BEFORE THE GUAM PUBLIC UTILITIES COMMISSION

IN THE MATTER OF:	)	**GPA DOCKET 11-09**
GUAM POWER AUTHORITY'S	)	**ALJ REPORT**
FY2014 BASE RATE FILING	)	**RE: NET METERING**
	)	

INTRODUCTION

This matter comes before the Guam Public Utilities Commission (the "PUC") upon the Petition of the Guam Power Authority ("GPA") for approval of the FY2014 Base Rate Filing, filed with the PUC on April 26, 2013.

BACKGROUND

On December 29, 2008, the PUC approved and adopted the current Interim Net Metering Rider for Customer-Generator Energy Facilities, developed by both GPA and the Georgetown Consulting Group, Inc. ("Georgetown"), the PUC's consultant.[1] Pursuant to this order, the PUC indicated that "at such time as the number of customer-generators availing themselves to the 'net metering' tariff approaches one-thousand (1,000) customers, the issue of whether a limitation should be imposed by Guam on the aggregate capacity eligible for 'net metering' treatment will be reviewed and examined by the PUC."[2] In addition, the Net Metering Rider requires GPA to "submit an annual 'net-metering' report to the PUC" to be "submitted by April 1st of each year, and shall include the following information for the previous compliance year: (1) Total number of Customer-Generator facilities; (2) Total estimated rated generating capacity of its 'net

[1] PUC Decision and Order, GPA Docket 08-08, p. 2 (Dec. 29, 2008).
[2] PUC Decision and Order, GPA Docket 08-08, pp. 2-3 (Dec. 29, 2008).

metered Customer-Generators; (3) Total net kilowatt-hours receive from Customer-Generators; and (4) Total estimated amount of energy produced by Customer-Generators."[3] On February 27, 2009, the PUC approved and adopted GPA's Standard Interconnection Agreement for Net Metering Facilities, as well as GPA's Net Metering Program Interconnection Policy.[4]

On April 26, 2013, GPA filed its Base Rate Case and submitted testimony related to the net metering issue. On June 20, 2013, Administrative Law Judge ("ALJ") Frederick J. Horecky issued a Scheduling Order for this docket, which provided that "[t]he 'Net Metering Tariff' shall be considered as a part of the FY2014 Rate Proceeding."[5] On August 27, 2013, Georgetown filed its testimony on the net metering issue. Thereafter, on September 6, 2013, GPA filed its rebuttal testimony.

On September 11, 2013, ALJ Horecky held a Pre-Hearing Conference. At the Pre-Hearing Conference, ALJ Horecky disclosed that he was a net meter customer, and therefore would be submitting the net metering piece for consideration and recommendation to Administrative Law Judge David A. Mair. On September 12 and September 13, 2013, public hearings were held in Hagåtña, Asan, and Dededo, to receive testimony related to GPA's petition, which included the net metering issue.

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3 PUC Decision and Order, GPA Docket 08-08, "Exhibit A" (Dec. 29, 2008).
4 PUC Order, GPA Docket 08-10, p. 1 (Feb. 27, 2009).
5 Scheduling Order, GPA Docket 11-09, p. 3 (June 20, 2013).

DISCUSSION

A. PUBLIC LAWS ON NET METERING

1. Public Law 27-132.

When the Guam Legislature enacted GPA's net metering statutory scheme, the Legislature clearly expressed its intent "to combine new power-generation technologies with traditional power-generation systems in order to expand and safeguard the island's electric supply, without the need for additional capital investment by the utility company." P.L. 27-132, p. 2 (Dec. 30, 2004). The Legislature also unequivocally expressed its intent to "(a) encourage private investment in renewable energy resources; (b) stimulate economic growth; and (c) enhance the continued diversification of the renewable energy resources used on Guam." *Id.*

Pursuant to the net metering statutes, the Legislature also entrusted the PUC with the authority to determine the rate for NEGs. In particular, Section 8505(b)(3) of Title 12 provides that where "the electricity generated by the customer-generator which is fed back to the utility exceeds the electricity supplied by the utility during the billing period, the customer-generator is entitled to compensation for electricity provided to the utility during the billing period at a rate to be determined by the Public Utility Commission." P.L. 27-132, p. 5 (codified at 12 G.C.A. § 8505(b)(3)).

