

FERC Disclaims Jurisdiction over Solar Generators Selling Energy to Net Metered Customers

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The Federal Energy Regulatory Commission (FERC or the Commission) has determined that it does not have jurisdiction over the owners and operators of solar generation facilities that sell energy directly to a customer, if that customer does not then engage in a “net sale” by delivering more energy than it uses to the transmission system during the customer’s local utility billing period. The Commission’s order provides important clarity to owners and operators of solar generation facilities and to utility customers.

In *Sun Edison, LLC*, the Commission addressed a petition for declaratory order filed by Sun Edison, a developer, owner, and operator of solar generation facilities throughout the United States. As part of its business, Sun Edison constructs and installs solar generation facilities on the property of local electric utility customers, and then sells the generated energy directly to those customers. Some of the customers to whom Sun Edison sells energy are participants in utility net metering programs (Net Metering Participants), in which energy generated by the Sun Edison solar facility that exceeds a Net Metering Participant’s immediate energy needs is delivered by the Net Metering Participant to the local electric grid. The Net Metering Participant typically receives a credit on its bill from its local utility for the delivered excess energy. In its petition, Sun Edison sought a Commission determination that Sun Edison’s operation of its solar generation facilities and the resulting sales of energy to a Net Metering Participant are not subject to the Commission’s jurisdiction, so long as the Net Metering Participant does not make a “net sale” of energy during the applicable utility billing period.

The Commission has previously determined that when a Net Metering Participant produces more electricity than it can use on a particular day and delivers that energy to the local electric grid, it is not subject to the Commission’s jurisdiction so long as the Net Metering Participant does not make a net sale of energy during the local utility billing period.¹ A net sale occurs when a Net Metering Participant produces more energy over the course of the billing period than it uses during that same billing period. If, however, a Net Metering Participant delivers excess energy to its local electric grid at times during a billing period but ultimately uses more energy than it delivered over the billing period, the Net Metering Participant has not made a net sale of energy.

Although the Commission has determined that when there is no net sale, Net Metering Participants are

¹ See *MidAmerican Energy Co.*, 94 FERC ¶ 61,340 (2001).

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