Public Comment from The Heartland Institute and Other Interested Groups to the Federal Energy Regulatory Commission Regarding Our Support for the New England Ratepayers Association’s Petition Concerning Certain Wholesale Energy Sales

Founded in 1984, The Heartland Institute is an independent, national, nonprofit organization whose mission is to discover, develop, and promote fair free-market solutions to social and economic problems. We believe affordable, reliable, and plentiful energy is the foundation of economic growth and prosperity.

With that in mind, we and the co-signees below are pleased to provide this public comment to the Federal Energy Regulatory Commission in support of the New England Ratepayers Association (NERA) and its petition asking FERC to assert exclusive jurisdiction over what should be considered wholesale energy sales of behind the meter electricity generation.

Net metering laws, adopted in 41 states, require utilities to purchase excess electricity from households that have their own electricity generation source. In most net metering states, utilities must pay full retail price for these electricity purchases. Usually these generation sources are rooftop solar panels.

Utilities typically buy electricity wholesale or generate it on their own. As a result, the power utilities purchase from “distributed-generation” (DG) sources, like rooftop solar panels, as opposed to centralized large power plants providing power for many customers, costs them more. Utilities then pass on these costs to other ratepayers in the form of higher prices.

In addition, managing power from rooftop solar sources and other distributed sources connected to the grid requires special equipment to regulate electricity flowing two ways. The costs of installing and maintaining this equipment under net metering laws are paid by ratepayers in general rather than the customers or companies who have installed or operate distributed generation sources. Such cost-shifting is regressive, because rooftop-solar owners have generally higher incomes than others, so lower-income ratepayers end up subsidizing higher-income customers.

As a December 2013 paper from the Harvard Business Law Review has noted, “because virtually all retail service is billed based on energy usage, net metering causes a re-allocation of transmission, distribution, and reliability costs to those customers who do not own distributed generation. Yet, the owners of distributed generation continue to rely on utility service from the grid for back-up and supplemental energy (for example, at night and when it is cloudy).”

Minnesota’s Center of the American Experiment provides a useful summary along with a graphic visualization of what exactly these costs include: “The retail price for commercial electricity customers in Minnesota was 10.38 cents per kilowatt hour in 2018. Of this cost, the fuel only constituted two cents of the retail price. The remainder, 8.38 cents, is used to pay for

fixed costs like upkeeping power lines, paying employees, and paying to maintain the coal, natural gas, and nuclear plants that everyone relies upon when the sun isn’t shining. Unlike the cost of fuel, these costs don’t go away if the company uses solar panels. In fact, these costs get transferred to everyone who doesn’t have solar panels.”  

Of course, this arrangement is not unique to Minnesota.

![Net Metering Explained](image)


A study by the California Public Utilities Commission (CPUC) found customers in the Golden State who have installed net-metering systems have an average median household income of $91,210, significantly higher than the state’s median income of $54,283 and the median income in investor-owned utilities service territories, which is $67,283.  

The same CPUC study estimated that this cost-shifting from less affluent non-DG customers to more affluent DG customers amounts to $1.1 billion by this year.

The owners of these DG sources should be paid at the same rate conventional sources are paid, reflecting the true wholesale cost of electricity. It is particularly unfair for solar owners to be paid, rather than charged, for the costs of maintaining the grid because the intermittency of solar power actually increases grid maintenance costs.

The United States already has plenty of other welfare programs for the upper-middle class. It does not need this one. At a time when the COVID-19 pandemic has, for all intents and purposes, effectively shut down the American economy and provoked both acute and widespread

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4 Ibid.
economic pain and uncertainty, asking lower-income consumers, many of whom are struggling to pay their bills, to subsidize their well-to-do neighbors is callous in the extreme.

We believe NERA is correct on the legal merits of its position when it states FERC “has exclusive jurisdiction over the rates for wholesale sales and has an obligation to ensure that wholesale markets are non-discriminatory and produce just and reasonable results.”5 We kindly ask FERC to fully consider NERA’s argument while remembering the economic pain these full net metering wealth-transfer programs are currently causing, and will continue to cause, if they are left unchecked.

Thank you for your time and consideration.

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