2. Public Law 29-62.

Pursuant to Public Law 29-62, the Legislature stated that it requires "the development of renewable energy production and decrease [ ] total reliance on oil for electricity production." P.L. 29-62, p. 2 (Apr. 4, 2008). Accordingly, the Legislature

amended GPA's net metering statute to require GPA to "immediately implement an interim, emergency net metering rate structure wherein Customer generators *shall* be entitled to receive immediate credit for one hundred percent (100%) of the power generation capacity based on the specifications of the generation equipment installed times the rate of the Guam Power Authority currently charges the customer until such time that GPA submits a rate structure to the PUC for the net metering program and it is approved by the PUC. The interim rate *shall* be subject to PUC revocation at any time." *Id.* at 4 (codified at 12 G.C.A. §8506) (emphases in original).

B. GPA'S POSITION ON NET METERING

1. Randall Wiegand, GPA, April 26, 2013 Testimony.

GPA proposes a "permanent net metering rate that would reflect the true costs which GPA is avoiding by accepting the renewable energy into the grid."[6] Specifically, GPA proposes replacing the interim net metering tariff with "Schedule C," attached hereto as "Exhibit A." With respect to the net metered credit, "Schedule C" provides that "[f]or all power generated at the establishment the credit will be based on measured kWh delivered to GPA's distribution system multiplied by the LEAC." *See* "Exhibit A." This net excess generation of power is abbreviated by the industry as "NEG."

GPA contends that "in other jurisdictions," "[g]enerally, a lower rate is credited back to the customer for power received into the grid."[7] GPA indicates that there are

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[6] Testimony of Randall Wiegand ("Wiegand Testimony"), p. 22 (Apr. 26, 2013).
[7] Wiegand Testimony, p. 21 (Apr. 26, 2013).

fifteen (15) states that do not compensate net meter customers with the full retail rates for NEGs.[8]

GPA submits that "[e]nergy rates are made up of fixed components and variable components"; and that a "'one-for-one' credit means that the utility is not only foregoing the variable component of the energy rate but is also foregoing the fixed component of the rate."[9] GPA further submits that "[m]ost utilities with net metering rates credit only the variable component of energy charge back to the customer."[10]

2. Methodology.

GPA maintains that its proposal will compensate the net meter customer "GPA's avoided cost related to a supplier of non-firm energy"[11] and, therefore, "only credit the customer's LEAC representing the value of the energy that the net metering producer provided."[12] GPA believes that this is a "more balanced approach that is more in line with a cost-cause, cost-payer approach."[13]

With respect to NEGs, GPA believes that its involvement is necessary, and therefore, implicates costs.

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[8] Testimony of Joseph T. Trainor ("Trainor Testimony"), p. 15 (Sept. 6, 2013).

[9] Wiegand Testimony, p. 21 (Apr. 26, 2013).

[10] Wiegand Testimony, p. 21 (Apr. 26, 2013).

[11] Trainor Testimony, p. 13 (Sept. 6, 2013).

[12] Trainor Testimony, p. 15 (Sept. 6, 2013); *See also* Joaquin Flores ("Flores Testimony"), pp. 8, 10 (Sept. 6, 2013) ("GPA is recommending that net metering producers be compensated at the equivalent rate that the net metering producer helps GPA avoid. The avoided system cost (resulting from a unit of the non-firm energy being received by GPA from a net metering producer) is essentially fuel cost, i.e., GPA's LEAC rate."; "Consequently, GPA is proposing a net metering tariff that will be consistent with Public Law and will account for the value that is truly due a net metering producer for helping avoid certain costs (i.e., fuel related expenses) for other customers.").

[13] Trainor Testimony, p. 12 (Sept. 6, 2013).

> First, the customer producing renewable generation, under a net metering program, receives credit for this service paid by fellow customers. The utility must monitor and regulat[e] the delivery of the energy to the grid to make sure it is in sync with the GPA power grid. GPA must track the energy flows to determine the billing credits. Next, the utility must provide additional generating resources to protect the GPA power grid from the variable nature of the energy produced by the renewable resources. All of these tasks add costs to GPA, however, GPA is not receiving any contributions to defer these costs from the net metering customer.[14]

