

Model Legislation for Distributed Power Plant Program

This bill requires [electric utilities] to implement distributed power plant programs (“DPP Programs” or “Programs”) to enable the coordinated operation of aggregations of behind-the-meter distributed energy resources for peak load reduction and other grid services. [Electric utilities] are required to establish distributed power plant programs for customer-sited battery storage to provide peak load reduction services on or before [date] and to incorporate additional technologies and other grid services into their programs as specified herein. The bill also requires the [commission] to establish peak load reduction and resource adequacy targets that [electric utilities] must meet through their distributed power plant programs. Finally, the bill requires each [electric utility] to submit an annual report to the [commission] showing its [electric utility’s] compliance with these requirements.

SECTION 1. DEFINITIONS

Aggregator – A third-party entity that enrolls Customers in the Program and coordinates the operation of Enrolled Devices. An Aggregator is a Participant in the Program.

Battery – A behind-the-meter (“BTM”) energy storage device and associated equipment that operate together to fulfill Program requirements.

[Commission – Public Utilities Commission or applicable state agency for public utilities regulation].

Customer – An active electric service account holder of the Company.

Direct Participant – A Customer that enrolls in the Program directly with the Company rather than via an Aggregator.

Distributed Energy Resource (DER) – A BTM device, including but not limited to solar PV, batteries, smart thermostats, and electric vehicles, that provides energy and/or energy management capabilities for the Customer or the grid.

Distributed Power Plant (DPP). An aggregation of BTM distributed energy resources operated in coordination to provide one or more Grid Services.

Eligible Device – A customer or third party-owned DER that meets the requirements for participation in the Program as specified in the relevant Program Rider.

Emergency Event – An event called by the Company with fewer than 24 hours notice.

Enrolled Customer – A Customer that participates in the Program through either an Aggregator or as a Direct Participant.

Enrolled Device – An Enrolled Customer’s Eligible Device, as specified in the relevant Program Rider.

Environmental Justice Community – [As defined by applicable state or insert federal definition].

Grid Event – A grid condition for which the Company schedules or remotely dispatches Enrolled Devices to respond to, as specified in the Grid Service opportunities for each Program Rider.

Grid Service – A capacity, energy, or ancillary service that supports grid operations.

Low-Moderate Income Qualified Customer – [as defined by applicable state]

Participant – An Aggregator or a Direct Participant.

Performance Payment – A payment made to the Participant based on the performance of an Enrolled Device(s) providing a Grid Service during a Grid Event.

Performance Payment Rate - The compensation rate paid to Participants for providing a particular Grid Service during a Grid Event.

Program Rider(s) – One or more of the *Battery Rider*, the *Non-Battery Rider*, the *EV Rider*, and such other DPP Program riders as the Commission may approve from time to time.

Upfront Payment – A one-time payment made at the time of enrollment.

SECTION 2. DECLARATIONS AND FINDINGS

(a) Distributed power plants are dynamic load management and energy supply resources that support grid operations, reduce ratepayer costs, and achieve other important public policy goals.

(b) Distributed power plants can reduce demand for grid supplied electricity during peak periods, shift electricity consumption out of peak periods, make renewable energy generated during off-peak periods available for use during on-peak periods, supply energy to the grid at desired times, provide frequency regulation, voltage support, and other ancillary services, improve system resiliency and reliability, and provide other Grid Services.

(c) Distributed power plants facilitate and optimize the utilization of electrical generation from wind and solar energy to help utilities increase hosting capacity and integrate more renewable energy resources.

(d) Distributed power plants reduce costs to ratepayers by utilizing customer-sited resources to provide Grid Services, avoiding or reducing reliance on fossil-fuel fired peaker plants, avoiding or deferring the need to construct new and more costly grid scale resources, optimizing the use of existing assets, and avoiding or deferring distribution and transmission system upgrades and other grid investments.

(e) Distributed power plants promote equity by reducing costs for all ratepayers, expanding access to DERs among low- and moderate-income customers through improved DER financeability, and providing other important co-benefits, including reduction in emissions of greenhouse gasses and other pollutants, especially in environmental justice and other disadvantaged communities that host fossil fuel generation plants.

(f) The United States Department of Energy estimates that the United States could deploy 80-160 gigawatts of distributed power plants by 2030 (a tripling of current

levels) to support the rapid electrification of vehicles and homes and provide on the order of \$10 billion in ratepayer savings annually. The deployment of distributed power plants can provide energy cost savings and other benefits to the citizens of [State].

