_Website/Content/Utilities_and_Industries/Energy/Reports_and_White_Papers/NEMReportwithAppendices.pdf>

[2] *The Benefits and Costs of Net Energy Metering in New York*; E3; December 11, 2015E3 New York. <http://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=1&ved=0ahUKEwi53o-hh8fOAhUF2R4KHfZJAq8QFggcMAA&url=http%3A%2F%2Fdocuments.dps.ny.gov%2Fpublic%2FCommon%2FViewDoc.aspx%3FDocRefId%3D%257BF4166D6E-CBFC-48A2-ADA1-D4858F519008%257D&usg=AFQjCNE6P_zsMdiei0hvtII3c3Irc1FlLw&sig2=0Q_JSXtQ4lqMvlfZNPW7jA&bvm=bv.129759880,d.dmo>

[3] Nevada Net Energy Metering Impacts Evaluation 2016 Update. Energy and Environmental Economics, Inc. (E3); August, 2016. <http://pucweb1.state.nv.us/PDF/AxImages/DOCKETS_2015_THRU_PRESENT/2016-8/14179.pdf>

Recommendation #2: There is no role for antitrust enforcement to encourage DER providers

NRECA endorses the general conclusion from the workshop that there is no role for antitrust enforcement to promote competition between solar providers and electric utilities. As noted in NRECA's previous comments, electric cooperatives sell safe, reliable, and affordable electric service at reasonably stable rates over the long term, and have an "obligation to serve" all customers. They do not sell a commodity (kilowatt hours). The service that cooperatives sell requires them to manage risk and optimize the entire utility system to meet various business and regulatory goals, including safety, affordability, matching resources to load profile, support for new technologies, job promotion, economic development, fuel diversity, fuel efficiency, regulatory compliance, environmental sustainability, reliable operations, power quality, locational value, utilization of non-generation alternatives, and counter-party risk. Solar DER providers sell a commodity-electric energy-under certain conditions, to certain consumers and during certain times of the day. They do not compete with distribution cooperatives to provide this product. Moreover, solar DER providers not only offer a different product, they also participate in a different market.

Professor Schmalensee's remarks at the FTC Workshop affirmed this point. He noted that his local utility was "decoupled," meaning that it owns no electric generation assets and it purchases all of the generation it sells to its retail consumers from the wholesale market. In this case, he said, rooftop generation competes with other generation in the wholesale market, but that rooftop solar does not compete with what his local distribution utility supplies. This fact removes any potential anticompetitive issue simply because the utility has no incentive to resist rooftop solar.

To the extent that there is competition with utilities, that competition is in the upstream generation market. Retail solar providers often over-size generation to provide more power than their immediate retail consumers are using at any moment. They seek to sell the net excess generation to the consumer's utility. In this case, rooftop solar is in competition with the utility's own power supply. Professor Schmalensee recognized this issue and noted that it was a difficult regulatory problem, particularly in areas of the country without competitive RTO markets. Nonetheless, he concluded that there "is no role for antitrust."

Professor Schmalensee and others recognized that net metering policies provide a competitive advantage for distributed generation. Currently solar rooftop providers realize a significant regulatory advantage because PURPA 210, state net metering laws, and other state policies require utilities to buy excess solar rooftop generation, often at a premium. Ordinarily, a utility would acquire that same kWh of power from its own cost-effective resource or from the competitive wholesale market. In the present regulatory environment with net metering, rooftop solar displaces low cost owned generation resources and competition in the wholesale market. Not only does this increase the cost of providing generation to the grid as a whole, it may also increase the cost of operating the grid in a manner which ensures reliable distribution grid operations. The advantages provided by net metering appear to be a greater risk to competition.

Conclusion

The conclusions from the workshop are clear: there is no role for antitrust enforcement, and state and/or local regulatory bodies are best situated to develop DER compensation mechanisms. Again, thank you for the opportunity to submit additional comments following the workshop. Please feel free to contact me with any questions.

Respectfully submitted,

Jay Morrison
Vice President Regulatory Issues
National Rural Electric Cooperative Association
4301 Wilson Boulevard
Arlington, VA 22203
(703) 907-5825 (office)

jay.morrison@nreca.coop