GPA argues that it "provides each of its customers with a meter, service line, repair service, meter reading, billing, and a host of other utility services for which it collects a delivery rate."[15] GPA submits that "[a] customer who generates excess energy does not deserve to be credited for the delivery services . . . provided by GPA when in fact, the net metering customer does not provide any of these services."[16] GPA, therefore, maintains that "the penetration of non-firm renewable energy poses additional costs upon the grid" and that it must also be "mindful of not creating cross-subsidies or inappropriate incentives."[17]

GPA believes that "the threat is real"; that "[t]here are customers with large surface areas available for solar panels currently considering taking advantage of the differential in pricing under the current net metering tariff and the true value of the energy provided by these installations"; which it believes includes the "subsidization provided by other

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[14] Trainor Testimony, p. 12 (Sept. 6, 2013).
[15] Trainor Testimony, p. 12 (Sept. 6, 2013).
[16] Trainor Testimony, p. 12 (Sept. 6, 2013).
[17] Trainor Testimony, p. 14 (Sept. 6, 2013).

customers."[18] Indeed, GPA indicates that it "has observed an influx of commercial enterprises that are positioning themselves in the market for renewable energy to take advantage of the differential between the actual cost of maintaining a utility system and delivering energy using oil-fired generation and the price paid for excess energy from net metering facilities."[19]

C. GEORGETOWN'S AUGUST 27, 2013 REPORT

1. Georgetown Testimony.

Georgetown submits that "[t]he interim net metering rider currently in effect and approved by the GPUC is based on an industry accepted approach to the balancing of interest necessary to maximize the renewable capacity from customer-generators availing themselves to 'net-metering' and the impact to other customers subsidizing the distribution and other related costs avoided by net metered customers who qualify for the interim net meter rider."[20]

"[T]he interim rate approved by the PUC for NEG is consistent with the rate mechanisms established by the majority of mainland regulatory jurisdictions and is based upon the customer-generator being billed for only net consumption during the current month, credited at the full retail energy rate on the customer's next bill for NEG, and any excess NEG kWh's remaining at the end of the calendar year being granted to GPA at no

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[18] Trainor Testimony, pp. 15-16 (Sept. 6, 2013); *See also* Flores Testimony, p. 9 (Sept. 6, 2013).

[19] Trainor Testimony, pp. 13-14 (Sept. 6, 2013).

[20] Report of Georgetown Consultants Group, Inc. ("Georgetown Report"), p. 45 (Aug. 27, 2013).

cost."[21] "While there is unarguably a potential subsidization of 'net metering' customers by other customers, the PUC found that the potential benefits in the near-term as the renewable industry grows in Guam outweighed these concerns."[22]

Presently, "most mainland regulatory jurisdictions continue to credit NEG to the grid at the full retail energy rate (either through billing credits of kWh offsets) on the customer bill with any excess kWhs credited to the customer's next bill and any NEG credits remaining at the end of the calendar year either being granted to the utility at no cost or . . . an increasing number of jurisdictions require some form of payment (28)."[23] In particular, Georgetown contends that "in the vast majority of the jurisdictions with net metering regulations, 36 out of 46 or most employ the use of a full retail credit for net excess generation provided to the grid."[24] According to Georgetown, these jurisdictions provide a "'one-for-one' credit" "to the net metered consumers either in the form of kWh credits or billing credits."[25]

Georgetown submits that GPA has roughly 77 net metered customers, with the majority of these customers belonging to the residential class, although every class of customer is represented.[26] According to Georgetown, "GPA was unable to provide any estimates of the amount of credits to net metering customers."[27] GPA responded that it had "not fully deployed smart meters to all GPA net metering customers and thus cannot

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[21] Georgetown Report, p. 45 (Aug. 27, 2013).
[22] Georgetown Report, p. 46 (Aug. 27, 2013).
[23] Georgetown Report, p. 47 (Aug. 27, 2013).
[24] Georgetown Report, p. 48 (Aug. 27, 2013).
[25] Georgetown Report, p. 48 (Aug. 27, 2013).
[26] Georgetown Report, p. 44 (Aug. 27, 2013).
[27] Georgetown Report, p. 44 (Aug. 27, 2013).

provide kWH of net metering energy delivered to the grid or the total amount of excess net energy credits granted back to GPA by net metered customers at the end of the 12 month period."[28]