(g) There are significant barriers to deployment and operation of distributed power plants, including the need for statutory and regulatory guidance and support, standardization in distributed power plant programs across regulatory jurisdictions, and for utility commitments to incorporate the use of distributed power plants into system operations and long-term resource planning.

(h) It is in the public interest to advance customer choice and leverage the expertise of private, non-utility entities to advance innovation and implement cost-effective clean energy solutions.

(i) The policy of [State] shall be to maximize the use of distributed power plants comprised of customer-owned and third party-owned DERs to deliver system services and other benefits through utility administered distributed power plant programs in accordance with the provisions of this Act.

SECTION 3. DISTRIBUTED POWER PLANT PROGRAM

(a) Within 120 days of the effective date of this Act, each electric utility serving customers in this state shall develop and file with the Commission a DPP program proposal consistent with the provisions of this section. The Commission shall provide opportunities for stakeholders to provide input on the DPP programs proposed for implementation by each utility, which the Commission shall take into consideration in its review of each utility's filing. Within 120 days of the utility's filing, the Commission shall approve or modify and approve each utility's DPP program proposal for immediate implementation by the utility.

(b) The DPP program filed pursuant to subsection (a) of this section shall be developed for implementation through a standard offer, open access tariff for DERs to provide system peak load reduction and other Grid Services. The DPP program tariff shall be designed to:

(i) allow for customers with Battery storage, non-Battery storage and electric vehicle technologies to enroll their respective devices in the program under separate service riders for each technology type through Aggregators or directly with the utility. The tariff filed pursuant to subsection (a) of this section shall at minimum include a rider for new and existing Battery storage devices and shall incorporate additional riders for non-Battery storage devices and electric vehicles no later than one year after the approval of the DPP program approved in subsection (a).

(ii) where feasible, provide a mechanism to incorporate existing programs, such as smart thermostat demand response or electric vehicle charging programs currently offered by the utility, into the respective technology riders for operation under the DPP program framework;

(iii) include Grid Services opportunities for each eligible technology that customers and Aggregators may provide, which shall include, at minimum, a system-wide peak load reduction service for the Battery Rider, and may also include:

(1) clean peak service;

(2) local peak demand reduction;

(3) locational value;

(4) the avoidance or deferral of transmission or distribution upgrades or capacity expansion;

(5) voltage support and other ancillary services;

(6) emergency services; and

(7) such other functions and Grid Service opportunities that the Commission determines are supportive of efficient planning and operation of the electrical grid.

(iv) provide operational parameters for each eligible Program Rider and Grid Service, which shall include at minimum:

(1) minimum and maximum numbers of Grid Events for which the utility may dispatch the enrolled DERs;

(2) months of the year that Grid Events may occur;

(3) days of the week that Grid Events may occur;

(4) times of day that Grid Events may occur;

(5) maximum duration of Grid Events;

(6) minimum day-ahead advance notification requirement of Grid Events, except for Emergency Events, as applicable.

(v) include provisions for Aggregators to participate in the DPP program, automatically enroll and manage their customers' participation, receive dispatch signals and other communications from the utility, deliver performance measurement and verification data to the utility, and receive DPP program payments directly from the utility;

(vi) include provisions for Direct Participant customers to enroll and participate directly with the utility, receive dispatch signals and other communications from the utility, deliver performance measurement and verification data to the utility, and receive DPP program payments directly from the utility, provided that any provisions implementing this subpart that necessitate the installation of equipment to enable direct participation via the utility shall apply to Customers who elect to participate as a Direct Participant and shall not be required

of Customers who participate via an Aggregator or to Customers who do not participate in the DPP Program.

(vii) provide for measurement and verification of Battery performance directly at the device without the requirement for the installation of an additional meter, and such other measurement standards for non-Battery and electric vehicle technologies for approval by the Commission.

(viii) include Upfront Payment and Performance Payment compensation mechanisms for the Battery Rider system peak reduction service based on the average capacity provided during grid events, and such other compensation mechanisms as the Commission determines appropriate for other Grid Services provided under the Battery, Non-Battery and Electric Vehicle Riders. The DPP Program shall not assess penalties for non-performance; however, the Commission may approve reasonable mechanisms to disenroll customers for continued non-performance.

