

**STATE OF IOWA
BEFORE THE IOWA UTILITIES BOARD**

IN RE:)
) **DOCKET NO. TF-2015-0305**
PELLA ELECTRIC COOPERATIVE)
ASSOCIATION)
) **PETITION TO INTERVENE AND**
) **OBJECTION**
)
)

The Environmental Law & Policy Center (ELPC), Iowa Environmental Council (IEC), Iowa Solar Energy Trade Association (ISETA), Iowa Interfaith Power & Light (Iowa IPL), Solar Energy Industries Association (SEIA), Vote Solar, Bryce Engbers, and Mike Lubberden (collectively “Solar Intervenors”) request intervention in Pella Electric Cooperative Association’s electric tariff filing pursuant to 199 Iowa Administrative Code § 7.13 and provide an initial response pursuant to 199 Iowa Administrative Code § 7.9. In support of their position, intervenors state:

THE PARTIES

1. The Environmental Law & Policy Center (ELPC) is a non-profit corporation with an office in Des Moines and members who reside in the State of Iowa. ELPC’s goals include promoting clean energy development and advocating for policies and practices that facilitate the use and development of clean energy such as solar and wind power including the use of third-party power purchase agreements to finance renewable energy systems. ELPC has invested significant time and resources into promoting clean energy development in Iowa and nine other states in the Midwest.

2. The Iowa Environmental Council (IEC) is a non-profit corporation organized under Iowa law. The IEC is a broad-based environmental policy organization with a mission to create a safe, healthy environment and sustainable future for Iowa. The IEC represents a broad coalition of Iowans including over 70 diverse member and cooperator organizations ranging from agricultural, conservation, and public health organizations, to educational institutions, business associations, and churches, along with hundreds of individual members. IEC's work focuses on clean water, clean air, conservation, and clean energy, including the promotion of policies that would facilitate the development of clean energy and clean energy jobs.

3. The Iowa Solar Energy Trade Association (ISETA) is a non-profit corporation organized under Iowa law. ISETA is a professional organization for solar photovoltaic and solar thermal industries in Iowa. ISETA promotes the interests of its members through education and public relations about the economic and environmental benefits of solar and wind. ISETA advocates for policies that will facilitate and promote the development of solar photovoltaic and solar thermal energy in Iowa.

4. Iowa Interfaith Power & Light (Iowa IPL) is a non-profit organization organized under Iowa law. Iowa IPL is a statewide organization that is mobilizing the religious community to become leaders in the movement for climate action through education, assistance with carbon footprint reductions in homes, businesses, and congregational facilities, and advocacy for sustainable energy policies. Iowa IPL's most prominent program, Cool Congregations, has trained representatives of over 275 congregations statewide to calculate and reduce their household energy use by an average of 10% per year.

5. The Solar Energy Industries Association (SEIA)¹ is the national trade association of the United States solar industry. Through advocacy and education SEIA and its 1,100 member companies work to make solar energy a mainstream and significant energy source by expanding markets, removing market barriers, strengthening the industry and educating the public on the benefits of solar energy.

6. Vote Solar is a non-profit grassroots organization working to foster economic opportunity, promote energy independence, and fight climate change by making solar a mainstream energy resource across the United States. Since 2002 Vote Solar has engaged in state, local and federal advocacy campaigns to remove regulatory barriers and implement the key policies needed to bring solar to scale.

7. Bryce Engbers is a farmer in the Kellogg and Grinnell Iowa area. Bryce farms approximately 750 acres of corn and soybeans and is in a partnership on two hog production facilities. Bryce is a customer of Pella Electric Cooperative Association. Bryce and his wife have installed a 3.5 kW solar system at their home, and Bryce and his partner have installed two 10 kW solar arrays at the hog facilities. As a solar customer, Bryce is directly and adversely impacted by Pella Electric's proposed tariff.

