

Stricken language would be deleted from and underlined language would be added to present law.

1 State of Arkansas As Engrossed: S2/18/19  
2 92nd General Assembly **A Bill**

3 Regular Session, 2019

SENATE BILL 145

4  
5 By: Senators D. Wallace, Hester

6  
7 **For An Act To Be Entitled**

8 AN ACT TO AMEND CERTAIN DEFINITIONS UNDER THE  
9 ARKANSAS RENEWABLE ENERGY DEVELOPMENT ACT OF 2001; TO  
10 AMEND THE LAW CONCERNING THE AUTHORITY OF THE  
11 ARKANSAS PUBLIC SERVICE COMMISSION; AND FOR OTHER  
12 PURPOSES.

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14  
15 **Subtitle**

16 TO AMEND CERTAIN DEFINITIONS UNDER THE  
17 ARKANSAS RENEWABLE ENERGY DEVELOPMENT ACT  
18 OF 2001; AND TO AMEND THE LAW CONCERNING  
19 THE AUTHORITY OF THE ARKANSAS PUBLIC  
20 SERVICE COMMISSION.

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22  
23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

24  
25 SECTION 1. Arkansas Code § 23-18-603 is amended to read as follows:  
26 23-18-603. Definitions.

27 As used in this subchapter:

28 (1) "Avoided cost" means:

29 (A) For an electric utility other than a municipal  
30 utility, the costs to an electric utility of electric energy or capacity, or  
31 both, that, but for the generation from the net metering facility or  
32 facilities, the utility would generate itself or purchase from another  
33 source, as determined by the commission consistent with § 23-3-701 et seq.;  
34 or

35 (B) For a municipal utility, the definition provided by  
36 the governing body of the municipal utility;



1           ~~(1)~~(2) "Commission" means the Arkansas Public Service Commission  
2 or other appropriate governing body for an electric utility as defined in  
3 subdivision ~~(2)~~ (3) of this section;

4           ~~(2)~~(3) "Electric utility" means a public or investor-owned  
5 utility, an electric cooperative or any private power supplier or marketer  
6 that is engaged in the business of supplying electric energy to the ultimate  
7 consumer or any customer classes within the state;

8           (4)(A) "Municipal utility" means a utility system owned or  
9 operated by a municipality that provides electricity.

10           (B) "Municipal utility" includes without limitation a:

11           (i) Utility system managed or operated by a  
12 nonprofit corporation under § 14-199-701 et seq.; and

13           (ii) Utility system owned or operated by a  
14 municipality or by a consolidated utility district under the General  
15 Consolidated Public Utility System Improvement District Law, § 14-217-101 et  
16 seq.;

17           ~~(3)~~(5) "Net excess generation" means the amount of electricity  
18 as measured in kilowatt hours or kilowatt hours multiplied by the applicable  
19 rate that a net-metering customer has fed back to the electric utility that  
20 exceeds the amount of electricity as measured in kilowatt hours or kilowatt  
21 hours multiplied by the applicable rate used by that customer during the  
22 applicable period determined by the commission;

23           ~~(4)~~(6) "Net metering" means measuring the difference ~~between in~~  
24 amount of electricity as measured in kilowatt hours or kilowatt hours  
25 multiplied by the applicable rate supplied by an electric utility to a net  
26 metering customer and the electricity generated by a net-metering customer  
27 and fed back to the electric utility over the applicable ~~billing~~ period  
28 determined by a commission;

29           ~~(5)~~(7) "Net-metering customer" means ~~an owner of a net-metering~~  
30 facility a customer of an electric utility that:

31           (A) Is an owner of a net metering facility;

32           (B) Leases a net metering facility; or

33           (C) Is a government entity or other entity that is exempt  
34 from state and federal income tax and obtains electric energy from a net  
35 metering facility under a service contract as provided under 26 U.S.C. §  
36 7701;

1           ~~(6)~~(8) "Net-metering facility" means a facility for the  
2 production of ~~electrical~~ electric energy that:

3           (A) Uses solar, wind, hydroelectric, geothermal, or  
4 biomass resources to generate electricity, including, but not limited to,  
5 fuel cells and micro turbines that generate electricity if the fuel source is  
6 entirely derived from renewable resources;

