

**Questions and Comments to the IURC regarding 309 Implementation
Carmel Green Initiative, CAC, HEC, IndianaDG, Sierra Club—Hoosier Chapter
June 28, 2017**

Per the request of the Indiana Utility Regulatory Commission (IURC) in preparation for the Technical Conference to be held on July 20th, please find below questions, concerns, and comments related to the implementation of Senate Enrolled Act (SEA) 309 and net metering generally from Carmel Green Initiative, Citizens Action Coalition of Indiana, Hoosier Environmental Council, Indiana Distributed Energy Alliance (IndianaDG), and Sierra Club—Hoosier Chapter. We respectfully reserve our right to supplement this list of questions and comments, especially since we limited this submission to our immediate concerns about the implementation of SEA 309 and provisions related to net metering. We would anticipate a much more involved process for provisions related to cogeneration or what happens after the expiration of net metering, for example.

- 1) **SECTIONS 13 & 14:** There is a high degree of uncertainty regarding certain provisions contained within Sections 13 and 14 of SEA 309.
 - i) Both sections apply to “a customer that installs a net metering facility (as defined in 170 IAC 4-4.2-1(k))”. However, the word “installs” is not defined in SEA309, nor is it defined in the 170 IAC 4-4.2-1(k). What does “installs” mean?
 - ii) We would note that the definition provided in 170 IAC 4-4.2-1(k) states that a “net metering facility means an arrangement of equipment for the production of electricity from an eligible net metering resource, that is owned and operated by a net metering customer.” This definition is vague and may need clarification.
 - iii) Both sections apply to “a customer that is participating in an electricity supplier’s net metering tariff”. However, the word “participating” is unclear and undefined. When is a customer “participating”? Is it when the interconnection agreement is filed with the utility, when the interconnection agreement is approved by the utility, when the meter is dropped, when the final inspection is complete, etc.? If the definition is interpreted to mean any time after the interconnection agreement is filed with the utility by the customer, then we have a host of concerns:
 - a. There are multiple Solarize¹ campaigns across the State, as well as an overall sense of urgency to have panels installed prior to the December 31, 2017 deadline contained within SEA 309. This is creating concern that electricity suppliers may slow-walk new installations, creating a bottle-neck of applications, similar to the issues addressed in IURC Cause No. 44344. What can the IURC do to alleviate the concerns of the public and ensure customers of their ability and their right to get in under the extremely tight deadlines the legislation imposes without impediments from the utility, including a utility requiring unnecessary equipment like an external disconnect switch for small inverter-based systems or taking advantage of the complex and multiple

¹ See, e.g., this resource for an explanation of Solarizing a community:
<http://www.nrel.gov/docs/fy12osti/54738.pdf>.

**Questions and Comments to the IURC regarding 309 Implementation
Carmel Green Initiative, CAC, HEC, IndianaDG, Sierra Club—Hoosier Chapter
June 28, 2017**

rounds of paperwork and hand-offs in the interconnection process? These issues were addressed in Cause No. 44344.²

- iv) Both sections state that a customer “shall continue to be served under the terms and conditions of the net metering tariff until” the tariff expires or “when the customer removes from the customer’s premises or replaces the net metering facility”. However, this is ambiguous and should be clarified. For example:
- a. Does this mean that a customer loses their net metering status if they replace a PV module, inverter, or any other component of the net metering facility due to storm damage, equipment failure, or any Force Majeure event which is not the fault of the customer?
 - b. Many customers install a few panels due to financial resources or other constraints, with the intent of adding to the system in the future. Will customers lose their net metering status if PV modules are added to their existing net metering facility? Will customers lose their net metering status if the addition of PV modules requires a new inverter, which may require a new interconnection agreement?
 - c. What if the roof needs to be replaced or there is an issue with a homeowner’s association requiring the facility to be removed and replaced with the same facility or a new facility?
 - d. Will customers maintain their net metering status if they upgrade their PV modules or any other component of the net metering facility to increase the efficiency or energy production of their system? A recent example which has been brought to our attention is the new Tesla solar roof. So, what would happen to a customer’s net metering status if she replaces her existing net metering facility with a Tesla solar roof?
 - e. Will customers maintain their net metering status if they add a battery storage system to their existing net metering facility?
 - f. Will customers maintain their net metering status if they move panels due to re-roofing, remodeling, or other reasons?

² Please see CAC’s post-hearing brief, available here, for more information:
https://iurc.portal.in.gov/entity/sharepointdocumentlocation/d6c95baf-7784-e611-8107-1458d04eabe0/bb9c6bba-fd52-45ad-8e64-a444aef13c39?file=44344_7_18_20149-16-34pm.pdf.

