

1 State of Arkansas
2 90th General Assembly
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4

A Bill

SENATE BILL 392

5 By: Senator L. Chesterfield
6

For An Act To Be Entitled

8 AN ACT TO PROVIDE ALTERNATIVE ELECTRICITY SERVICE TO
9 THE CITIZENS OF ARKANSAS; TO AUTHORIZE THE
10 INSTALLATION AND USE OF DISTRIBUTED GENERATION OF
11 ELECTRICITY; TO PROVIDE FOR OVERSIGHT BY THE ARKANSAS
12 PUBLIC SERVICE COMMISSION; AND FOR OTHER PURPOSES.
13
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Subtitle

15 TO AUTHORIZE THE INSTALLATION AND USE OF
16 DISTRIBUTED GENERATION OF ELECTRICITY;
17 AND TO PROVIDE FOR OVERSIGHT BY THE
18 ARKANSAS PUBLIC SERVICE COMMISSION.
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22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
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24 SECTION 1. Arkansas Code Title 23, Chapter 3, is amended to add an
25 additional subchapter to read as follows:

26 Subchapter 8 – Distributed Generation
27

28 23-3-801. Definitions.

29 As used in this subchapter:

30 (1) "Avoided cost" means the incremental energy cost an
31 electricity supplier avoids by receiving electricity from a customer that
32 uses distributed generation rather than by purchasing the electricity from
33 another party or generating the electricity itself;

34 (2) "Customer" means a person that:

35 (A) Receives electric service from an electricity
36 supplier; and



1 (B) Is not billed a monthly demand charge for peak demand
2 for electric kilowatts;

3 (3)(A) "Distributed generation" means the generation of
4 electricity by equipment that is:

5 (i) Located on the customer's premises;

6 (ii) Owned, operated, leased, or otherwise used by
7 the customer; and

8 (iii) Interconnected and operated in parallel with
9 the electricity supplier's facilities.

10 (B) "Distributed generation" does not include an electric
11 generator used exclusively for emergency purposes;

12 (4) "Electricity supplier" means a public utility, a local
13 district rural electric membership corporation, or a municipally owned
14 electric utility that furnishes retail electric service to the public;

15 (5) "Fixed charge" means a charge that reflects the fixed costs
16 of the customer's electricity supplier, including without limitation:

17 (A) A fixed monthly charge;

18 (B) A basic service charge; and

19 (C) Other charges that are not derived from the volume of
20 energy consumed by a customer;

21 (6)(A) "Fixed cost" means a cost that:

22 (i) Is incurred by an electricity supplier as part
23 of its cost of service; and

24 (ii) Does not vary directly with the number of
25 kilowatt hours sold or delivered.

26 (B) "Fixed cost" includes capital and operating costs;

27 (7) "Nonvolumetric rate design" means a flat monthly fee
28 regardless of the volume of gas delivered; and

29 (8) "Subsidy" means a cost attributable to a customer that is
30 allocated or assigned on a basis other than the cost of service to a
31 different customer in the same customer class of service.

32
33 23-3-802. Nonvolumetric rate design.

34 (a) An electricity supplier may petition the Arkansas Public Service
35 Commission to authorize rates and charges, including fixed charges, based on
36 a nonvolumetric rate design.

1 (b) If the commission finds that the nonvolumetric rate design is
2 based on principles of cost causation, the commission shall authorize the
3 rates and charges.

4
5 23-3-803. Fixed charge – Distributed generation.

6 (a) Upon petition by an electricity supplier, the Arkansas Public
7 Service Commission may authorize the electricity supplier to establish and
8 impose a fixed charge to avoid, reduce, or eliminate a subsidy to customers
9 of the electricity supplier that use distributed generation.

10 (b) A fixed charge authorized under this section applies only to a
11 customer that places distributed generation equipment into service after
12 December 31, 2014.

13
14 23-3-804. Tariff petition – Arkansas Public Service Commission
15 approval.

16 (a) An electricity supplier may petition the Arkansas Public Service
17 Commission to approve a tariff that provides a credit on a customer bill for
18 electric service to a customer that:

19 (1) Uses distributed generation; and

20 (2) Delivers electricity to the electricity supplier.

21 (b) The commission shall approve a tariff under subsection (a) of this
22 section if the commission finds that:

23 (1) The customer will be charged for all electricity that the
24 customer consumes at the applicable rate schedule for sales to that customer
25 class;

26 (2) The amount of the credit on the customer's bill equals the
27 electricity supplier's avoided cost that is attributable to the electricity
28 provided by the customer to the electricity supplier; and

29 (3) An unused portion of a credit issued to a customer during a
30 billing cycle will carry forward and be applied against a charge billed to
31 the customer during a subsequent billing cycle.

32 (c) A tariff approved under this section applies only to a customer
33 that places distributed generation equipment into service after December 31,
34 2014.

35
36 23-3-805. Tariff petition – Proceedings.