7           (B) Has a generating capacity of not more than:

8           (i) The greater of twenty-five kilowatts (25 kW) or  
9 one hundred percent (100%) of the net-metering customer's highest monthly  
10 usage in the previous twelve (12) months for residential use; ~~or~~

11           (ii) ~~Three hundred kilowatts (300 kW)~~ For customers  
12 of electric utilities, one thousand kilowatts (1,000 kW) for any other use  
13 other than residential use unless otherwise allowed by a commission under §  
14 23-18-604(b)(5) 23-18-604; or

15           (iii) For customers of a municipal utility, the  
16 limits established by the governing body of the municipal utility under § 23-  
17 18-605;

18           (C) Is located in Arkansas;

19           (D) Can operate in parallel with an electric utility's  
20 existing transmission and distribution facilities; ~~and~~

21           (E) Is intended primarily to offset part or all of the  
22 net-metering customer requirements for electricity; and

23           (F)(i) May include an energy storage device that is  
24 configured to receive electric energy solely from a net metering facility.

25           (ii) The capacity of an energy storage device shall  
26 not be used to calculate the capacity limits listed in subdivision (8)(B) of  
27 this section if the energy storage device is configured to receive electric  
28 energy solely from a net metering facility;

29           (9) "Quantifiable benefits" means the:

30           (A) Reasonably demonstrated costs that:

31           (i) Are related to the provision of electric service  
32 and based on the utility's most recent cost-of-service study filed with the  
33 commission; and

34           (ii) Will be avoided by the utility by the use of  
35 net metering;

36           (B) Monetary value provided to a utility by the use of net

1 metering as specified by a market mechanism, if any, of the regional  
 2 transmission organization of which the electric utility is a member; and

3 (C) Monetary value provided to a utility by the use of net  
 4 metering as specified by a market mechanism, if any, that measures utility  
 5 distribution system benefits; and

6 ~~(7)(10)~~ “Renewable energy credit” means the environmental,  
 7 economic, and social attributes of a unit of electricity, such as a megawatt  
 8 hour, generated from renewable fuels that can be sold or traded separately.

9  
 10 SECTION 2. Arkansas Code § 23-18-604 is amended to read as follows:

11 23-18-604. Commission authority – Definition.

12 (a) An electric utility shall allow net-metering facilities to be  
 13 interconnected using a standard meter capable of registering the flow of  
 14 electricity in two (2) directions.

15 (b) Following notice and opportunity for public comment, a commission:

16 (1) Shall establish appropriate rates, terms, and conditions for  
 17 net-metering net metering contracts, including;

18 ~~(A)(i) A requirement that the rates charged to each net-~~  
 19 ~~metering customer recover the electric utility’s entire cost of providing~~  
 20 ~~service to each net-metering customer within each of the electric utility’s~~  
 21 ~~class of customers.~~

22 ~~(ii) The electric utility’s entire cost of providing~~  
 23 ~~service to each net-metering customer within each of the electric utility’s~~  
 24 ~~class of customers under subdivision (b)(1)(A)(i) of this section;~~

25 ~~(a) Includes without limitation any~~  
 26 ~~quantifiable additional cost associated with the net-metering customer’s use~~  
 27 ~~of the electric utility’s capacity, distribution system, or transmission~~  
 28 ~~system and any effect on the electric utility’s reliability; and~~

29 ~~(b) Is net of any quantifiable benefits~~  
 30 ~~associated with the interconnection with and providing service to the net-~~  
 31 ~~metering customer, including without limitation benefits to the electric~~  
 32 ~~utility’s capacity, reliability, distribution system, or transmission system;~~  
 33 ~~and~~

34 (2) For net metering customers who receive service under a rate  
 35 that does not include a demand component, may:

36 (A) Take the following action:

1 (i) Approve a retail rate that shall be applied to  
2 all kilowatt hours that are supplied to a net metering customer by the  
3 electric utility during the period determined by a commission;

4 (ii) Apply the avoided cost of the electric utility  
5 plus any additional sum determined under this section to generation supplied  
6 to the electric utility by a net metering customer, during the period  
7 determined by a commission, and credited to the total bill of the net  
8 metering customer in a dollar value; and

9 (iii)(a) For the purposes provided in this  
10 subdivision (b)(2), authorize an additional sum to the avoided cost of the  
11 electric utility to be applied to the generation supplied to the electric  
12 utility by a net metering customer after the demonstration of quantifiable  
13 benefits.