2. **Recommendation.**

Ultimately, Georgetown recommended "no change to the current rate mechanism contained in the interim net metering rider."[29] Georgetown maintains that "[t]here has been no evidence provided by GPA in its testimony or in response to discovery request that would indicate that the interim Net-Metering Rider isn't performing exactly as the GPUC and Guam policy makers anticipated or that there are any unexpected consequences from its operations."[30] Georgetown further maintains that "[t]he current net metering rate is stimulating and promoting the renewable energy industry in Guam" and that "[a] change at this time could be viewed as inconsistent with previously established public policy (Public Law 27-132:1)."[31]

In addition, Georgetown has noted that the "interim tariff has a limitation that once one-thousand (1,000) net metering customers are on the system that this issue be reviewed by the PUC." Georgetown Report, p. 46 (Aug. 27, 2013). Accordingly, Georgetown suggests that "[t]he PUC may want to consider lowering the threshold for 'new' customers from 1,000 to 400 or 500 customers or to adopt a capacity limitation on the amount of net

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[28] Georgetown Report, p. 44 (Aug. 27, 2013).
[29] Georgetown Report, p. 49 (Aug. 27, 2013).
[30] Georgetown Report, p. 49 (Aug. 27, 2013).
[31] Georgetown Report, p. 49 (Aug. 27, 2013).

metering that is eligible for the current net metering rate treatment" such as "placing a capacity limitation (3 or 4 mW) on eligibility . . . ."[32]

D. OTHER JURISDICTIONS

The majority of other jurisdictions appear to implement the one-for-one retail credit that is similar to the program implemented in Guam.[33] Smaller jurisdictions that are similar in size to Guam, like American Samoa, Puerto Rico, U.S. Virgin Islands, and Washington, D.C., also implement a one-for-one retail credit.

1. American Samoa.

The net metering program in American Samoa is almost identical to the program in Guam. In American Samoa, the American Samoa Power Authority ("ASPA"), a government-owned electric utility, services almost 70,000 people, and provides net metering to residential and small commercial customers with wind or solar-energy systems up to 30 kW in capacity. For customers with net excess generation, these customers receive full kWh credits that are carried forward to the next bill for one year. Like Guam, any existing credits at the end of the year are surrendered to the utility with no compensation for the customer.[34]

2. Puerto Rico.

Puerto Rico's net-metering applies to residential systems with a generating capacity of up to twenty-five (25) kW and non-residential systems up to one MW in capacity.[35]

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[32] Georgetown Report, p. 46, 49 (Aug. 27, 2013).
[33] *See, e.g.*, Georgetown Report, pp. 51-53 (Aug. 27, 2013).
[34] http://www.dsireusa.org/documents/Incentives/AS01R.PDF
[35] http://energy.gov/savings/puerto-rico-net-metering; http://www.dsireusa.org/incentives/incentive.cfm?Incentive_Code=PR02R;

NEG is carried over as a kWh credit to the following month, like Guam, but NEG credit is limited to a "daily maximum" of 300 kWh for residential customers and 10 megawatt-hours (MWh) for commercial customers.[36]

Unlike Guam, however, customers with excess credits remaining at the end of a twelve (12) month period are compensated as follows: seventy-five percent (75%) of the excess credits are purchased by PREPA at a rate of $0.10 per kWh or "the amount resulting from the subtraction of the adjusted fuel fee based on the variable costs incurred by the public corporation exclusively for the purchase of fuel and energy, from the total price charged by the public utility to its customers, converted into kilowatt-hours, whichever is greater;" and the remaining 25% will be granted to PREPA to distribute as a credit or reduction applied to the electricity bills of public schools.[37]

3. **U.S. Virgin Islands.**

In the U.S. Virgin Islands, any NEGs produced by a customer are credited at a full retail rate and are carried forward to the customer's next monthly bill. And like Guam, any remaining NEGs at the end of a twelve (12) month period are granted to the utility. Capacity limits in the Virgin Islands, however, are as follows: 20 kW for residential systems, 100 kW for commercial systems, and 500 kW for public (which includes government, schools, and hospitals).

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[36] http://energy.gov/savings/puerto-rico-net-metering; http://www.dsireusa.org/incentives/incentive.cfm?Incentive_Code=PR02R;

[37] http://energy.gov/savings/puerto-rico-net-metering; http://www.dsireusa.org/incentives/incentive.cfm?Incentive_Code=PR02R;

4. Washington, D.C.

In Washington, D.C., compensation for NEGs is based on the size of the generator. For systems of 100 kW or less, NEG *must be* credited to the customer's next bill at the full retail rate, which includes generation, transmission, and distribution components. For systems with capacities of, or greater than, 100 kW, NEG is credited to the customer's next bill at the generation rate. Unlike Guam, however, all credits for NEG are carried forward indefinitely, as opposed to just twelve (12) months.

