

IN THE MARCH 28, 2016 EDITION

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MARCH 28, 2016

## Electric submetering rolls out in CT



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Submetering regulations have made it possible for Hartford's 777 Main to sell fuel cell electricity to tenants.

MATT PILON

After years of dispute and regulatory wrangling, electricity "submetering" is gaining traction in Connecticut, with more than 1,800 Connecticut apartment units now authorized to use the practice, which allows landlords to measure and bill tenants for their individual monthly electricity use.

Since drafting submetering regulations in 2014 and 2015, the Public Utilities Regulatory Authority (PURA) has approved its use at eight major apartment buildings in Hartford, Hamden and New Haven.

The goal is to reduce electricity consumption by making consumers in multi-family residences bear responsibility for their personal energy use. The new regulations also allow landlords of submetered buildings to invest in renewable energy and sell that power back to tenants, which wasn't allowed under previous state law.

One of the most recent approvals was also the most contentious.

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### Years-long Legal Fight

In February, PURA greenlighted submetering at four apartment buildings owned by Philadelphia-based PMC Property Group, including Hartford's 55 Trumbull St., 915 Main St., and 41 Niles St., as well as 900 Chapel St. in New Haven.

The approval caps a years-long legal fight in which regulators clashed with PMC over the use of submetering in those properties before the practice was legal in Connecticut.

PMC has been submetering the three Hartford buildings since 2008 and the New Haven building since 2004, according to PURA. The company previously sought retroactive submetering approvals from PURA, but was denied, leading PMC and its contractor to file several lawsuits against the regulator.

Those suits have dragged on since, but PMC has agreed to withdraw them under the terms of a settlement it reached in late January with PURA's prosecutorial unit and the Office of Consumer Counsel (OCC).



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**Submetering Growth**

These Connecticut apartment buildings have received approval to use submetering.

Address	Apt. Units	Submetering Approved by PURA
55 Trumbull St., Hartford	149	2/19/2016
915 Main St., Hartford	109	2/19/2016
41 Niles St., Hartford	41	2/19/2016
900 Chapel St., New Haven	104	2/19/2016
360 State St., New Haven	500	12/2/2015
777 Main St., Hartford	295	7/1/2015
676 Mix Ave., Hamden	498	6/11/2015
205 Church St., New Haven	146	5/6/2015
<b>Total</b>	<b>1,832</b>	

SOURCE: PUBLIC UTILITIES REGULATORY AUTHORITY

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ratepayers.

"We thought the settlement provided a decent balance for tenants in that they are getting a robust set of protections, confirmation that the landlord will be dividing up his or her utility bill among tenants without a markup, plus a \$50 bill credit," Rosenthal said. "Moreover, OCC's agreement to the settlement did not waive the tenant's rights to pursue their own claims."

Connecticut law — prior to a change in 2013 — had discouraged or banned submetering outright in most buildings, limiting its use to only campgrounds and marinas.

Consumer advocates have scrutinized submetering because it allows landlords to stand in as a sort of third-party utility company, creating the possibility for profit markups, inaccurate meter readings and other consumer abuses.

Landlord electricity markups, for example, were a controversial practice in New York City for decades, according to the New York Times, and there have been more recent controversies in other states, such as Ohio, where a 2013 investigation by The Columbus Dispatch found that third-party resellers were charging tenants more than they would have paid to a utility company.

PURA spokesman Michael Coyle said that sort of arrangement is forbidden in Connecticut and that his agency sought to address many concerns in the regulations it crafted over the past two years.

One key rule forbids a landlord from charging a higher electricity rate than a tenant would pay if they were a utility customer.

### Metering Standards

Landlords are also required to use submeters certified by the American National Standards Institute, to keep metering and other records for at least two years, and to provide metering records to PURA if requested.

Landlords must also test submeters at a tenant's request, and disclose to PURA how they will handle tenant complaints and concerns. Monthly bills to tenants are required to disclose when the submeter was read, how much power was used and the average rate applied to determine the bill.