14 (b) The additional sum to the avoided cost of  
15 the electric utility shall not be more than forty percent (40%) of the  
16 avoided cost of the electric utility; or

17 (B) Authorize an electric utility to assess a net metering  
18 customer that is being charged a rate that does not include a demand  
19 component a per-kilowatt-hour fee or charge to recover the quantifiable  
20 direct demand-related distribution cost of the electric utility for providing  
21 electricity to the net-metering customer that is not:

22 (i) Avoided as a result of the generation of  
23 electricity by the net-metering facility; and

24 (ii) Offset by quantifiable benefits;

25 ~~(B)(3)~~ A requirement shall require that net-metering equipment  
26 be installed to accurately measure the electricity:

27 ~~(i)(A)~~ Supplied by the electric utility to each net-  
28 metering customer; and

29 ~~(ii)(B)~~ Generated by each net-metering customer that is  
30 fed back to the electric utility over the applicable billing period;

31 ~~(2)(4)~~ May authorize an electric utility to assess a net-  
32 metering customer a greater fee or charge of any type, if the electric  
33 utility's direct costs of interconnection and administration of net metering  
34 outweigh the distribution system, environmental, and public policy benefits  
35 of allocating the costs among the electric utility's entire customer base;

36 ~~(3)(5)~~ Shall For a net-metering customer who receives service

1 under a rate that does not include a demand component, shall require an  
2 electric utilities utility to credit a net-metering customer with the amount  
3 of any accumulated net excess generation as measured in kilowatt hours or  
4 kilowatt hours multiplied by the applicable rate in the next applicable  
5 billing period;

6 (6) For a net-metering customer that receives service under a  
7 rate that includes a demand component, shall require an electric utility to  
8 credit the net-metering customer with any accumulated net excess generation  
9 in the next applicable billing period and base the bill of the net-metering  
10 customer on the net amount of electricity that the net-metering customer has  
11 received from or fed back to the electric utility during the billing period;

12 ~~(4)(7)~~ May expand the scope of net metering to include  
13 additional facilities that do not use a renewable energy resource for a fuel  
14 if so doing results in distribution system, environmental, or public policy  
15 benefits;

16 ~~(5)(8)~~ May increase the generating capacity limits for  
17 individual net-metering facilities if doing so results in distribution  
18 system, environmental, or public policy benefits;

19 ~~(6)(9)~~ Shall provide that:

20 (A)(i) The amount of the net excess generation credit as  
21 measured in kilowatt hours or kilowatt hours multiplied by the applicable  
22 rate remaining in a net-metering customer's account at the close of a billing  
23 cycle shall not expire and shall be carried forward to subsequent billing  
24 cycles indefinitely.

25 (ii) However, for net excess generation credits  
26 older than twenty-four (24) months, a net-metering customer may elect to have  
27 the electric utility purchase the net excess generation credits in the net-  
28 metering customer's account at the electric utility's ~~estimated annual~~  
29 average avoided cost, ~~rate for wholesale energy~~ plus any additional sum  
30 determined under this section, if the sum to be paid to the net-metering  
31 customer is at least one hundred dollars (\$100).

32 (iii) An electric utility shall purchase at the  
33 electric utility's ~~estimated annual average avoided cost, rate for wholesale~~  
34 energy plus any additional sum determined under this section, any net excess  
35 generation credit remaining in a net-metering customer's account when the  
36 net-metering customer:

1 (a) Ceases to be a customer of the electric  
2 utility;

3 (b) Ceases to operate the net-metering  
4 facility; or

5 (c) Transfers the net-metering facility to  
6 another person; and

7 (B) A renewable energy credit created as the result of  
8 electricity supplied by a net-metering customer is the property of the net-  
9 metering customer that generated the renewable energy credit; and

10 ~~(7)(10)~~ May allow a net-metering facility with a generating  
11 capacity that exceeds ~~three hundred kilowatts (300 kW)~~ the limits provided  
12 under § 23-18-603(8)(ii) or (iii) if:

13 (A) The net-metering facility is not for residential use;  
14 and

15 (B) Allowing an increased generating capacity for the net-  
16 metering facility would increase the state's ability to attract businesses to  
17 Arkansas.

