

INTERIM STUDY PROPOSAL 2013-042

1
2 State of Arkansas
3 89th General Assembly
4 Regular Session, 2013

As Engrossed: H3/6/13

A Bill

HOUSE BILL 1390

5
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
11 AN ACT TO CREATE THE ARKANSAS DISTRIBUTED GENERATION
12 ACT; TO INCREASE THE USE OF RENEWABLE ENERGY
13 RESOURCES IN THE STATE; TO REGULATE THE USE OF
14 DISTRIBUTED GENERATION CONTRACTS; AND FOR OTHER
15 PURPOSES.

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:

24
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.

11
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.

3
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.

10
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.

16
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