

1 State of Arkansas  
2 93rd General Assembly  
3 Regular Session, 2021  
4

As Engrossed: H3/23/21

# A Bill

HOUSE BILL 1787

5 By: Representative L. Fite  
6 By: Senator B. Johnson  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS RENEWABLE ENERGY  
10 DEVELOPMENT ACT OF 2001; TO MODIFY THE AUTHORITY OF  
11 THE ARKANSAS PUBLIC SERVICE COMMISSION; TO MODIFY  
12 NET-METERING FACILITIES FOR JUST COMPENSATION TO  
13 ARKANSAS CUSTOMERS; AND FOR OTHER PURPOSES.  
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## Subtitle

17 TO AMEND THE ARKANSAS RENEWABLE ENERGY  
18 DEVELOPMENT ACT OF 2001; TO MODIFY THE  
19 AUTHORITY OF THE ARKANSAS PUBLIC SERVICE  
20 COMMISSION; AND TO MODIFY NET-METERING  
21 FACILITIES FOR JUST COMPENSATION TO  
22 ARKANSAS CUSTOMERS.  
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25 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
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27 SECTION 1. Arkansas Code § 23-18-604 is amended to read as follows:  
28 23-18-604. Commission authority – Definition.

29 (a) An electric utility shall allow net-metering facilities to be  
30 interconnected using a standard meter capable of registering the flow of  
31 electricity in two (2) directions.

32 (b) ~~Following notice and opportunity for public comment, a commission~~  
33 By August 1, 2021, the Arkansas Public Service Commission shall adopt new or  
34 revised net-metering rules that require an electric utility to:

35 (1) ~~Shall establish appropriate rates, terms, and conditions for~~  
36 net-metering Separately meter the electric energy, measured in kilowatt



1 hours, that:

2 (A) Is supplied by the electric utility to a net-metering  
3 customer during the electric utility's billing period; and

4 (B) Is being supplied to the electric utility by the net-  
5 metering customer from a net-metering facility during the electric utility's  
6 billing period;

7 ~~(2) For net-metering customers who receive service under a rate~~  
8 ~~that does not include a demand component, may~~ Apply to the net-metering  
9 customer's monthly bill:

10 ~~(A) Require an electric utility to credit the net-metering~~  
11 ~~customer with any accumulated net excess generation as measured in kilowatt~~  
12 ~~hours or kilowatt hours multiplied by the applicable rate in the next~~  
13 ~~applicable billing period and base the bill of the net-metering customer on~~  
14 ~~the net amount of electricity as measured in kilowatt hours or kilowatt hours~~  
15 ~~multiplied by the applicable rate that the net-metering customer has received~~  
16 ~~from or fed back to the electric utility during the billing period~~ In  
17 addition to all customary charges for electric utility service, the  
18 commission-approved, full retail rate, riders, and surcharges to all kilowatt  
19 hours measured under subdivision (b)(1)(A) of this section; and

20 ~~(B) Take the following actions if those actions are in the~~  
21 ~~public interest and doing so will not result in an unreasonable allocation of~~  
22 ~~or increase in costs to other utility customers; The avoided cost rate of the~~  
23 electric utility to all kilowatt hours measured under subdivision (b)(1)(B)  
24 of this section;

25 ~~(i) Separately meter the electric energy, measured~~  
26 ~~in kilowatt hours, supplied by the electric utility to the net-metering~~  
27 ~~customer and the electric energy, measured in kilowatt hours, that is~~  
28 ~~generated by the net-metering customer's net-metering facility that is fed~~  
29 ~~back to the electric utility at any time during the applicable billing~~  
30 ~~period;~~

31 ~~(ii) Apply the commission-approved retail rate to~~  
32 ~~all kilowatt hours that are supplied by the electric utility to a net-~~  
33 ~~metering customer by the electric utility during the applicable period~~  
34 ~~determined by a commission;~~

35 ~~(iii) Apply the avoided cost of the electric utility~~  
36 ~~plus any additional sum determined under subdivision (b)(2)(B)(iv) of this~~

1 section to all kilowatt hours supplied to the electric utility by a net-  
2 metering customer, during the period determined by a commission, which shall  
3 be credited to the total bill of the net metering customer in a dollar value;  
4 and

5 (iv) ~~The additional sum added to the avoided cost of~~  
6 ~~the electric utility may be applied after the demonstration of quantifiable~~  
7 ~~benefits by the net metering customer and shall not exceed forty percent~~  
8 ~~(40%) of the avoided cost of the electric utility;~~

9 (C) ~~Authorize an electric utility to assess a net metering~~  
10 ~~customer that is being charged a rate that does not include a demand~~  
11 ~~component a per-kilowatt-hour fee or charge to recover the quantifiable~~  
12 ~~direct demand-related distribution cost of the electric utility for providing~~  
13 ~~electricity to the net metering customer that is not;~~

14 (i) ~~Avoided as a result of the generation of~~  
15 ~~electricity by the net metering facility; and~~

16 (ii) ~~Offset by quantifiable benefits; or~~

17 (D) ~~Take other actions that are in the public interest and~~  
18 ~~do not result in an unreasonable allocation of costs to other utility~~  
19 ~~customers;~~

20 (3) ~~Shall require that net metering equipment be installed to~~  
21 ~~accurately measure the electricity; Net the dollar value of subdivision~~  
22 ~~(b)(2)(A) of this section against the dollar value of subdivision (b)(2)(B)~~  
23 ~~of this section, for each billing period; and~~

24 (A) ~~Supplied by the electric utility to each net metering~~  
25 ~~customer; and~~

26 (B) ~~Generated by each net metering customer that is fed~~  
27 ~~back to the electric utility over the applicable billing period;~~

