

UNITED STATES OF AMERICA
BEFORE THE
FEDERAL ENERGY REGULATORY COMMISSION

Sunrun Inc.

Docket No. EL18-205-000

**MOTION TO INTERVENE AND PROTEST OF THE
NATIONAL RURAL ELECTRIC COOPERATIVE ASSOCIATION**

The National Rural Electric Cooperative Association (NRECA) moves to intervene under Commission Rule 214, 18 C.F.R. § 385.214 (2018), and protests the petition for declaratory order in this proceeding under Rule 211, 18 C.F.R. § 385.211.

MOTION TO INTERVENE

NRECA is the national service organization representing the interests of the nation's more than 900 member-owned, not-for-profit rural electric utilities. America's electric cooperatives provide electric service to approximately 42 million consumers across 47 states—about 12 percent of the nation's population. Rural electric cooperatives account for about 11 percent of all electric energy (kilowatt-hours) sold in the United States. NRECA members include approximately 840 distribution cooperatives and 65 generation and transmission (G&T) cooperatives. Distribution cooperatives provide electric service to their consumer-members. The G&T cooperatives are owned by distribution cooperatives and supply wholesale power to their member distribution cooperatives. Distribution and G&T cooperatives were formed to provide safe, reliable, and affordable electric service to their members.

In this proceeding, Sunrun petitions the Commission for a declaratory order that would waive certain qualifying facility (QF) certification filing requirements in the Commission's regulations under the Public Utility Regulatory Policies Act of 1978 (PURPA) and the Federal Power Act. The requested waiver would apply to more than 150,000 existing Sunrun facilities, apparently operating in many states, and to an unlimited number of future Sunrun facilities.

An "electric utility," which is defined to include an electric cooperative, *see* 16 U.S.C. § 796(22), may be obligated to purchase energy from a QF and to provide services to a QF, *see* 16 U.S.C. § 824a-3. Therefore, the outcome of this proceeding could directly affect the cooperative members of NRECA and their consumer-members. No other party can adequately represent NRECA's interest, and its participation would be in the public interest. Accordingly, NRECA respectfully moves to intervene as a party to this proceeding.

SERVICE AND COMMUNICATIONS

Service should be made on and communications directed to:

Randolph Elliott
Senior Director, Regulatory Counsel
National Rural Electric Cooperative
Association
4301 Wilson Blvd., 11th Floor
Arlington, VA 22203
703-907-6818
randolph.elliott@nreca.coop

PROTEST

The Commission’s regulations provide that a small power production facility, such as a photovoltaic (PV) solar facility, seeking to be a QF must file a self-certification or an application for certification. 18 C.F.R. § 292.203(a)(3) (2018). Any such facility with a net power production capacity of 1 megawatt (MW) or less is exempt from this filing requirement. 18 C.F.R. 292.203(d). As Sunrun notes, the Commission applies a “one-mile rule” to determine whether a facility’s net power production capacity is less than 1 MW for purposes of this exemption from the filing requirements. Pet. at 6 (citing *SunE B9Holdings, LLC*, 157 FERC ¶ 61,044 (2016), and *SunE M5B Holdings LLC*, 157 FERC ¶ 61,045 (2016)).

Sunrun seeks a waiver of this precedent. It asks the Commission to apply the 1-MW filing exemption to most Sunrun PV solar installations “irrespective of whether such systems aggregate to over 1 MW within a mile.” Pet. at 9. Sunrun lays out criteria that it says would exempt 158,737 systems totaling 1,106 MW as of June 30, 2018. Pet. at 9–11. But Sunrun’s proposed filing exemption would have no limit on the number of its facilities, their geographic concentration, or their operation.

Sunrun cites no immediate need for the waiver. It states that it presently does not need to file any QF self-certifications or certification applications for any of its residential PV facilities, because it sells the energy output of each facility to the consumer where the facility is located, and these consumers participate in retail net-metering programs. Pet. at 8 & n.23. Sunrun asserts that it may seek QF certifications if it changes its business model and begins offering the output of its facilities into organized wholesale markets as distributed energy resource (DER) aggregations. Pet. at 8. Sunrun also asserts that at some point in the future the geographic concentration of its facilities

might mean that it may no longer be able to rely on the 1-MW filing exemption, although it does not provide evidence when this might happen or how widespread this might be.

Pet. at 8, 14–17.

Sunrun’s petition implicates several policy issues. Should the 1-MW filing exemption apply to facility aggregations of unlimited size owned and operated by a large and sophisticated company like Sunrun? If the one-mile rule is not applied when determining eligibility for the 1-MW filing exemption for a class of facilities, should a different limit be applied? Can the Commission instead rely on potential reporting and monitoring requirements for DER aggregations participating in wholesale markets, as Sunrun implies (Pet. at 18)?

NRECA respectfully submits that Sunrun’s petition is an inappropriate vehicle to decide these questions. The public would be better served if the Commission were to address these matters in generic proceedings concerning broader issues of PURPA implementation and DER aggregations. The Commission has begun both inquiries and has a pending proposal for DER aggregations. *See* Implementation Issues Under the Public Utility Regulatory Policies Act, Docket No. AD16-16-000; Participation of Distributed Energy Resource Aggregations in Markets Operated by Regional Transmission Organizations and Independent System Operators, Docket No. RM18-9-000. Sunrun’s petition for a declaratory order is a premature, piecemeal approach to addressing these policy issues in advance of the more appropriate generic proceedings.

CONCLUSION

NRECA's motion to intervene should be granted. The petition for declaratory order should be denied.

Respectfully submitted,

/s/ Randolph Elliott

Randolph Elliott
Senior Director, Regulatory Counsel
National Rural Electric Cooperative
Association
4301 Wilson Blvd., 11th Floor
Arlington, VA 22203
703-907-6818
randolph.elliott@nreca.coop

October 24, 2018

CERTIFICATE OF SERVICE

I hereby certify that I have this day served the foregoing document upon each person designated on the official service list compiled by the Secretary in this proceeding.

Dated at Arlington, Virginia, this 24th day of October 2018.

s/ Randolph Elliott

Randolph Elliott
Senior Director, Regulatory Counsel
National Rural Electric Cooperative
Association
4301 Wilson Blvd., 11th Floor
Arlington, VA 22203
703-907-6818
randolph.elliott@nreca.coop