18 (c)(1) ~~As used in this section, "avoided costs":~~

19 ~~(A) For the Arkansas Public Service Commission, means the~~  
20 ~~same as defined in § 23-3-702; and~~

21 ~~(B) For a municipal utility, is defined by the governing~~  
22 ~~body of the municipal utility.~~

23 ~~(2) Avoided costs shall be determined under § 23-3-704.~~

24 ~~(d)(1)~~ Except as provided in subdivision ~~(d)(2)(c)(2)~~ of this section,  
25 an electric utility shall separately meter, bill, and credit each net-  
26 metering facility even if one (1) or more net-metering facilities are under  
27 common ownership.

28 (2)(A)(i) At the net-metering customer's discretion, an electric  
29 utility may apply net-metering credits from a net-metering facility to the  
30 bill for another meter location if the net-metering facility and the separate  
31 meter location are under common ownership within a single electric utility's  
32 service area.

33 (ii) Subdivision (c)(2)(A)(i) of this section does  
34 not apply if more than two (2) customers that are governmental entities or  
35 other entities that are exempt from state and federal income tax defined  
36 under § 23-18-603(7)(C) co-locate at a site hosting the net-metering

1 facility.

2 (B) Net excess generation shall be credited first to the  
3 net-metering customer's meter to which the net-metering facility is  
4 physically attached.

5 (C) After applying net excess generation under subdivision  
6 ~~(d)(2)(B)(c)(2)(B)~~ of this section and upon request of the net-metering  
7 customer under subdivision ~~(d)(2)(A)(c)(2)(A)~~ of this section, any remaining  
8 net excess generation shall be credited to one (1) or more of the net-  
9 metering customer's meters in the rank order provided by the net-metering  
10 customer.

11 (d) A person who acts as a lessor or service provider as described in  
12 § 23-18-603(7)(B) or (C) shall not be considered a public utility as defined  
13 in § 23-1-101(9).

14  
15 SECTION 3. Arkansas Code Title 23, Chapter 18, Subchapter 6 is amended  
16 to add an additional section to read as follows:

17 23-18-605. Municipal utilities.

18 (a) A municipal utility shall allow a net-metering facilities to be  
19 interconnected according to the ordinances, rules or regulations established  
20 by the governing body of the municipal utility.

21 (b) The governing body of municipal utility may elect to follow  
22 procedures under § 23-18-604 or adopt ordinances, rules or regulations  
23 established.

24 (c) The governing body of a municipal utility may adopt ordinances,  
25 rules or regulations establishing the rates, terms and conditions allowing  
26 the interconnection of net-metering facilities, including generation  
27 facilities and energy storage devices whether owned or leased by a customer  
28 or operated by a third-party on behalf of a customer.

29 (d) The governing body of a municipal utility may limit the generating  
30 capacity of a net-metering facility to less than twenty-five kilowatts (25  
31 kW) for residential customers or three hundred kilowatts (300 kW) for  
32 nonresidential customers only after the governing body finds that the  
33 capacity limit is necessary for reliable utility operations or the public  
34 health, safety, or welfare.

35 (e) The governing body of a municipal utility shall not establish a  
36 rate or fee that reduces the value of electric energy from a net-metering



1 facility to below the avoided cost of the municipal utility.

2 (f) For customers who receive service under a rate that includes a  
3 demand component, the governing body of the municipal utility shall require  
4 an electric utility to credit a net-metering customer with any accumulated  
5 net excess generation in the next applicable billing period and base the bill  
6 of the customer on the net amount of electricity that the net-metering  
7 customer has received from or fed back to the electric utility during the  
8 billing period.

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11 /s/D. Wallace  
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