8. Mike Lubberden and his wife are customers of the Pella Electric Cooperative Association, living at 523 195th Avenue, which lies in district #1 of the Pella Electric service territory. Mike planned to install a solar array at his residence this fall, but his plans stalled after receiving word that net metering was not an option, and then later receiving a notice of change in the utility's facility charge for distributed generation customers. Mike is director of facilities planning & management for Central College in Pella, where he worked to secure a net metering

¹ The views represented in this filing are the views of the trade association and not necessarily any of its individual members.

agreement with Pella Electric in 2001 at the College's remote biology field station near Lake Red Rock.

PELLA ELECTRIC'S \$85 FACILITIES CHARGE IS DISCRIMINATORY AND PREJUDICIAL UNDER IOWA CODE §§ 476.1A AND 476.21.

9. On July 15, 2015, Pella Electric Cooperative Association (Pella Electric) filed a tariff with the Iowa Utilities Board that would impose a monthly facility charge of \$85.00 for any interconnected Qualified Facility (QF) up to 25 kW of capacity.

10. This \$85.00 tariff charge applies only to QFs and not to any other Pella customers. It is unclear if the \$85.00 facilities charge for QF customers is in addition to or in place of the existing \$27.50 facilities charge for residences and agricultural properties without residences or the \$30 or \$50 facilities charge for commercial customers.²

11. Iowa Code explicitly prohibits discrimination against a customer based on the customer's choice to use renewable energy:

A municipality, corporation or cooperative association providing electrical or gas service shall not consider the use of renewable energy sources by a customer as a basis for establishing discriminatory rates or charges for any service or commodity sold to the customer or discontinue services or subject the customer to any other prejudice or disadvantage based on the customer's use or intended use of renewable energy sources.

Iowa Code § 476.21.

12. While electric cooperatives are not subject to rate regulation, electric cooperatives are subject to the Iowa Code's prohibition on discrimination based on renewable energy use. Iowa Code § 476.1A(2). Electric cooperatives are also prohibited from subjecting "any person to any unreasonable prejudice or disadvantage." Iowa Code § 476.1A(3). This gives the Board clear jurisdiction to address Pella Electric's QF facility charge if that charge is discriminatory based on

² For current Pella Electric facility charges, see the website at: <http://www.pella-cea.org/content/rates>.

the customer's choice to use renewable energy or creates any unreasonable prejudice or disadvantage.

13. Creating an \$85 facilities charge that applies exclusively to QFs of 25 kW and less violates Iowa's prohibition on discrimination based on a customer's use of renewable energy sources.

14. On its face, a facilities charge for QFs is unreasonable and discriminatory. The charge applies only to customers who choose to use renewable energy. This singling out of renewable energy customers has a prejudicial effect and leads to significant disadvantage. As discussed below in more detail, the charge makes the pursuit of renewable energy uneconomic for any customer. Even worse, for customers who have already installed renewable energy systems, it is cheaper for them to take out their system than incur this unreasonable monthly charge.

15. Pella Electric claims that the tariff change is based on a recent cost of service study. Pella Electric will only allow members to examine the study in its office and has not permitted members to share the study with counsel or other experts for analysis. The Solar Intervenors have not had an opportunity to review the cost of service study.

16. Pella Electric has the burden of demonstrating that the facilities charge for QF customers is reasonable and non-discriminatory. *See* Iowa Code § 476.4 (“[T]he burden of establishing the reasonableness of such rates and charges shall be upon the public utility filing the same.”).

17. While we have yet to have an opportunity to review Pella Electric's cost of service study, there are some principles that will guide our review and that will help show that

Pella Electric will not be able to meet its burden and demonstrate that its proposed \$85 facilities charge for QF customers is just, reasonable and non-discriminatory.

18. First, utilities do not have a “right” to a certain amount of consumption and revenue from each of their customers. The simple fact that some of Pella Electric’s customers choose to reduce their electricity purchases by investing in distributed renewable energy generation or energy efficiency does not justify additional charges being levied on those customers to “make up” for lost revenue.

