

1 INTERIM STUDY PROPOSAL 2013-042

2 State of Arkansas

*As Engrossed: H3/6/13*

3 89th General Assembly

# A Bill

4 Regular Session, 2013

HOUSE BILL 1390

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6 By: Representatives Sabin, Hutchison, *Ferguson, Leding, F. Smith, D. Whitaker*

7 *By: Senators Elliott, S. Flowers, D. Johnson, U. Lindsey, J. Woods*

8 Filed with: Interim Joint Committee on Energy  
9 pursuant to A.C.A. §10-3-217.

## For An Act To Be Entitled

10 AN ACT TO CREATE THE ARKANSAS DISTRIBUTED GENERATION  
11 ACT; TO INCREASE THE USE OF RENEWABLE ENERGY  
12 RESOURCES IN THE STATE; TO REGULATE THE USE OF  
13 DISTRIBUTED GENERATION CONTRACTS; AND FOR OTHER  
14 PURPOSES.  
15

## Subtitle

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18 TO CREATE THE ARKANSAS DISTRIBUTED  
19 GENERATION ACT.  
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23 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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25 SECTION 1. Arkansas Code Title 23, Chapter 18, is amended to add an  
26 additional subchapter to read as follows:

27 Subchapter 10 – Arkansas Distributed Generation Act

28  
29 23-18-1001. Title.

30 This subchapter shall be known and may be cited as the “Arkansas  
31 Distributed Generation Act”.

32  
33 23-18-1002. Legislative findings and purpose.

34 (a) The General Assembly finds that it is in the public interest to:

35 (1) Promote and encourage the development and use of the state’s  
36 renewable energy resources;

1           (2) Foster investment in emerging renewable energy technologies  
2 using the renewable energy resources available in this state; and

3           (3) Require electric utilities to include renewable energy  
4 resources as an integral part of their energy portfolios.

5           (b) The purpose of this subchapter is to:

6           (1) Ensure that each electric utility includes renewable energy  
7 resources as an integral part of its energy resource plan;

8           (2) Provide for increased consumer choice in obtaining  
9 electrical energy; and

10           (3) Encourage additional competition within the energy sector.

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12           23-18-1003. Definitions.

13           As used in this subchapter:

14           (1) "Distributed generation contract" means a standard contract  
15 approved by a regulatory authority that governs the purchase of energy by an  
16 electric utility from a renewable electric generation facility;

17           (2) "Electric utility" means a public utility as defined in §  
18 23-1-101 or a municipal utility that is engaged in the business of supplying  
19 electricity to an end user in this state;

20           (3) "Nameplate value" means the maximum capacity of an electric  
21 generation facility;

22           (4) "Regulatory authority" means the Arkansas Public Service  
23 Commission or the appropriate regulatory governing body for an electric  
24 utility that is not regulated by the commission;

25           (5) "Renewable electric generation facility" means a facility  
26 for the generation of electric energy that:

27           (A) Is connected to an electric utility grid;

28           (B) Is fueled by a renewable energy resource; and

29           (C) Has an effective alternating current generation  
30 capacity that does not exceed twenty megawatts (20 MW) nameplate value;

31           (6) "Renewable energy generation credit" means the monetary  
32 value per kilowatt hour (kWh) of the added value and environmental benefits;  
33 and

34           (7) "Renewable energy resource" means a solar, wind, water,  
35 geothermal, or biomass resource, including without limitation agricultural

1 waste and landfill waste that is converted into renewable energy, located in  
2 the state.

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4 23-18-1004. Distributed generation contracts – Requirements –  
5 Approval.

6 (a)(1) Each regulatory authority shall direct each electric utility in  
7 its jurisdiction to develop and maintain a standardized distributed  
8 generation contract for the generation of each renewable energy resource.

9 (2) The distributed generation contracts required under  
10 subdivision (a)(1) of this section shall:

11 (A)(i) Require the electric utility to purchase renewable  
12 energy produced by a renewable electric generation facility at the rate,  
13 terms, and other conditions approved by the regulatory authority for a period  
14 of not less than twenty (20) years.

15 (ii) However, a renewable electric generation  
16 facility may request the execution of a distributed generation contract for a  
17 period of less than twenty (20) years;

18 (B) Contain terms and conditions that:

19 (i) Attract investment in and encourage the  
20 development and use of renewable energy resources to generate electricity  
21 within the state;

22 (ii) Protect the integrity and reliability of each  
23 electric utility's electric system; and

24 (iii) Protect the health, safety, and welfare of the  
25 public;

26 (C) Incorporate the rates, terms, and other conditions  
27 determined by the regulatory authority for renewable electric generation  
28 facilities that consider and may be differentiated by:

29 (i) The renewable energy generation technology being  
30 used, including without limitation the system, public policy, and  
31 environmental attributes of the renewable electric generation facility;

32 (ii) The location, size, and capacity of the  
33 renewable electric generation facility;

34 (iii) The electric utility's ability to schedule and  
35 control the delivery of electric energy from the renewable energy generated  
36 by a renewable electric generation facility; and

1                   (iv) The applicable electric utility's avoided cost  
2 and renewable energy generation credit as determined by the regulatory  
3 authority;

4                   (D) Be in the public interest; and

5                   (E) Not include an indemnity and liability provision  
6 applicable to the state, an entity of the state, a local government, an  
7 entity of a local government, or a federal agency.

