Electric Submetering Arrives in Connecticut

Landlords can hold tenants accountable for electricity use

Paul R. McCary , The Connecticut Law Tribune

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New electric submetering rules allow landlords to hold tenants financially accountable for their energy usage and improve the economics of on-site distributed generation such as cogeneration equipment or a fuel cell. Multitenant properties that are either old or have on-site generation provide the best opportunities to take advantage of the new rules. This article recounts the historical approach to electric submetering in Connecticut, then describes the new rules and explains their importance to modern landlords.

First, some definitions. Electric submetering is the use, for tenant billing purposes, of a non-utility electric meter that measures electricity use in a single tenant's premises. The non-utility meter capturing tenant usage is the submeter. The larger utility meter that serves the entire building is called a master meter. The landlord is billed by the electric utility for the total building electric usage via the master meter. The landlord then bills tenants for their share of electricity usage using readings from the submeters.

Depending on your point of view, before 2013 electric submetering in places other than campgrounds and marinas was either unlawful or strongly disfavored by Connecticut utility regulators. The Public Utilities Regulatory Authority (PURA) was initially concerned about consumer protections for submetered tenants. Electric utilities are subject to a host of regulations that govern meter location, meter accuracy, backbilling, estimated bills, bill format and, ultimately, service termination. Connecticut statutes before 2013 required electric utilities to allow submetering at campgrounds, marinas and other locations approved by PURA. Despite several requests by landlords for permission to submeter, PURA never authorized any landlords to do so.

At first, the agency questioned its legal power to authorize submetering. Later, PURA acknowledged its authority to allow submetering, but declined to exercise that power, citing the absence of consumer protections governing submetering landlords. This anti-submetering policy left landlords with the choice of either rolling electricity charges into the rent or installing electric utility meters for each tenant unit.

Most apartment buildings constructed after 1978 are required by applicable building codes to install electric meters for each apartment. Older buildings often do not have electric meters for each apartment.

Insisting on individual apartment meters fosters wise energy policy. Numerous studies have shown that tenants who are not accountable for their energy usage (because their electricity use is rolled into other building operating costs and recovered in rent) use significantly more electricity than customers who pay their own electricity bills. Individual accountability not only discourages waste, it also more fairly allocates electricity costs among tenants with varying electricity usage patterns. After all, why should a tenant who conserves energy and is often away from home pay the same amount for power as her neighbor who has a large family and works from her apartment?

While modern building codes mandate individual apartment electric meters, those codes do not require that the meters be owned by the local electric utility. Instead of submetering, why wouldn't a landlord simply install utility meters and let the local electric company handle metering and billing?

There are two situations in which submeters make much more sense than utility meters. The first is where the installation of utility meters is prohibitively expensive due to utility rules about meter locations and voltage levels. For example, a developer repurposing an old commercial space to be converted to apartments will need to reuse as much of the existing building wiring as possible to save on construction costs. The original building wiring configuration in these adaptive reuse projects will usually not support the installation of individual utility meters without expensive modifications.

The second context where submetering is essential occurs when the building has on-site power generation such as a fuel cell or cogeneration equipment operating to serve tenant electric needs. These power generators need to feed tenants electricity from downstream of (behind) a utility meter to avoid simply spilling power to the wholesale utility grid. But running a duplicate set of wires from the generator to each apartment creates substantial unnecessary costs. For these on-site generation resources to be economically feasible, they need to be located behind a single utility meter serving the entire building. This can be done only with apartment submeters to comply with the building code and to hold tenants accountable for their electricity usage.

Connecticut's Comprehensive Energy Strategy (CES) promulgated by the Department of Energy and Environmental Protection (DEEP) in 2013 acknowledged the benefits of submetering in adaptive reuse apartment conversions and where a landlord had installed on-site generation. The state legislature implemented the CES by enacting Section 36 of Public Act No. 13-298, which directed PURA to allow electric submetering in any locations where submetering furthered the CES or where the landlord had on-site cogeneration or renewable generation. The past two years have been spent fashioning detailed rules governing both kinds of submetering.

Landlords who can show that electric submetering furthers the CES (as, for example, in a building where installing utility meters for each apartment would be prohibitively expensive) are now allowed to submeter provided that they obtain permission from PURA and abide by rigorous consumer protection rules. These consumer safeguards, cataloged in an Aug. 6, 2014, PURA decision, mirror many of the protections available to customers of electric

utilities and provide for dispute resolution by PURA. One important difference, however, is that landlords are not allowed to terminate electric service for nonpayment. Instead, the landlord's remedy for nonpayment is eviction for breach of lease.

Landlords are also strictly limited to passing through their electric costs to tenants with no markup or profit. Tenant bills are calculated by dividing the total building electric utility bill dollar amount by the total kilowatt-hours (kWh) shown on that bill. That rate per kWh is then multiplied by the tenant's usage shown on the submeter for the billing period. Under this method, the landlord appropriately bears the power costs for common areas, elevators, etc. Tenants will typically enjoy lower power bills than they would as direct utility customers because the building is usually served by a more economical commercial rate.

Having a workable submetering protocol in place should encourage the conversion of abandoned or underused commercial space into residential apartments. Developers will know in advance that they can reuse the existing building wiring and still make tenants financially responsible for the quantity of electricity that each uses. The new rules should also result in energy conservation as older master metered buildings are able to hold tenants accountable for their own electricity usage.

Pursuant to a July 1 PURA decision, landlords in buildings with cogeneration equipment, a fuel cell or other renewable resource are subject to the same rules as classic submeters with one very important difference. The landlord can charge the tenant for electricity produced on-site at a rate no higher than the rate the tenant would pay if he or she were a direct customer of the electric utility. To the extent that the capital and operating costs of producing power from the on-site unit are less than full retail utility rates, this pricing model provides a financial incentive to install clean, efficient on-site generation consistent with state energy policy. This approach is also fair to tenants, who are paying no more than they would have paid to the local utility for comparable service.

The submetering rules for on-site generators will provide a financial incentive for developers of new buildings and rehabilitation of existing buildings to consider incorporating on-site power into their plans. Doing so fosters energy and environmental policy by improving efficiency and lowering aggregate emissions from generators. Better reliability can be an added benefit if the on-site resource is configured to provide power during grid outages.

Aside from the stringent consumer protection rules that all submetering landlords must respect, landlords with on-site generation are subject to special eligibility rules. The on-site resource must either be a qualifying Class I renewable resource under state law or an eligible combined heat and power (cogeneration) facility. The quantity of power generated on-site must be substantial in comparison to the building's total electric usage so that building owners with only token amounts of on-site power cannot take advantage of the new rules. And power taken from the grid must be billed to tenants at the same cost-pass-through rate applicable to classic submeterers.

Taken as a whole, the new submetering rules represent a nearly 180-degree policy shift from past PURA practice. Thanks to the CES, the 2013 legislation and recent PURA actions, Connecticut now enjoys progressive electric submetering rules that advance state energy policy and foster wise redevelopment of classic urban buildings while protecting tenants' rights as electric consumers.

Paul R. McCary co-chairs the Energy Industry Group at Murtha Cullina. He also teaches energy regulation and policy at the University of Connecticut School of Law.