**Questions and Comments to the IURC regarding 309 Implementation
Carmel Green Initiative, CAC, HEC, IndianaDG, Sierra Club—Hoosier Chapter
June 28, 2017**

- v) Both sections state that the net metering status can be transferred to a “successor in interest to a customer’s premises on which is located a net metering facility (as defined in 170 IAC 4-4.2-1(k))”. However, successor in interest is not defined in SEA 309.
 - a. Would a successor in interest include a renter who assumed responsibility for the electric bill, but ownership of the property was not transferred?
 - b. Is there a limit to the number of successors in interest who could participate in the net metering tariff?
 - c. Will the electricity supplier provide documentation clearly stating the eligibility of the net metering facility which could be provided to any potential successors in interest? Should the interconnection agreement follow the property rather than the customer?

- 2) **SECTION 12:** SEA 309 at Section 12(a)(2)(B) directs the IURC to modify the net metering rule “to require the reservation of...15% of capacity for participation by customers that install a net metering facility that uses a renewable energy resource described in IC 8-1-37-4(a)(5).” This would be in addition to the existing required reservation of 40% of capacity for residential customers per Section 12(a)(2)(A). These required reservations raise the following questions:
 - a. Will non-residential installations and installations not utilizing organic waste biomass be cut off prior to the electricity supplier reaching 1.5% of summer peak because of those reservations? Meaning, does the IURC consider those “set-asides”? To the best of our knowledge, no net metering facility utilizing organic waste biomass has requested to participate in net metering since the adoption of the current rule in 2011. We believe it is likely that there will be no applications for these technologies going forward. Therefore, and if the IURC does consider that 15% reservation a “set-aside”, will the IURC reallocate this 15% capacity to other eligible technologies at a certain point in time? At what point would the reservation of this 15% capacity for certain customer classes or technologies be cut-off?
 - b. Who will track the remaining capacity available to those specific customer classes and fuel sources, and will that information be public and reported in a real time or timely fashion?

- 3) **SECTION 23:** There are many concerns and questions related to Section 23 of SEA 309, which include, but are not limited to, items such as when a rulemaking related to Section 23 will begin; what is required for and who will provide the payback charts to customers; what is required for and who will provide the projection of electricity prices; and, what is required for and who will provide the projection of Solar Renewable Energy

**Questions and Comments to the IURC regarding 309 Implementation
Carmel Green Initiative, CAC, HEC, IndianaDG, Sierra Club—Hoosier Chapter
June 28, 2017**

Credit (SREC) prices. However, it is important to note that it is not clear if Section 23 even applies to net metering facilities. Section 23 is applicable to a “customer that produces distributed generation”. The definition of distributed generation contained within Section 3 of Chapter 40 of SEA 309 “does not include electricity produced by...A net metering facility (as defined in 170 IAC 4-4.2-1(k)) operating under a net metering tariff.” Does the IURC believe that Section 23 applies to net metering facilities? If the answer is yes, we would reserve our right to provide the IURC with specific questions related to Section 23 at a later date and would request further discussion on this since it appears that this would require a separate effort and coordination with the attorney general.

- 4) **SECTION 11:** Section 11(a) of SEA 309 states that the IURC “may not approve changes to an electricity supplier’s net metering tariff...Except as provided in sections 12 and 21(b) of this chapter”(emphasis added).
 - a. We already discussed the referenced Section 12 above in #2.
 - b. However, the referenced Section 21(b) authorizes the IURC to adopt changes to both the net metering rule and the interconnection rule “only as necessary to: (a) update fees or charges; (b) adopt revisions necessitated by new technologies; or (c) reflect changes in safety, performance, or reliability standards.” Does the IURC envision adopting changes beyond the prescribed changes in Section 12 to the existing rules, which may include potential new fees, charges or standards that may impose additional costs or requirements to net metering customers on top of what is imposed elsewhere in SEA 309? If so, would that not conflict with the grandfathering provisions, or at a minimum the “spirit” of the grandfathering provisions, contained within Sections 13 and 14?
- 5) **SECTION 3:** Under Section 3(a)(3)(A) of Chapter 40 in SEA 309, distributed generation means “electricity produced by a generator or other device that is...sized at a nameplate capacity of the lesser of not more than one (1) megawatt...” There is a difference of opinion regarding how to interpret the 1MW cap for net metering facilities. Is the 1MW cap based on a per meter basis, or is the 1MW cap based on a per customer basis?
- 6) **OTHER CONCERNS:** There are things occurring in the field with installers and their prospective net metering customers which have not, to our knowledge, arisen in the past before the passage of SEA 309, besides the issues investigated by the Commission in Cause No. 44344 and mentioned in CAC’s post-hearing brief in Cause No. 44344.³ We feel it necessary to share with the IURC some examples of those experiences, which include:

³ https://iurc.portal.in.gov/entity/sharepointdocumentlocation/d6c95baf-7784-e611-8107-1458d04eabe0/bb9c6bba-fd52-45ad-8e64-a444aef13c39?file=44344_7_18_20149-16-34pm.pdf

**Questions and Comments to the IURC regarding 309 Implementation
Carmel Green Initiative, CAC, HEC, IndianaDG, Sierra Club—Hoosier Chapter
June 28, 2017**