8                   (b) After providing notice and a hearing and determining that the  
9 distributed generation contracts satisfy the requirements of this subchapter,  
10 the regulatory authority shall approve the distributed generation contracts  
11 developed under subsection (a) of this section, and each electric utility  
12 shall make the distributed generation contracts available by July 1, 2014.

13                   (c)(1) After an electric utility makes the approved distributed  
14 generation contracts available under subsection (b) of this section, the  
15 electric utility shall begin accepting offers to enter into individual  
16 distributed generation contracts on a first-come, first-served basis to  
17 renewable electric generation facilities that are located within the  
18 allocated service territory of the electric utility.

19                   (2)(A) An electric utility shall offer to enter into distributed  
20 generation contracts until the electric utility meets its proportionate share  
21 of one thousand two hundred megawatts (1,200 MW) nameplate value, which  
22 represents the combined cumulatively rated alternating current generation  
23 capacity of the renewable electric generation facilities in this state.

24                   (B) In any calendar year, an electric utility shall offer  
25 to enter into distributed generation contracts until the electric utility  
26 meets its proportionate share of two hundred fifty megawatts (250 MW)  
27 nameplate value.

28                   (3)(A) The determination of each electric utility's  
29 proportionate-share requirement under subdivision (c)(2) of this section  
30 shall be based on a comparison of the electric utility's peak demand to the  
31 total statewide peak demand of all the electric utilities in the state.

32                   (B) An electric utility may meet up to fifty percent (50%)  
33 of the electric utility's proportionate-share requirement under subdivision  
34 (c)(2) of this section by installing, owning, and operating a renewable  
35 electric generation facility.

1           (C)(i) An electric utility shall offer at least twenty  
2 percent (20%) of the electric utility's proportionate-share requirement under  
3 subdivision (c)(2) of this section to one (1) or more residential or  
4 commercial renewable electric generation facilities.

5           (ii) However, the commission or regulatory authority  
6 may modify the requirement under subdivision (c)(3)(C)(i) of this section if  
7 an electric utility's costs of satisfying the requirement outweigh the  
8 distribution system, environmental, and public policy benefits of the  
9 requirement.

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11       23-18-1005. Net-metering facilities.

12       A net-metering facility installed or interconnected under the Arkansas  
13 Renewable Energy Development Act of 2001, § 23-18-601 et seq., on or after  
14 the effective date of this act qualifies as a renewable electric generation  
15 facility under this subchapter.

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17       23-18-1006. Renewable energy generation credits.

18       A renewable energy generation credit shall:

19           (1) Be conveyed to the electric utility under the distributed  
20 generation contract; and

21           (2) Qualify in helping an electric utility meet any statewide  
22 clean or renewable energy standards adopted by the state.

23  
24       23-18-1007. Cost of interconnection facilities.

25       (a) The cost of an addition or modification to an electric utility's  
26 system that is made at or beyond the point at which a renewable electric  
27 generation facility interconnects with an electric utility's system for the  
28 sole purpose of receiving electricity from a renewable electric generation  
29 facility is the exclusive responsibility of the renewable electric generation  
30 facility unless the regulatory authority determines that it is in the public  
31 interest for the electric utility to bear a portion of that cost under § 23-  
32 18-1008.

33       (b) A necessary metering upgrade for a renewable electric generation  
34 facility that has executed a distributed generation contract under this  
35 subchapter is the exclusive responsibility of the renewable electric  
36 generation facility unless the regulatory authority determines that it is in

1 the public interest for the electric utility to bear a portion of the cost  
2 under § 23-18-1008.

3  
4 23-18-1008. Cost recovery.

5 A regulatory authority shall allow an electric utility to recover the  
6 reasonable and prudent costs associated with distributed generation contracts  
7 and facilities, including:

8 (1) The cost of electric energy purchased under a distributed  
9 generation contract approved by the regulatory authority under § 23-18-1004;

10 (2) The cost of electric energy produced from a renewable  
11 electric generation facility owned and operated by the electric utility that  
12 is comparable to the costs recovered under a distributed generation contract  
13 for the electric energy approved by the regulatory authority under § 23-18-  
14 1004 and purchased by the electric utility from a renewable electric  
15 generation facility not owned and operated by the electric utility;

16 (3) The investment costs incurred by the electric utility for  
17 the construction of an electric system upgrade that is:

18 (A) Reasonably necessary to receive the electric energy  
19 purchased under a distributed generation contract; and

20 (B) Not paid by the renewable electric generation facility  
21 under § 23-18-1007; and

22 (4) The costs incurred by the electric utility to administer and  
23 manage a distributed generation contract.

24  
25 23-18-1009. Limitation on distributed generation contracts.

26 Each regulatory authority shall:

27 (1) Continually monitor the rate impact of distributed  
28 generation contracts executed under this subchapter; and

29 (2) Limit the number of new distributed generation contracts  
30 executed under this subchapter and the annual nameplate value quantities  
31 stated in § 23-18-1004(c)(2) as necessary to avoid an undue burden on  
32 electricity customers as the result of a significant increase in rates.

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34 23-18-1010. Rules.

35 Each regulatory authority shall promulgate rules necessary to implement  
36 and administer this subchapter.

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*/s/Sabin*

Referred by the Arkansas House of Representatives

Prepared by: JLL/VJF