E. PUBLIC TESTIMONY

1. Public Hearings.

At the Hagåtña public hearing, several individuals provided testimony. Among them were Scott Hagan, Jeff Voacolo, Imal Lynn Scott, Phil Perez, and Al Yager, who testified on the net metering issue. Scott Hagan testified by asking GPA: "Why are you trying to kill the industry on Guam?" Mr. Hagan stated "trash 'Schedule C,'" that GPA had "no lack of brains" to figure out how to "recoup losses"; and that "if you can't find another source, then eat the cost." Mr. Hagan added, "let the sun set on 'Schedule C.'"

Jeff Voacolo testified that he was the president of the Guam Renewable Energy Association ("GREA"), which was an organization filled with industry experts, installers, architects and engineers, and had about twenty-two (22) members. Mr. Voacolo stated that he believed that the solar energy industry was a "viable industry," but that "Schedule C" would "destroy and damper the industry." Accordingly, Mr. Voacolo testified that GREA did not "support 'Schedule C' at all." Imal Lynn Scott, also of GREA, and co-owner of Energy Solutions, testified that "Schedule C" would "reduce jobs on Guam" just as the

industry was getting started. Phil Perez, a GREA board member, thanked members of GREA for opposing "Tariff C." Mr. Perez questioned whether GPA was really losing revenue, and if GPA could provide a study indicating its losses. About twelve (12) members of GREA were present in the audience. Al Yager testified that "Tariff C kills the industry."

At the Asan and Dededo public hearings, several other individuals provided testimony with respect to net metering. Among the individuals testifying in Asan were: Timothy and Gisela Guile. Mr. Guile, a "proponent of solar energy," testified that "Schedule C" would "throw water on the solar energy fire" and recommended that GPA "withhold readjustment for five (5) to ten (10) years . . . to promote solar paneling." Mrs. Guile testified that in Germany, she saw "solar systems everywhere" and that Germans were encouraged to utilize solar energy. She further testified that she was so disappointed that solar energy in Guam is being discouraged.

In Dededo, Edgar Zeitger testified that net meter customers pay for the development of their systems, and that they add no strain on GPA's system. Wayne Pritchard testified that charging "net metering people more money is wrong," that his family "installed PVs to give back to the community," and asked GPA to "make it fair—one for one." Mr. Hagan, commenting on the testimony that fifteen (15) jurisdictions do not offer the one-to-one retail credit, asked GPA: "Do you really want to take the side of the minority?" Ordelia Pritchard, a schoolteacher, testified that GPA should look at investing in solar panels and questioned why net meter customers were being penalized under "Schedule C."

2. **Written Testimony.**

In addition, written testimony was submitted by the following: the Guam Renewable Energy Association ("GREA"), Alfred Lam of Green Energy Solutions, Inc., Jaime Tiong, and the Honorable Senator Vicente (ben) Cabrera Pangelinan ("Senator Pangelinan").

In its testimony, GREA stated that "[i]f GPA's proposed Schedule "C" is approved it will destroy Guam's fledgling renewable energy industry and result in the loss of a large number of jobs by those employed in that industry" as well as "betray those GPA customers who, in good faith, invested their money to install renewable energy systems on their homes and facilities."[38] GREA added that its research found that "every jurisdiction" in the U.S. provides a one-to-one kWh trade for all energy fed into the grid.[39]

GREA further added that GPA and GREA have agreed to form a working group whereby "both sides would appoint members from both organizations and GREA would have the opportunity to fully present [its] stand against Schedule C, proving to the GPA that if approved this would be unfair to the Renewable Energy Industry here on Guam, unfair to the community of Guam, and unfair compensation for the power produced by the independent power producers."[40]

In his testimony, Alfred Lam testified that "Schedule C" would "kill" his business by reducing his product earning by "30%"; and that should "Schedule C" be implemented, he would "have to cut 12 employees to even try and survive, we may even have to close

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[38] Written Testimony submitted by GREA ("GREA Written Testimony"), GPA Docket 11-09, p. 1 (Sept. 12, 2013).