- a. **Changing Policies with regard to Requiring an External Disconnect Switch.** Duke Energy Indiana (DEI) has recently insisted that an external disconnect switch be installed for a Level One installation, which is a change to their current practice. This was not the case for DEI prior to the enactment of SEA 309. Furthermore, there is no publicly available document from DEI reflecting this requirement and change in policy. What can the IURC do to prevent these types of changes from occurring, and to ensure that changes such as this are communicated to the public in a timely and transparent manner? Similarly, we understand that NIPSCO and I&M still require an external disconnect switch for a Level One installation. Yet in Cause No. 44344, Vectren changed its policy to cease requiring external disconnect switches for Level 1 interconnections and entered into the following Stipulation of Facts with Complainant Morton Solar and Wind, LLC (see Joint Exhibit 1 in that Cause):
- i. Section 170 IAC 4-4.3-4(d) provides that a utility may require a customer generation facility to provide a disconnect switch as a supplement to the equipment package.
 - ii. This is optional at the discretion of the utility; Vectren South requires an external disconnect switch, including a switch for Level 1 and Level 2 systems.
 - iii. Brad Morton estimates that the cost of an external disconnect switch is \$500 or more.
 - iv. Customer-owned generation facilities must comply with Underwriters Laboratories Standard 1741 and IEEE Standard 1547 to qualify for a Level 1 or Level 2 interconnection review.
 - v. These standards require inverters to automatically cease to energize the circuit to which it is connected.
 - vi. Indiana Net metering reporting filed with the Commission for calendar years 2009-2012 identify no emergency disconnects for Indiana investor owned utilities. The 2012 report indicates that 388 customers are participating in net metering in Indiana among Indiana's investor-owned electric utilities.
 - vii. Vectren South will not require customer owned generation facilities that otherwise qualify as a Level 1 interconnection to include an external disconnect switch.

This raises several concerns about the lack of consistency between utilities with regard to the imposition of certain requirements, the discretion provided to utilities to require said equipment, and how this will delay the process for individuals wishing to get in under the December 31, 2017 deadline in SEA 309 or to make other deadlines contemplated in SEA 309.

- b. **Mandatory Meter Changes.** Another recent net metering and interconnection issue with DEI concerns mandatory meter changes for net metering customers which seeks to add an additional 14 business days to the Interconnection Process

**Questions and Comments to the IURC regarding 309 Implementation
Carmel Green Initiative, CAC, HEC, IndianaDG, Sierra Club—Hoosier Chapter
June 28, 2017**

which is not addressed in the current Interconnection Rule. What can the IURC do by way of coordinating and speeding up the IOU practice of meter change after a completed installation? If “installs” is interpreted to mean before this would occur, then this issue could be moot.

- c. **Delays with Interconnection Process.** Currently, for a Level 1 interconnection review, the utility must notify the applicant as to whether the application is complete within 10 business days of receiving the application. 170 IAC 4-4.3-6(i). Within 15 business days of notification of a complete application, the utility must inform the applicant as to whether the application is approved, pending completion of the review process. 170 IAC 4-4.3-6(j). Within 10 business days of sending the approval notice, the utility must execute and send to the applicant a Level 1 interconnection agreement, which the applicant must then execute and return to the utility at least 10 business days before starting operation of the customer-generator facility. 170 IAC 4-4.3-6(k)(2), .3-6(l). The durations required for utility approvals (pre-project interconnection applications and post-project meter change/system approval) have become more variable, and generally longer. In some cases, it has been pronounced. Interconnection approval processes vary in detailed requirements and time to execute, sometimes taking much longer than the timeline outlined above, even with no technical review required. In some cases, the utility does not copy the installer, only its own customer, which causes confusion and limits the installers’ ability to track the schedule. But this also varies between utilities. These types of situations were major issues addressed in Cause No. 44344⁴ and is now of critical importance as the Commission interprets what the statute means with regard to when “a customer that installs a net metering facility” and when “a customer that is participating in an electricity supplier's net metering tariff” especially for purposes of the December 31, 2017 deadline. What can the IURC do to ensure consistency and fairness across the State with respect the process?
- d. **Eligibility of Emerging Renewable Energy Technologies.** A solar installer was recently asked about net metering for an Indianapolis Power and Light (IPL) customer who wants to install a battery back-up system. IPL responded that such a solar customer with a battery backup would not be eligible for net metering. IPL indicated that the current definition of eligible technologies as per 170 IAC 4-4.2-1 and IC 8-1-37-4 “Clean energy resource” does not require IPL to net meter “energy storage facilities or technologies”. This is a new development as customers have been permitted to install solar systems with energy storage and participate in net metering. We would request that the IURC clarify this issue. We would note that the existing net metering rule defines “eligible net metering energy resource” to include “*Other emerging renewable energy technologies the commission determines appropriate.*” 170 IAC 4-4.2-1(d)(2).

⁴ https://iurc.portal.in.gov/entity/sharepointdocumentlocation/d6c95baf-7784-e611-8107-1458d04eabe0/bb9c6bba-fd52-45ad-8e64-a444aef13c39?file=44344_7_18_20149-16-34pm.pdf