

Frequently Asked Questions about the NERA Challenge to Net Metering at FERC

What is Net Metering?

Net metering is a billing mechanism which allows a residential or commercial customer to offset its electricity demand with supply generated on-site by typically rooftop solar panels. Over the monthly billing cycle any generation which exceeds the customer-generator's own load, is sold back to the utility. The end result is usually a "netting" of grid-supplied electricity and that generated on site.

How much do the utilities pay for net metered power?

Net metering policies vary from state to state, with disparate rules for sizing, billing, etc. Almost all states have a version of net metering which allows for a full kWh of demand by the customer-generator to be offset by non-firm (not-dispatched) kWh exported to the grid. In doing so, the utility is crediting the homeowner at the full retail rate (or close to full retail depending on the state) regardless of when the excess power was exported. The full retail rate is generally 3 to 5 times the market price paid by electricity suppliers for firm supply.

What is avoided cost and how does that apply here?

Under the Public Utility Regulatory Policy Act (PURPA) "avoided cost" is defined as "the cost a utility would incur if it chose to either provide the energy itself (by building new capacity) or to purchase the energy..." Avoided cost calculations are established by each state. In effect, it is the cost of the next marginal kw the utility needs to obtain to sustain electricity service.

What is the difference between the retail price and avoided cost?

The retail price customers pay is a fully bundled price that includes the cost of the electricity, the cost of maintaining the transmission/distribution systems, capacity costs, systems benefits charges, costs for complying with Renewable Portfolio Standards and a variety of other non-by passable charges. The avoided cost in most restructured states is the Location Marginal Price or the wholesale price of the commodity. As previously stated, PURPA defines avoided cost as "the cost a utility would incur if it chose to either provide the energy itself (by building new capacity) or to purchase the energy..."

Why does NERA think net metering leads to cost-shifting?

Recognizing that any net metering is just a series of "sales for resale" across any given month, the utility is purchasing a wholesale product, but are required to credit the customer-generator at a full (or almost full) retail rate. This allows net metering customers to pay less for the fixed costs of the electrical grid infrastructure and forces all the other ratepayers to cover the costs for the shortfall. Net metered customers still use the transmission and distribution system to ensure that they have reliable power

when they aren't producing it, but because of net metering they do not have to pay their fair share for the infrastructure which allows them to sell their product. The power for which they are compensated at well-above market (wholesale) rates does not have the attributes of retail power which is firm, reliable and provides ancillary benefits. Net metered power is non-firm, unreliable and provide no ancillary benefits. In addition, if an electricity circuit has too much solar on it the utility must invest additional capital to upgrade the system, pushing more costs onto customers. Furthermore, by increasing the amount of intermittent, non-dispatchable power that utilities are required to purchase higher risk premiums are incorporated into electricity rates—further increasing the cost of electricity to all non net-metered consumers. This cost shift is on the order of hundreds of millions of dollars across the country every year.

What is the difference between a retail and a wholesale transaction?

A retail transaction is a payment for fully-bundled electric service which includes firm power, the cost of operating and maintaining the electrical grid, generation capacity, renewable energy programs, ancillary costs and a variety of other charges. A wholesale transaction is typically a payment made buy an electric supplier just for electricity which is valued at the time and location that electricity is delivered.

Why aren't states allowed to determine the compensation received by net-metering facilities?

States are authorized to set prices for retail power which is typically comprehensively reviewed by the state regulatory agencies. In addition, states also determine the value of avoided cost for electricity. It is only wholesale electricity transactions which fall under the jurisdiction of FERC under the Federal Power Act (FPA). Under the FPA "sales for resale" are wholesale transactions which are required to occur at avoided cost for qualifying facilities under PURPA.

Doesn't this interfere with states' rights to support generation?

In short—no. Should FERC issue an Order that declares net metering to be wholesale transactions and therefore should be compensated at avoided cost, every state will still have the ability to support solar or any other form of generation. There are numerous tools that state legislatures and regulatory bodies have at their disposal to support favored generation. Many states already use Renewable Portfolio Standards, tax credits, zero emissions credits, Clean Energy Standards, rebates, grants and a variety of other incentives. None of these policy decisions will be impacted. A FERC ruling in agreement with NERA does force states to stop interfering in wholesale electricity markets which are under federal jurisdiction, but other options for supporting distributed generation like rooftop solar remain untouched.

Why is NERA challenging this at FERC and not at the State Legislatures?

NERA recognizes that net metering is having an unfair and harmful impact on ratepayers, especially low- and middle-income families. Given this problem NERA has chosen to challenge net metering at the body

which has the proper jurisdiction over wholesale electricity transactions – the Federal Energy Regulatory Commission (FERC). Last year NERA successfully challenged a New Hampshire state law which also improperly set wholesale market rates for electricity by attempting to pay New Hampshire biomass generators at 80% of the retail energy rate. We find net metering to be a similar mechanism which also improperly interferes with wholesale markets.

FERC disclaimed jurisdiction over net metering for over a decade. Why does jurisdiction apply now?

NERA argues in its complaint that while FERC disclaimed jurisdiction over net metering, it was improper for the Commission to do so. In fact, several recent cases at the DC Circuit Court of Appeals reject the legal theory used to disclaim jurisdiction and identify the applicable jurisdictional transactions as, in fact, wholesale sales. The Court found it arbitrary and unprincipled to rely on netting intervals to determine jurisdiction. It is the nature of the transaction that determines what that transaction regardless of the billing convention used. In the case of net metering it is clearly a “sale for resale”, making these transactions wholesale transactions. Wholesale transactions are under FERC’s jurisdiction and are required to be compensated at avoided cost under PURPA

Do current Net Metering customers have to reimburse the utility for the overcompensation they improperly earned?

The FERC Petition filed by NERA does not seek any back payments for the improper compensation earned to date. NERA recognizes that the homeowners and businesses acted in good faith and based their decisions on the policies that were in place at the time. NERA does request that any entity that puts a net metering system in place 60 days after the date of the filing be forced to make repayments if FERC finds in favor of NERA. This ensures that while grandfathering of current systems takes place, there is not a large window of opportunity to continue to improperly overcharge for net metered power if FERC does not render a decision in a timely manner.

Will imposition of avoided cost make compensation for net metered power overly complicated?

Just the opposite. Avoided cost is already a pricing mechanism in every state and used by every utility. Properly evaluating and compensating these transactions as wholesale transactions will not be difficult for any utility and is going to be far easier than monitoring and regulating the myriad number of net metering laws in place. In addition, many states can avoid (or stop) having to determine a highly subjective “Value of Distributed Generation” which consumes a tremendous amount of time, money and effort by most Public Utility Commissions. Recognizing net metering transactions as what they are – wholesale transactions – put them on par with the rest of the wholesale generators utilities already transact with every day.