1 A petition under this subchapter:

2 (1) Shall be in the manner and form prescribed by the Arkansas
3 Public Service Commission; and

4 (2) May be submitted to the commission as part of:

5 (A) A general basic rate proceeding;

6 (B) A proceeding limited to examining cost allocation and
7 rate design methods proposed to set rates for an electricity supplier that do
8 not change the total retail revenues previously authorized for the
9 electricity supplier by the commission; or

10 (C) A proceeding concerning net metering to revise a
11 tariff approved by the commission.

12
13 23-3-806. Subsidy prohibited.

14 The Arkansas Public Service Commission shall not approve a tariff or
15 authorize rates and charges that include a subsidy for a customer that uses
16 distributed generation.

17
18 23-3-807. Applicability.

19 (a) This subchapter does not affect the following:

20 (1) An agreement entered into or a tariff approved by the
21 Arkansas Public Service Commission before May 14, 2015, for the purchase of
22 electricity from a customer that uses distributed generation; or

23 (2) An agreement entered into before May 14, 2015, to provide a
24 credit on a customer's bill for the intermittent delivery of excess
25 electricity from the customer that uses distributed generation to an
26 electricity supplier under a net metering tariff.

27 (b) Notwithstanding subsection (a) of this section or § 23-3-805, an
28 electricity supplier that is a party to an agreement or a tariff described in
29 subdivision (a)(1) of this section may petition the commission to renew,
30 modify, or supplant the agreement or tariff.

31
32 23-3-808. Electricity supplier authority.

33 An electricity supplier may offer distributed generation and other
34 renewable energy services to customers.

35
36 23-3-809. Standards compliance.

1 (a) A customer that uses distributed generation shall comply with
2 applicable safety, performance, and reliability standards established by the
3 following:

- 4 (1) The Arkansas Public Service Commission;
- 5 (2) An electricity supplier, subject to approval by the
6 commission;
- 7 (3) The National Electric Code;
- 8 (4) The National Electrical Safety Code;
- 9 (5) The Institute of Electrical and Electronics Engineers;
- 10 (6) Underwriters Laboratories;
- 11 (7) The Federal Energy Regulatory Commission; and
- 12 (8) Local regulatory authorities.

13 (b) An electricity supplier and a customer that uses distributed
14 generation shall comply with applicable interconnection rules and standards
15 established by the following:

- 16 (1) The commission; and
- 17 (2) An electricity supplier, subject to approval by the
18 commission.

19
20 23-3-810. Customer rights.

21 (a) Regarding the installation, ownership, and leasing of distributed
22 generation equipment, a customer that uses distributed generation has the
23 right to know:

- 24 (1) That the Attorney General is authorized to enforce this
25 section, including without limitation by receiving complaints concerning the
26 installation, ownership, or leasing of distributed generation equipment;
- 27 (2) The expected amount of electricity that will be produced by
28 the distributed generation equipment that the customer is purchasing or
29 leasing;
- 30 (3) The costs associated with installing distributed generation
31 equipment, including without limitation taxes for which the customer is
32 liable;
- 33 (4) The value of federal, state, or local tax credits,
34 electricity supplier rate credits, and other incentives or rebates that the
35 customer may receive or, if applicable, assign to the provider of distributed
36 generation;

1 (5) The rate at which the customer will be credited for
2 electricity produced by the customer’s distributed generation equipment and
3 delivered to an electricity supplier;

4 (6) Information regarding lease payments and interest rates over
5 the life of a lease for distributed generation equipment;

6 (7) Whether a provider of distributed generation insures the
7 distributed generation equipment against damage or loss and, if applicable,
8 circumstances under which the provider does not insure against or otherwise
9 cover damage to or loss of the distributed generation equipment;

10 (8) The responsibilities of a provider of distributed generation
11 with respect to installing or removing distributed generation equipment,
12 including during the life of a lease; and

13 (9) Which party to a lease for distributed generation equipment
14 is responsible for the balance of the lease if before the end of the lease:

15 (A) The premises on which the distributed generation
16 equipment is located is sold; or

17 (B) The customer dies.

18 (b) The Attorney General, in consultation with the Arkansas Public
19 Service Commission, may enforce this subchapter.

20
21 23-3-811. Regulation of distributed generation equipment –
22 Municipality, county, or town.

23 (a) A municipality, county, or town shall not enact or enforce an
24 ordinance, a resolution, or an order that prohibits the construction or
25 operation of distributed generation equipment.

26 (b) If a municipality, county, or town adopts an ordinance,
27 resolution, or order involving the construction, placement, size, or
28 operation of distributed generation equipment based on health, safety, or
29 aesthetic conditions, the ordinance, resolution, or order shall:

30 (1) Reasonably accommodate distributed generation; and

31 (2) Represent the minimal regulation practicable to accomplish
32 the legitimate purpose of the municipality, county, or town.

33 (c) This subchapter does not prohibit a municipality, county, or town
34 from taking action to protect or preserve a historic, a historical, or an
35 architectural district that is established by the municipality, county, or
36 town or under state or federal law.