

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

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

*As Engrossed: H3/6/13*

# A Bill

HOUSE BILL 1390

5 By: Representatives Sabin, Hutchison, *Ferguson, Leding, F. Smith, D. Whitaker*  
6 By: Senators *Elliott, S. Flowers, D. Johnson, U. Lindsey, J. Woods*  
7

## For An Act To Be Entitled

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

## Subtitle

15  
16 TO CREATE THE ARKANSAS DISTRIBUTED  
17 GENERATION ACT.  
18  
19  
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

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

25 Subchapter 10 – Arkansas Distributed Generation Act

26  
27 23-18-1001. Title.

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

31 23-18-1002. Legislative findings and purpose.

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

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

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



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

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

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

6           (2) Provide for increased consumer choice in obtaining  
7 electrical energy; and

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

9  
10          23-18-1003. Definitions.

11          As used in this subchapter:

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

15           (2) "Electric utility" means a public utility as defined in §  
16 23-1-101 or a municipal utility that is engaged in the business of supplying  
17 electricity to an end user in this state;

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

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

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

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

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

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

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

32           (7) "Renewable energy resource" means a solar, wind, water,  
33 geothermal, or biomass resource, including without limitation agricultural  
34 waste and landfill waste that is converted into renewable energy, located in  
35 the state.

36

1           23-18-1004. Distributed generation contracts – Requirements –  
2 Approval.

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

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

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

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

15                   (B) Contain terms and conditions that:

16                           (i) Attract investment in and encourage the  
17 development and use of renewable energy resources to generate electricity  
18 within the state;

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

21                           (iii) Protect the health, safety, and welfare of the  
22 public;

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

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

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

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

34                           (iv) The applicable electric utility's avoided cost  
35 and renewable energy generation credit as determined by the regulatory  
36 authority;

1 (D) Be in the public interest; and

2 (E) Not include an indemnity and liability provision

3 applicable to the state, an entity of the state, a local government, an  
4 entity of a local government, or a federal agency.

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

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

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

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

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

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

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

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

6  
7                   23-18-1005. Net-metering facilities.

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

12  
13                   23-18-1006. Renewable energy generation credits.

14                   A renewable energy generation credit shall:

15                   (1) Be conveyed to the electric utility under the distributed  
16 generation contract; and

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

19  
20                   23-18-1007. Cost of interconnection facilities.

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

29                   (b) A necessary metering upgrade for a renewable electric generation  
30 facility that has executed a distributed generation contract under this  
31 subchapter is the exclusive responsibility of the renewable electric  
32 generation facility unless the regulatory authority determines that it is in  
33 the public interest for the electric utility to bear a portion of the cost  
34 under § 23-18-1008.

35  
36                   23-18-1008. Cost recovery.

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

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

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

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

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

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

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

20  
21 23-18-1009. Limitation on distributed generation contracts.

22 Each regulatory authority shall:

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

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

29  
30 23-18-1010. Rules.

31 Each regulatory authority shall promulgate rules necessary to implement  
32 and administer this subchapter.

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34  
35 /s/Sabin