19. Second, to determine if QF customers are paying their “fair share” of fixed costs, one needs to know Pella Electric’s actual costs to serve QF customers and the corresponding benefits that QF generation provides to Pella Electric’s system. Any additional facilities charge must include an analysis of load characteristic data necessary to sufficiently distinguish QF customers from other customers on a cost of service basis. This analysis must go beyond simply showing that QF customers use less energy on average than other utility customers. As the Utah Public Service Commission pointed out in a recent case rejecting a similar fee for distributed generation customers:

Simply using less energy than average, but about the same amount as the most typical of [the utility’s] residential customers, is not sufficient justification for imposing a charge, as there will always be customers who are below and above average in any class. Such is the nature of an average. In this instance, if we are to implement a facilities charge or a new rate design, we must understand the usage characteristics, *e.g.*, the load profile, load factor, and contribution to relevant peak demand, of the net metered subgroup of residential customers. We must have evidence showing the impact this demand profile has on the cost to serve them, in order to understand the system costs caused by these customers.³

³ Utah Public Service Commission, *In the Matter of the Application of Rocky Mountain Power for Authority to Increase its Retail Electric Utility Service Rates in Utah and for Approval of its Proposed Electric Service Schedules and Electric Service Regulations*, Docket No. 13-035-184, Report and Order at p. 68 (August 29, 2014) available at <http://psc.utah.gov/utilities/electric/ordersindx/documents/26006513035184rao.pdf>.

If Pella Electric is going to claim that QF customers incur costs for the utility, those costs should be clearly quantified and explained in the cost of service study. The explanation should include how Pella Electric calculated those costs and whether and to what extent those costs are accounted for by the customer

20. Third, the benefits provided by QF customers to Pella Electric's grid should not be ignored in determining the cost to serve QF customers. There are numerous grid benefits that should be accounted for and quantified including reductions in energy losses over transmission and distribution lines, the hedge value against potential future fuel price increases, environmental compliance benefits, and energy and capacity benefits. In addition, Pella Electric does not offer net metering for QF customers.⁴ Most QF facilities do not perfectly match generation with consumption and send electricity back to the grid. Pella Electric only compensates QF customers for energy returned to the grid at the avoided cost rate of 3.3 cents per kWh, but that energy is then sold to other customers at the rate of 10.1 cents per kWh. This is a 6.8 cent per kWh windfall for the utility that QF customers already provide. These benefits offset the cost to serve QF customers and should be properly accounted for and credited to QF customers in a cost of service study.

⁴ Several Solar Intervenors have previously suggested that the Board apply Iowa's net metering rule to electric cooperatives. *See* NOI-2014-0001, Initial Comments of ELPC et al, at 27 (filed Feb. 26, 2014). In response, the Board collected information and noted that over 50 percent of electric cooperatives provided some form of net metering. NOI-2014-0001, Order Soliciting Additional Comments and Scheduling Workshop, at 6 (filed Sept. 19, 2014). The Board concluded that it "will not seek to assert jurisdiction over the net metering policies of non-rate-regulated utilities at this time but strongly encourages those utilities that have not done so to adopt net metering policies on a voluntary basis." *Id.* While the Board has chosen not to apply net metering to electric cooperatives, we suggest that the example of Pella Electric illustrates why the Board should revisit that decision.

IMPACT ON PELLA ELECTRIC CUSTOMERS

21. Pella Electric's residential facilities charge of \$27.50 per month is already substantial, and it is in the high end of the range of fixed charges around the Midwest.

22. Pella Electric does not offer net metering for QFs. This presents challenges to Pella Electric customers and results in the downsizing of systems on Pella Electric's grid. The lack of net metering also means that QFs on Pella Electric's system are already providing the utility a significant benefit in the form of energy returned to the grid and sold to other customers at a 6.8 cent per kWh windfall.

