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2 88th General Assembly
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4

As Engrossed: S3/23/11

A Bill

SENATE BILL 721

5 By: Senators Madison, *D. Johnson, D. Wyatt, S. Flowers, G. Jeffress, J. Jeffress*
6 *By: Representative Webb*
7

For An Act To Be Entitled

9 AN ACT TO STIMULATE ECONOMIC DEVELOPMENT AND JOB
10 CREATION IN THE ENERGY ECONOMY AND PROVIDE FOR THE
11 RECOVERY OF THE ELECTRIC UTILITY'S COSTS; AND FOR
12 OTHER PURPOSES.
13
14

Subtitle

15 THE CLEAN ENERGY ACT OF 2011.
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19 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
20

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

23 Subchapter 10 -- Arkansas Clean Energy Act
24 23-18-1001. Title.

25 This subchapter shall be known and may be cited as the "Arkansas Clean
26 Energy Act".
27

28 23-18-1002. Legislative findings and declaration of purpose.

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

30 (1) Promote and encourage the wise development and use of this
31 state's renewable energy resources;

32 (2) Foster investment in emerging renewable energy technologies
33 using the renewable energy resources found within this state; and

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

36 (b) The purpose of this subchapter is to ensure that an electric



1 utility will include renewable energy resources as an integral part
2 of its energy resource plan.

3
4 23-18-1003. Definitions.

5 As used in this subchapter:

6 (1) "Commission" means the Arkansas Public Service Commission or
7 the appropriate regulatory governing body for a public electric utility that
8 is not regulated by the Arkansas Public Service Commission;

9 (2) "Dispatch-ability" means an electric utility's ability to
10 utilize renewable energy generation throughout the electric grid;

11 (3) "Electric utility" means a publicly owned or an investor-
12 owned utility, an electric cooperative, or a municipal utility that is
13 engaged in the business of supplying electricity to an end user in this
14 state;

15 (4) "Feed-in tariff" means a tariff approved by the commission
16 that governs the purchase of energy from a renewable electric generation
17 facility by an electric utility;

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

20 (A) Is located within this state;

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

22 (C) Has an effective capacity of not more than five
23 megawatts (5 MW); and

24 (6) "Renewable energy resource" means a solar, wind, water,
25 geothermal, or biomass resource located within this state.

26
27 23-18-1004. Requirement to purchase renewable energy.

28 (a) An electric utility shall file with the commission for a feed-in
29 tariff that:

30 (1) Requires the electric utility to purchase the renewable
31 energy produced by a renewable electric generation facility at the price and
32 terms established by the commission for a period not to exceed twenty (20)
33 years; and

34 (2) Contains those terms and conditions that are necessary to:

35 (A) Encourage the development and use of renewable energy
36 resources to generate electricity;

1 (B) Protect the integrity and reliability of the electric
2 utility's electric system; and

3 (C) Protect the health, safety, and welfare of the public.

4 (b) After notice and hearing, the commission shall approve the feed-in
5 tariff if:

6 (1) It is consistent with the Federal Power Act, 16 U.S.C. 12,
7 as in effect on January 1, 2011;

8 (2) It finds the feed-in tariff is in the public interest; and

9 (3) The feed-in tariff is differentiated by:

10 (A) Renewable electric generation technology, including
11 system, public policy, and environmental attributes;

12 (B) Size and capacity of the renewable electric generation
13 facility; or

14 (C) Dispatch-ability of the renewable electric generation
15 facility; and

16 (4) Included within the feed-in tariff is a consideration of
17 the:

18 (A) Location of a renewable electric generation facility
19 in excess of five hundred kilowatts (500 kW); or

20 (B) Cost of a necessary interconnection facility upgrade
21 to connect a renewable electric generation facility in excess of five hundred
22 kilowatts (500 kW).

23 (c)(1)(A) After the commission approves the feed-in tariff, the
24 electric utility shall make the feed-in tariff available on a first-come,
25 first-served basis to renewable electric generation facilities that are
26 located within the allocated service territory of the electric utility.

27 (B) Unless the commission for good cause modifies
28 the requirement for an electric utility under this subdivision (c)(1), the
29 electric utility shall offer to purchase under the feed-in tariff at least
30 twenty percent (20%) of its electricity supply requirement under subdivision
31 (c)(1)(A) of this section from a residential or commercial renewable electric
32 generation facility.

33 (2) If the renewable electric generation facility also consumes
34 any of the energy generated, the renewable electric generation facility must
35 first complete an energy audit performed by a certified third party to insure
36 that prudent energy efficiency measures are implemented prior to making

1 application for a contract for a renewable energy feed.

2 (3) An electric utility shall offer service or a contract under
3 the feed-in tariff until the electric utility meets its proportionate share
4 of a combined cumulatively rated generation capacity of the renewable
5 electric generation facilities in this state equal to two hundred megawatts
6 (200 MW).

7 (4) The determination of each electric utility's proportionate
8 share of the requirement under subdivision (c)(2) of this section shall be
9 based on a comparison of the electric utility's peak demand to the total
10 statewide peak demand of all the electric utilities in the state.

11 (d) The electric utility shall retain any renewable energy credit that
12 derives from a feed-in tariff.

13
14 23-18-1005. Cost of necessary interconnection facilities.

15 The cost of an addition or a modification of an electric utility's grid
16 that is made at or beyond the point where the renewable electric generation
17 facility interconnects with the electric utility's grid for the sole purpose
18 of receiving electricity from a renewable electric generation facility is the
19 exclusive responsibility of the renewable electric generation facility unless
20 the commission requires the electric utility to bear that cost or a portion
21 of that cost under § 23-18-1006.

22
23 23-18-1006. Cost recovery by an electric utility.

24 The commission shall permit an electric utility to:

25 (1) Recover the cost of electric energy purchased under a feed-
26 in tariff that exceeds the electric utility's avoided cost of generating the
27 electric energy purchased from the renewable electric generation facility;
28 and

29 (2) Recover and earn a return on the reasonable and prudent
30 investment cost incurred by the electric utility for the construction of an
31 electric system upgrade that is reasonably necessary to receive the electric
32 energy purchased under the feed-in tariff.

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34 */s/Madison*