



Federal Energy Regulatory Commission Declines to Regulate Net Metering

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[Net metering](#) is a policy through which electricity customers with their own electricity generation systems are compensated for the energy they produce (above what they consume). Typically, net metering customers receive a bill credit for any excess electricity they produce over the course of a month. In other words, their monthly electricity bills reflect the *net* of electricity used from the grid and delivered to the grid. Rooftop-mounted solar photovoltaic panels (i.e., rooftop solar) make up nearly all net metering generation capacity in the United States. For simplicity, the following discussion refers to generators participating in net metering as rooftop solar. [Most states](#) have adopted a net metering policy.

The Federal Energy Regulatory Commission (FERC) regulates wholesale and interstate electricity transactions, [pursuant to the Federal Power Act \(FPA\)](#). The FPA defines wholesale electricity transactions as “[sale of electric energy to any person for resale](#).” In 2001 (and again, in 2009), FERC [determined that net metering policies do not constitute a sale for resale](#). Currently, states and local authorities regulate net metering policies.

On April 14, 2020, the [New England Ratepayers Association \(NERA\)](#) [filed a petition with FERC](#), asking the Commission to exert jurisdiction over most types of net metering transactions, arguing that they constitute a sale for resale. NERA asked that FERC regulate rooftop solar in the same way it regulates [other small-scale generators](#) pursuant to the Public Utility Regulatory Policies Act (PURPA; P.L. 95-617). It argued, in part, that many state net metering policies require utilities to overcompensate rooftop solar owners because net metering customers are compensated above the utility’s avoided cost. Further, NERA argued that many state net metering policies inequitably shift costs to customers without rooftop solar. [Some stakeholders](#) raised concerns that if FERC regulated net metering as NERA proposed, rooftop solar would receive less compensation, potentially slowing its development.

On July 16, [FERC unanimously dismissed the petition](#) on procedural grounds, leaving the status quo in place. However, FERC left open the possibility that it might reconsider issues related to rooftop solar in the future.

NERA’s petition raised interest in issues related to net metering, some of which are discussed below.

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Federal Jurisdiction over Electricity

The FPA establishes a “bright line” between federal jurisdiction over wholesale transactions (e.g., sales for resale) and state jurisdiction over retail transactions (e.g., sales to electricity consumers). Congress, in PURPA and amendments thereto, has encouraged, but not required, states to adopt certain standards regarding retail rates, electric utility operations, and other retail transactions. The Energy Policy Act of 2005 (EPACT05; P.L. 109-58) amended PURPA to encourage states to adopt net metering.

[Some stakeholders](#) have raised concerns that FERC regulation of net metering would cross the jurisdictional bright line and infringe on regulatory authority historically reserved to the states.

Solar Energy Development

Congress has enacted a variety of policies to promote solar energy development since the 1970s, and the appropriate federal role in promoting solar energy development remains a topic of debate. Development of solar energy nationwide has increased, especially in recent years, reaching [2.6% of total electricity generation in 2019](#) (including both utility- and small-scale generation).

The amount of solar energy generated within each state varies considerably. Variations in state net metering policies are one driver of these differences, especially differences in [small-scale solar energy development](#) (e.g., rooftop solar). In most states, [less than 1% of all electricity customers](#) participate in net metering. Hawaii has the highest rate of net metering participation, at more than 15%, [driven by](#) supportive state policies and its relatively high cost of electricity. Large-scale solar energy projects are rarely eligible for net metering, so they are affected more strongly by [other types of policies](#).

Energy Burden

Energy burden is the share of household income spent on energy expenses. Net metering customers have lower electricity bills than other customers because of the bill credits they receive. Thus, net metering has been promoted as an option to reduce household energy burden. However, [some analysis suggests](#) that net metering policies increase energy burden for non-net metering customers. Historically, low-income households are under-represented among net metering customers, [raising concerns that net metering is a regressive policy](#). Electricity rates sometimes increase when the number of net metering customers crosses a certain threshold because rates are designed to allow [utilities to fully recover the costs of operating the electricity system](#). Utilities frequently argue that net metering customers do not pay their share of utility costs, causing rates to rise and thus potentially increasing bills for other customers. NERA also made this argument in its petition.

[Some states](#) have modified their net metering policies in recent years, in some cases to address concerns about how net metering affects energy burden for households without rooftop solar. Many of these modifications include alternative compensation mechanisms (sometimes called [Net Metering 2.0](#)) for customers that own solar generation.

Considerations for Congress

Members of Congress could allow the FERC decision to stay without further action, effectively preserving the status quo on net metering but leaving open the possibility that future FERC decisions would address net metering and related issues. Alternatively, Congress could consider legislation to give FERC policy direction regarding net metering—[bills have been proposed in recent years](#) to either limit or expand net metering—or the broader topic of distributed energy resources.

Congress could also choose to consider other issues related to net metering. One such issue receiving attention involves whether the longstanding jurisdictional bright line remains appropriate given recent technology developments in electricity technologies, such as rooftop solar that can be directly connected to homes and businesses. Congress could also choose to consider issues related to solar energy development and energy burden in the context of state net metering policies and other industry trends.

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