[39] GREA Written Testimony, GPA Docket 11-09, p. 1 (Sept. 12, 2013).

[40] GREA Written Testimony, GPA Docket 11-09, p. 1 (Sept. 12, 2013).

shop."[41] Mr. Lam testified that "Hawaii to the East Coast of the United States provides for a 1 to 1 kWh trade for all energy fed into the grid. Why is GPA not willing to do this? It will not be fair for the people of Guam. GPA is a major and powerful agency and should consider this issue carefully to avoid hurting these new businesses . . . ."[42] Mr. Lam requested that the PUC oppose GPA's proposal.[43]

In his testimony, Jaime Tiong suggested creating classes of net metering customers, for instance, an exemption from "Schedule C" for under 10 kWh systems, and application of "Schedule C" for over 10kWh systems.[44] Mr. Tiong further recommended that the "Schedule C" proposal be "postponed until more research/input from the public and private businesses can be taken into consideration."[45]

In Senator Pangelinan's testimony, the Senator advised that "[i]t was the intent of the Guam Legislature in Public Law 27-132 to encourage private investment in renewable energy resources, stimulate economic growth, and enhance the continued diversification of the renewable energy resources used on Guam."[46] Senator Pangelinan testified that "[u]tilizing the LEAC rate in accordance with the proposed Rate Schedule 'C' will relegate the current dollar-for-dollar net metering credit to only cents-on-the-dollar which will certainly inhibit the growth of the renewable energy industry by eliminating any financial incentives for the people of Guam to invest in renewable energy systems and may

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[41] Written Testimony submitted by Alfred KY Lam, Green Energy Solutions, Inc. ("Lam Testimony"), GPA Docket 11-09, pp. 1-2 (Sept. 12, 2013).

[42] Lam Testimony, GPA Docket 11-09, pp. 1-2 (Sept. 12, 2013).

[43] Lam Testimony, GPA Docket 11-09, pp. 1-2 (Sept. 12, 2013).

[44] Lam Testimony, GPA Docket 11-09, pp. 1-2 (Sept. 12, 2013).

[45] Written Testimony submitted by Jaime Tiong ("Tiong Testimony"), GPA Docket 11-09, p. 1 (Sept. 13, 2013).

[46] Written Testimony submitted by Senator Vicente (ben) Cabrera Pangelinan ("Sen. Pangelinan's Testimony"), GPA Docket 11-09, p. 1 (Sept. 12, 2013).

negatively impact those who in good faith, based on the stated public policy of the government of Guam, already made significant investment in this area."[47] Senator Pangelinan further testified that the new rate schedule "disregards the intent of the Guam Legislature when passing and enacting the Net Metering laws."[48] Senator Pangelinan urged the PUC to "disapprove this Rate Schedule 'C' request by the GPA to uphold the intent of the government of Guam's policy in favor of renewable energy."[49]

CONCLUSION

The ALJ appreciates the "seriousness of this issue"[50] and does not discount GPA's observation that "an influx of commercial enterprises" are poised to potentially avail themselves of what GPA describes as a "differential between the actual cost of maintaining a utility system and delivering energy using oil-fired generation and the price paid for excess energy from net metering facilities."[51] However, the ALJ agrees with Georgetown in that "[t]here has been no evidence provided by GPA in its testimony or in response to discovery request that would indicate that the interim Net-Metering Rider isn't performing exactly as the GPUC and Guam policy makers anticipated or that there are any unexpected consequences from its operations."[52] Instead, GPA has conceded that "the penetration rate of net metering is currently very small"[53] and GPA has been unable to "provide any estimates of the amount of credits to net metering customers."[54]

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47 Sen. Pangelinan's Testimony, GPA Docket 11-09, p. 1 (Sept. 12, 2013).
48 Sen. Pangelinan's Testimony, GPA Docket 11-09, p. 1 (Sept. 12, 2013).
49 Sen. Pangelinan's Testimony, GPA Docket 11-09, p. 1 (Sept. 12, 2013).
50 Flores Testimony, p. 10 (Sept. 6, 2013).
51 Trainor Testimony, pp. 14 (Sept. 6, 2013).
52 Georgetown Report, p. 49 (Aug. 27, 2013).
53 Flores Testimony, p. 10 (Sept. 6, 2013).
54 Georgetown Report, p. 44 (Aug. 27, 2013).

