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Via Email: URCComments@urc.in.gov

Beth Heline, General Counsel
Indiana Utility Regulatory Commission
101 W. Washington Street, Suite 1500 E.
Indianapolis, IN 46204

Re: Comments for the SEA 309 Technical Conference on July 20, 2017

Dear Mrs. Heline:

We commend the Indiana Utility Regulatory Commission (“IURC” or “Commission”) for hosting a Technical Conference as a forum to address questions and concerns regarding the implementation of the newly-enacted IC § 8-1-40, also known as Senate Enrolled Act 309 (“SEA 309”) on net metering and distributed generation. We are hopeful that this Technical Conference will result in clarification to the public and interested parties regarding how SEA 309 will be implemented. Bose McKinney & Evans LLP represents several clients that are affected by SEA 309, including the following types of customers with existing or planned distributed generation: industrial companies, solar installers, financing entities, schools, churches and municipalities. As utility practitioners, we appreciate the opportunity to provide comments in advance of the Technical Conference, so that we may provide sound advice to our clients about the bill’s impact. As we watched the legislative process surrounding SEA 309 unfold and have reviewed the bill in its final form, we raise the following issues and questions for the Commission’s consideration:

1. It appears as though the customer must “install” a net metering facility and be “participating in the electricity supplier’s metering tariff” by December 31, 2017 to meet the deadline for the 30-year “grandfathering” of the current net metering rules (*see* SEA 309, Section 13(a) and (b)). There does not appear to be any clear definition of what qualifies as an “install,” nor are we clear on the timing and steps required to ensure customers are “participating” in the net metering tariff. Must an interconnection agreement be in place? What happens if a customer’s project is in the “pipeline” (e.g., the interconnection application is in process and/or has been approved), but the project is not yet fully “installed” by December 31? If a customer executes a net metering agreement

during the December billing period, would it take effect immediately, or would the utilities claim the customer didn't "participate" until the January 2018 billing period (therefore after December 31, 2017 deadline)? What if the utility caused additional delay that was not the fault of the customer? Such a delay might not be intentional, but rather might simply be caused by the sheer volume of interconnection requests the utility may receive in advance of the deadline. From a practical standpoint, it would be very helpful for the Commission to provide the specific requirements necessary to meet this December 31, 2017 deadline.

2. What, if any, changes does the Commission anticipate will be necessary to the Customer-Generator Interconnection Rules (170 IAC 4-4.3) as a result of SEA 309? For example, a new definition of "distributed generation" was created in SEA 309, Section 3(a)(2), which requires that the generation device on the customer's premises be owned by the customer. However, 170 IAC 4-4.3 -1(d) provides that a customer-generator facility includes equipment for the production of electricity owned by a third party at the customer's site (thus, customer-generator facilities can be, but are not required to be, owned by the customer). How would Section 3(a)(2) in SEA 309 impact customer-generation projects financed or owned by third parties?
3. Section 3 of the bill also requires that the nameplate capacity be the lesser of 1 MW or the customer's average annual consumption of electricity. As a threshold issue, this comparison is problematic because it compares MW (instantaneous power) to MWh (energy production over a period of time). We have interpreted this to mean that the nameplate capacity must be the lesser of 1 MW or the system size (in kW or MW) that is expected to generate electricity over the course of a year that is not greater than the customer's average annual consumption of electricity. We would appreciate guidance from the Commission about whether this is the right approach, particularly given the number of assumptions that can be made regarding how much power a system is expected to produce. Given that consumption can vary widely with the weather, over what period of time should this average annual consumption be calculated? What happens if a solar photovoltaic ("PV") system is installed according to these guidelines, and then in the future, the customer subsequently improves the efficiency of the building such that the solar PV system would generate considerably more power than the customer's average annual consumption?
4. After 2022, the price a customer will receive for excess distributed generation is the average annual market price for electricity (meaning the hourly market price established in the wholesale market, *see* SEA 309, Sections 6 and 17). Since regional transmission

organization pricing varies from hub to hub, how will a customer know which price is applicable? How will customers and solar installers be able to forecast the price they will receive for excess generation (particularly in regard to meeting the right to know provisions noted below, related to the price of electricity they will be credited under SEA 309, Section 23(a)(5))?

5. The total amount of net metering nameplate capacity was raised from 1% to 1.5% (see SEA 309, Section 9). Is nameplate capacity in alternating current (AC) or direct current (DC)? Forty percent of that nameplate capacity is now reserved for residential customers, and 15% is reserved for biomass. That leaves 45% (or 0.675% of the total 1.5%) reserved for all other types of customers, including schools. The IURC's March 2017 Net Metering Report indicates that Indiana is already 1/10 of the way to that point, with approximately 0.08% of the existing nameplate capacity currently serving non-residential customers. Will the Commission require reporting for biomass nameplate capacity? Particularly given these percentages are based on the most recent summer peak, which can vary widely from year-to-year due to weather, will the Commission require more frequent reporting than annually (particularly after the summer peaking season), so that customers whose projects are being contemplated or who are not yet complete will have advanced notice that these caps are close to being met?
6. Customers producing distributed generation will receive a new delivery charge which is intended to capture costs the utility incurs from serving those customers (*see* SEA 309, Section 18). Since these rates have not yet been filed or approved by the IURC, it is difficult to determine what financial impact this new delivery charge will have, but it most certainly will at least partially offset any credit the customer receives at the wholesale rate for excess generation. What process does the Commission anticipate that utilities will use to establish delivery charges?
7. There are also several new customer "right-to-know" provisions, including the amount of electricity produced, tax implications of the project, rate for excess generation, insurance and responsibilities for installation and removal of equipment. While we support transparency, we ponder how installers of distributed generation will meet these right-to-know requirements, particularly given the unknowns we have identified regarding what rates customers will receive for excess generation and be charged for delivery costs? If an installer cannot own the equipment under the net metering rule, how does it make representations regarding insurance, removal of equipment, etc. for facilities it does not own?

8. The Attorney General is authorized to enforce the new distributed generation law, including by receiving customer complaints regarding installation and ownership of distributed generation equipment. Does the Commission's Consumer Affairs Division intend to continue to take consumer complaints regarding net metering, particularly with regard to any disputes about whether a customer has met the December 31, 2017 deadline for grandfathering?
9. Does the Commission plan to evaluate in the impacts of SEA 309 and present the results of the Technical Conference to the Summer Interim Study Committee that is to consider issues related to self-generation by schools?

Should you or the Commission staff have any questions or require any clarification of our comments in advance of the Technical Conference, please don't hesitate to contact us.

Sincerely,



Kristina Kern Wheeler



Nikki Gray Shoultz

KKW/NGS

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