Dennis Schain, spokesman for the state Department of Energy and Environmental Protection, which advocated for submetering in its comprehensive energy strategy several years ago, said Connecticut's rules protect tenants and also incentivize them to consume less electricity.

"As part of the state's focus on providing a 21st-century approach to energy issues, we have addressed the issue of submetering in a positive way," Schain said.

### Limited appeal

While submetering has a variety of benefits, it's unlikely to spread to all Connecticut apartment buildings.

For one, state law forbids properties with utility meters in all units — mainly the case in newer buildings — to convert to submetering. Scale brings greater benefits, so small buildings are less likely to submeter.

Submetering makes the most sense for owners of older apartment buildings, some of which used to be commercial buildings, such as PMC's 55 Trumbull St., which formerly belonged to the Southern New England Telephone Co.

Older or converted apartment buildings are often "master metered," meaning they have one utility meter to measure the whole building. Landlords of those properties typically charge tenants a flat utility fee, giving residents no incentive to turn off lights or moderate air conditioning or heating.

Why not just install more utility meters?

"When you take a building that was wired for commercial use with one meter to serve the whole building, the cost of putting in utility metering is phenomenally expensive," said McCary, the PMC attorney. "It's hundreds of thousands of dollars."

For its part, PURA agreed to terminate its submetering-related administrative proceedings against PMC and to not bring any enforcement actions for past unauthorized submetering by the landlord.

"It all took a very long time, but I think we all ended up in a good place," said PMC's Hartford attorney, Paul McCary. "I think PMC's very pleased that they can now go forward and submeter under rules that are approved by PURA and acknowledged by all the stakeholders to be appropriate."

### Ratepayers' Best Interest

OCC principal attorney Joseph Rosenthal said his agency thought the deal was in the best interests of tenant

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Master metering can also hurt a landlord's competitiveness, because his property's power costs are often higher, which can mean higher rents in comparison to other properties, McCary said.

### New avenue for renewables

Perhaps the most significant impact of Connecticut's recent submetering rules is that they make it feasible for landlords to install fuel cells and solar panels and sell the power output to tenants.

That creates a more compelling business case for investing in renewables.

Previously, landlords who installed renewable generation could use it only in common areas like hallways and community rooms. Now, they can sell that power to their apartment tenants.

The face of renewable submetering in Connecticut for the past six-plus years has been Bruce Becker, an architect who redeveloped Hartford's 777 Main St. (the former Bank of America tower) and 360 State St. in New Haven, which received submetering approval in December. Each building has a 400-kilowatt fuel cell made by South Windsor's Doosan.

Becker said 777 Main's fuel cell began operating last year, and has a 15-year contract under the state's Low-Emission Renewable Energy Credit program to sell credits generated by the fuel cell to Eversource. 777 Main can also sell excess electricity back into the grid through the state's net-metering program.

It's these types of state incentives that will help Becker shorten the payoff period for his investment in the fuel cell, which is attached to a combined-heat-and-power system that provides heat and hot water in the 26-story tower.

"Now that [the regulations are in place], it's in every landlord's interest to consider on-site generation and renewable energy for multi-family housing properties because now they can recover and help pay for their investment," Becker said.

Becker said he expects additional incentives when he installs solar panels at the Hartford property in the coming months.

### No Guaranteed Returns

He said submetering isn't guaranteed to earn a return for a landlord who invests in renewables. The more units an apartment building has, the better, and financing terms are also crucial, he said.

Becker has 40-year financing on his Hartford fuel cell with 4.5 percent interest.

"I think the [return] on the renewable investment will be greater than that," he said.

Meanwhile, submetering is also a common practice in commercial leases, but they too now require PURA approval, said OCC's Rosenthal. Hartford's Marriott Residence Inn recently applied and was approved to add two submeters inside the hotel's commercial space. Rosenthal said he hopes to see many more applications to PURA soon.

"It is our understanding that submetering is widespread in commercial buildings," he said.

"However, it is not legal unless authorized by PURA, so we encourage commercial as well as residential landlords to obtain authorizations."

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