(ix) include a higher Upfront Payment for certain customer classes, including but not limited to low-to-moderate income customers, and customers located in environmental justice and other disadvantaged communities in addition to Performance Payments. The Commission shall coordinate with state energy officials and departments to make funding from the federal Inflation Reduction Act and such other sources as may be available for use in providing higher Upfront Payments to customer classes as may be approved by the Commission for the higher Upfront Payment in accordance with this subsection.

(x) allow Participants to lock in the Performance Payment Rate applicable at the time of enrollment for a minimum of five years, after which time the participant may reenroll at the then applicable Performance Payment Rate for an additional five-year term;

(xi) in addition to the compensation for each Grid Service, the tariff shall provide that energy exported from a participating DER shall be credited to the Enrolled Customer at a value equal to the retail rate charged by the utility for energy at the time of the export, irrespective of the export compensation rate specified in the Customer's underlying interconnection tariff. Nothing in this section shall affect the rate of compensation for energy that is exported outside of a Grid Event under a Commission-approved DPP.

(xii) provide that Enrolled Customers may co-participate in any applicable underlying Interconnection Tariff and may provide multiple Grid Services and/or co-participate in other Riders under the DPP Program, or other grid service programs outside the DPP Program, including wholesale market programs, except as otherwise provided by the Commission. Enrolled Customers shall remain eligible to receive state and federal incentives in addition to any compensation received for participating in the DPP Program.

(xiii) The utility may include other reasonable requirements for participation consistent with this subsection; provided that the utility shall not require collateral from a Direct Participant or an Aggregator.

(c) Utility-owned resources shall not be eligible to participate in the DPP program. Utilities and utility affiliates may not be Aggregators.

(d) The utility may contract with a third party distributed energy resource management system (DERMS) provider to assist with program implementation provided that implementation of the Program shall not be delayed due to the lack of utility-owned DERMS capabilities or third party DERMS capabilities.

SECTION 4. UTILITY COST RECOVERY AND EARNING OPPORTUNITIES

(a) Utilities may seek to recover prudently incurred costs to facilitate the DPP Program approved pursuant to Section 3, including but not limited to: DERMS

provider and other service contract costs, operations and maintenance expenses, information technology costs, and such other costs, expenses and investments the Commission finds necessary and prudent for the development and implementation of the program.

(b) The provisions of part (a) of this subsection notwithstanding, the utility shall recover the cost of DPP program performance payments and any other payments made to Participants through cost recovery mechanisms approved by the Commission. The Commission may allow a reasonable rate of return on the cost of payments made for Grid Services and shall take any such allowance into consideration when developing performance incentives pursuant to Section 5.

SECTION 5. PERFORMANCE TARGETS AND INCENTIVES

(a) The Commission shall initiate a proceeding to develop capacity procurement targets applicable to the utility for the utilization of the DPP program with corresponding performance incentives for achieving the established targets in accordance with the provisions of this section.

(b) Within 270 days of the effective date of this Act the Commission shall, at minimum:

(i) establish annual capacity procurement and performance targets for the system peak reduction service, which shall be designed to meaningfully increase year-over-year the amount of capacity procured for system peak reduction over a five (5) year period. The Commission shall establish corresponding performance incentives for achieving the target established for each year of the performance period.

(ii) the performance incentives established pursuant to part (i) of this subsection shall include financial rewards for achieving the targets and may include financial penalties for failure to achieve the targets.

(iii) the Commission shall establish new targets for subsequent 5 year periods.

(iv) the performance targets and incentives established pursuant to this section shall take effect no later than the beginning of the second calendar year following the year in which the Commission approves a utility's DPP program pursuant to subsection (a) of Section 3.

(c) The Commission shall develop additional targets and performance incentives for additional Grid Services adopted pursuant to subsection (b) of Section 3 no later than 270 days after such additional Grid Services are approved for implementation through the tariff, which shall take effect no later than the beginning of the second calendar year following the year in which the Commission approves such additional Grid Services.

(d) Each utility shall file an annual report no later than January 31 of each year that shall include, at minimum: the total capacity enrolled in each Program Rider developed pursuant to the requirements of Section 3, broken out by technology type, customer class, Aggregator or Direct Participant status, the Grid Service or Grid Services the DER is enrolled to provide; recommendations to increase participation in the DPP Program, and such other information as the Commission may require from time to time.

SECTION 6. EFFECTIVE DATE

This Act shall take effect immediately upon enactment.