Information is crucial should GPA elect to proceed with departing from the current rate structure. For instance, the number of customers with any net excess generation is not known. In addition, information on whether customers with net excess generation every month are likely to surrender such NEGs at the end of the twelve (12) month cycle would also be helpful in this analysis. Pursuant to the PUC's Decision and Order issued in GPA Docket 08-08, GPA is required to report this type of information to the PUC annually on April 1st.[55] Otherwise, the PUC is only obligated to review and examine the current net metering tariff "at such time as the number of customer-generators availing themselves to the 'net metering' tariff approaches one-thousand (1,000) customers . . . ."[56]

Furthermore, the majority of the jurisdictions appear to implement the one-for-one retail credit.[57] Smaller jurisdictions that are similar in size to Guam, like American Samoa, Puerto Rico, U.S. Virgin Islands, and Washington, D.C., also implement a one-for-one retail credit. Thus, a showing that Guam offers a unique set of circumstances different from all these jurisdictions would be helpful in this instance.

Moreover, based on the written testimony, and the testimony taken at the public hearings, there is wide public concern that GPA's proposal may potentially "kill" and "destroy" the fledgling solar industry in Guam, and "discourage" consumer use of solar energy. The record is replete with public testimony against any departure from the current one-to-one retail credit for NEG.

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[55] PUC Decision and Order, GPA Docket 08-08, "Exhibit A" (Dec. 29, 2008).
[56] PUC Decision and Order, GPA Docket 08-08, pp. 2-3 (Dec. 29, 2008).
[57] *See, e.g.*, Georgetown Report, pp. 51-53 (Aug. 27, 2013).

Accordingly, based on such testimony on the record, the current scheme appears to correspond with the intent of the Legislature when it enacted GPA's net metering statutes. The current scheme appears to "(a) encourage private investment in renewable energy resources; (b) stimulate economic growth; and (c) enhance the continued diversification of the renewable energy resources used on Guam." P.L. 27-132, p. 2 (Dec. 30, 2004).

GPA also has indicated that it intends on petitioning the PUC for changes in its tariff governing net metering that will address issues raised in the instant docket. GPA contends that "[t]he output of net metering producers will eventually reach a level that the total load will have a substantive effect on power sales and thus the utility's total operating revenue recovery."[58] Accordingly, GPA intends to "address mitigation of lost revenues due to net metering producers that will cause a shift in cost recovery that may result in base rate increases."[59]

In addition, GPA and GREA have agreed to form a working group whereby "both sides would appoint members from both organizations and GREA would have the opportunity to fully present [its] stand against Schedule C, proving to the GPA that if approved this would be unfair to the Renewable Energy Industry here on Guam, unfair to the community of Guam, and unfair compensation for the power produced by the independent power producers."[60]

In light of the above, the ALJ is inclined to recommend that any changes to the interim tariff should be rejected at this time. The ALJ finds that there is no data that relates

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[58] Flores Testimony, p. 11 (Sept. 6, 2013).
[59] Flores Testimony, p. 11 (Sept. 6, 2013).
[60] GREA Written Testimony, GPA Docket 11-09, p. 1 (Sept. 12, 2013).

to the implementation and effect of the net metering program in Guam. Ultimately, there is insufficient evidence on the record to subject the interim rate to PUC revocation at this time. *See* 12 G.C.A. §8506.

RECOMMENDATION

Based on the foregoing, the ALJ hereby recommends that the PUC reject GPA's proposed "Schedule C" and leave the Interim Net Metering Tariff in place until such time as GPA can propose a cost and methodology that adequately supports a change in the current rate scheme.

Dated this 20th day of September, 2013.

DAVID A. MAIR
Administrative Law Judge

P134090.JRA

Issued October 01, 2013

Rate Schedule "C"

Effective with meters read
on and after October 01, 2013

GUAM POWER AUTHORITY

SCHEDULE "C"

Net Metering Credit

Availability:

This schedule is applicable to all ratepayers with the ability to generate power and deliverer that power to GPA distribution system.

Credit:

For each establishment of electric service, that has a meter installation with the ability to measure the kWh delivered to GPA's distribution system the Service Establishment credit is as follows:

a. For all power generated at the establishment the credit will be based on measured kWh delivered to GPA's distribution system multiplied by the LEAC.