23. Pella Electric's \$85.00 facilities charge makes any QF, even one that has been fully paid off, uneconomic to run on Pella Electric's grid. It is an insurmountable barrier for any customer contemplating on-site renewable energy generation.

24. Bryce Engbers has three separate solar systems. Engbers Affidavit attached as Exhibit A. One 3.5 kW system on his home and two 10 kW systems – one each on two separate hog production facilities. Each system would be subject to Pella Electric's \$85.00 monthly facilities charge. None of these systems off-set all of the load at the meter, and Mr. Engbers still has substantial utility bills for each meter.

25. In 2014, Mr. Engbers paid Pella Electric \$1,026 for his home electric bill after off-setting energy with his solar production and receiving credit for energy sent to Pella Electric's grid. *Id.* Total solar production in 2014 for his 3.5 kW system was 5,230 kWh. *Id.* 2,984 kWh were sent back to Pella REC, and he received \$0.033 per kWh in compensation for a total credit of \$100.79. *Id.* Of the total solar production, his house consumed 2,246 kWh which offset the residential rate of 10.1 cents per kWh for a total of \$226.85 in energy savings. *Id.* Add the \$100.79 credit for energy returned to the grid to the energy savings of \$226.85, and he saved

a total of \$327.66 in 2014. A facilities charge of \$85 per month equals \$1,020 per year. If it were applied to Mr. Engbers system in 2014, he would have a net loss of \$692.34. *Id.* To add insult to injury, Pella Electric made \$202.91 on the energy that Mr. Engbers home system returned to the grid and that is without accounting for any of the other benefits that solar provides for the grid.

26. The impact is similar for Mr. Engbers solar installations at the two hog production facilities. In 2014, the two hog production facilities had an electric bill that totaled \$8,366.40. *Id.* The two solar arrays had a total production for 2014 of 22,069 kWh. *Id.* The solar installations sent 13,100 kWh back to the electric grid and received a credit of \$0.033 per kWh for a total credit of \$434.39. *Id.* The solar installations produced 8,969 kWh that off-set energy use at a cost savings of \$0.101 (10.1 cents) per kWh and a total energy savings of \$905.87. *Id.* Add the \$434.39 credit for energy returned to the grid to the energy savings of \$905.87, and the two hog production facilities saved a total of \$1,340.26 in 2014. *Id.* A facilities charge of \$85 per month equals \$170 per month (\$85 for each facility) for a total of \$2,040.00. If these charges were applied in 2014, the hog production facilities solar installations would have a net loss of \$699.74. Pella Electric made \$890.80 on the energy that Mr. Engbers hog production facilities' solar systems returned to the grid and that is without accounting for any of the other benefits that solar provides for the grid.

27. Pella Electric's \$85.00 facilities charge for QF customers has an impact on customers that are considering renewable energy generation. Mike Lubberden is director of facilities planning and management for Central College in Pella, and a Pella Electric customer at his home. Lubberden Affidavit attached as Exhibit B. Mr. Lubberden has had a long-standing interest in sustainability issues including renewable generation such as solar. With the recent decline in the installation costs associated with residential solar technology, Mr. Lubberden and

his wife determined the timing was right to install an 8 kW system at their personal residence. An 8 kW system would produce 80% - 90% of their annual electrical consumption, which is about 11,000 kWh. *Id.*

28. Mr. Lubberden initially assumed that he would be able to net meter the system and that it would generate about \$2,275 per year savings, with a simple payback of about 4 ½ years. In mid-May, he called Stan Eysink of Pella Electric, expressing his interest in installing an 8 kW solar array at his personal residence. *Id.* Mr. Eysink referred him to Pella Electric's website and interconnection requirements. After reviewing the website, Mr. Lubberden learned that Pella Electric no longer provides net metering to its customers, but rather uses a net billing arrangement with 2 meters; one to measure consumption, the other measuring production, both of which are paid for by the customer. *Id.* All excess production is credited back to the customer at the avoided cost rate of \$0.0338 per kWh. *Id.* This changed the system's payback, as well as making it difficult to right-size the system. *Id.* Mr. Lubberden's home consumes a modest amount of energy throughout the day when they are at work. The only energy consuming appliances are the geo-thermal heat pump, (unoccupied temp adjusted) a refrigerator, livestock waterer, and the ghost loads of our electronics and appliances. *Id.* Once Mr. Lubberden knew he could not net meter, he assumed his home would consume about 35% of the solar array's production, he anticipated an 8 year simple payback for the 8 kW system, almost twice what he had originally calculated when he thought he could net meter. *Id.* While he was disappointed with the increased payback, he was still interested in pursuing solar under those circumstances.

29. Mr. Lubberden had planned on installing solar at his home this fall. On June 18, 2015, he received a letter from Pella REC, indicating an \$85.00 facility charge would be added to the monthly billing for all DG customers with systems installed after August 15, 2015. *Id.*

Pella Electric's \$85.00 facilities charge for QFs ended his "consideration of a DG system for [his] residence, as all monthly savings would be negated by this unreasonable and unprecedented tariff." *Id.*

**SOLAR INTERVENORS HAVE AN INTEREST IN A FAIR, TRANSPARENT
REGULATORY FRAMEWORK FOR RENEWABLE ENERGY DEVELOPMENT**

30. The Solar Intervenors represent a coalition of groups and individuals with an interest in renewable energy development. The Solar Intervenors have an interest in a policy framework that is clear, transparent and supportive of renewable energy development.

31. The Intervenors support a policy and regulatory framework that facilitates the development of renewable energy in Iowa and throughout the Midwest. Pella Electric's QF facility charge of \$85.00 is a discriminatory rate that discourages any Pella Electric customer from adopting renewable energy generation. The rate is so punitive that it would be a better economic decision for customers to remove solar panels from operation rather than pay the \$85.00 monthly charge. The rate is discriminatory and would undermine Iowa's policy in support of renewable energy development. The precedent that a rate like this could set would harm the development of renewable energy in the state. It would discourage customers from making an investment in renewable energy if they think that their utility could adopt a discriminatory fee without justification in the future. Renewable energy businesses looking to expand and grow and banks that provide financing for renewable energy systems would avoid areas where utilities can establish discriminatory penalties.

32. The Intervenors will provide a local, regional and national perspective on the issues at hand and will thus assist in the development of a sound record for the Board through presentation of relevant evidence and argument.

33. As policy, advocacy and solar industry organizations with an interest in renewable energy development throughout the state of Iowa and as Pella Electric customers with a direct interest in this particular tariff, the Intervenor's interests are not adequately represented by the existing parties to this docket.

34. The Intervenor's intend to fully participate in this docket and would reserve the right to submit direct testimony and exhibits, participate in hearings and cross-examination of witnesses and provide any comments and briefs as appropriate.

35. The Intervenor's will be represented in this docket by the Environmental Law & Policy Center and communications concerning the petition should be directed to ELPC at its Des Moines office. Joshua T. Mandelbaum is a resident attorney licensed to practice in Iowa and works out of ELPC's Des Moines office.

WHEREFORE, ELPC, IEC, ISETA, Iowa IPL, SEIA, Vote Solar, Bryce Engbers, and Mike Lubberden respectfully request that the Board grant their petition to intervene in Pella Electric Cooperative Association's tariff filing. The Intervenor's further request that the Board docket the tariff for investigation and provide the parties an opportunity to conduct discovery including review of Pella Electric's cost of service study. The Intervenor's object to Pella Electric's \$85.00 facilities charge only for QF customers as unreasonable, prejudicial, discriminatory and a violation of Iowa Code §§ 476.1A(3) and 476.21.

Respectfully submitted August 4, 2015.

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