28 (4) ~~May authorize an electric utility to assess a net metering~~  
29 ~~customer a greater fee or charge of any type, if the electric utility's~~  
30 ~~direct costs of interconnection and administration of net metering outweigh~~  
31 ~~the distribution system, environmental, and public policy benefits of~~  
32 ~~allocating the costs among the electric utility's entire customer base Carry~~  
33 ~~forward, as a billing credit, any dollar amount remaining on a net metering~~  
34 ~~customer's account at the close of the billing period.~~

35 (5) ~~For net metering customers who receive service under a rate~~  
36 ~~that does not include a demand component, shall require an electric utility~~

1 ~~to credit a net metering customer with the amount of any accumulated net~~  
2 ~~excess generation as measured in kilowatt hours or kilowatt hours multiplied~~  
3 ~~by the applicable rate in the next applicable billing period;~~

4 ~~(6) Except as provided in subdivision (b)(9) of this section,~~  
5 ~~for net metering customers who receive service under a rate that includes a~~  
6 ~~demand component, shall require an electric utility to credit the net-~~  
7 ~~metering customer with any accumulated net excess generation in the next~~  
8 ~~applicable billing period and base the bill of the net metering customer on~~  
9 ~~the net amount of electricity that the net metering customer has received~~  
10 ~~from or fed back to the electric utility during the billing period;~~

11 ~~(7) May expand the scope of net metering to include additional~~  
12 ~~facilities that do not use a renewable energy resource for a fuel if so doing~~  
13 ~~results in distribution system, environmental, or public policy benefits;~~

14 ~~(8) Shall provide that:~~

15 ~~(A)(i) The amount of the net excess generation credit as~~  
16 ~~measured in kilowatt hours or kilowatt hours multiplied by the applicable~~  
17 ~~rate remaining in a net metering customer's account at the close of a billing~~  
18 ~~cycle shall not expire and shall be carried forward to subsequent billing~~  
19 ~~cycles indefinitely.~~

20 ~~(ii) However, for net excess generation credits~~  
21 ~~older than twenty four (24) months, a net metering customer may elect to have~~  
22 ~~the electric utility purchase the net excess generation credits in the net-~~  
23 ~~metering customer's account at the electric utility's avoided cost, plus any~~  
24 ~~additional sum determined under this section, if the sum to be paid to the~~  
25 ~~net metering customer is at least one hundred dollars (\$100).~~

26 ~~(iii) An electric utility shall purchase at the~~  
27 ~~electric utility's avoided cost, plus any additional sum determined under~~  
28 ~~this section, any net excess generation credit remaining in a net metering~~  
29 ~~customer's account when the net metering customer:~~

30 ~~(a) Ceases to be a customer of the electric~~  
31 ~~utility;~~

32 ~~(b) Ceases to operate the net metering~~  
33 ~~facility; or~~

34 ~~(c) Transfers the net metering facility to~~  
35 ~~another person; and~~

36 ~~(B) A renewable energy credit created as the result of~~

1 ~~electricity supplied by a net metering customer is the property of the net-~~  
2 ~~metering customer that generated the renewable energy credit; and~~

3 ~~(9) May allow a net metering facility with a generating capacity~~  
4 ~~that exceeds the limits provided under § 23-18-603(8)(B)(ii) or § 23-18-~~  
5 ~~603(8)(B)(iii) of up to twenty thousand kilowatts (20,000 kW) if:~~

6 ~~(A) For any net metering facility with a generating~~  
7 ~~capacity of less than five thousand kilowatts (5,000 kW):~~

8 ~~(i) The net metering facility is not for residential~~  
9 ~~use;~~

10 ~~(ii) Increasing the generating capacity limits for~~  
11 ~~individual net metering facilities results in distribution system,~~  
12 ~~environmental, or public policy benefits or allowing an increased generating~~  
13 ~~capacity for the net metering facility would increase the state's ability to~~  
14 ~~attract businesses to Arkansas; and~~

15 ~~(iii) Allowing an increased generating capacity for~~  
16 ~~the net metering facility is in the public interest; or~~

17 ~~(B) For any net metering facility with a generating~~  
18 ~~capacity of greater than five thousand kilowatts (5,000 kW):~~

19 ~~(i) The net metering facility is not for residential~~  
20 ~~use;~~

21 ~~(ii) Increasing the generating capacity limits for~~  
22 ~~individual net metering facilities results in distribution system,~~  
23 ~~environmental, or public policy benefits or allowing an increased generating~~  
24 ~~capacity for the net metering facility would increase the ability of the~~  
25 ~~state to attract business to Arkansas;~~

26 ~~(iii) Allowing an increased generating capacity for~~  
27 ~~the net metering facility does not result in an unreasonable allocation of~~  
28 ~~costs to other utility customers; and~~

29 ~~(iv) Allowing an increased generating capacity for~~  
30 ~~the net metering facility is in the public interest; and~~

31 ~~(10)(A) Shall allow the net metering facility of a net metering~~  
32 ~~customer who has submitted a standard interconnection agreement, as referred~~  
33 ~~to in the rules of the Arkansas Public Service Commission, to the electric~~  
34 ~~utility after July 24, 2019, but before December 31, 2022, to remain under~~  
35 ~~the rate structure in effect when the net metering contract was signed, for a~~  
36 ~~period not to exceed twenty (20) years, subject to approval by a commission.~~

1                   ~~(B) A net metering facility under subdivision (b)(10)(A)~~  
2 ~~of this section remains subject to any other change or modification in rates,~~  
3 ~~terms, and conditions.~~

4           ~~(c)(1) Except as provided in subdivision (c)(2) of this section, an~~  
5 ~~electric utility shall separately meter, bill, and credit each net metering~~  
6 ~~facility even if one (1) or more net metering facilities are under common~~  
7 ~~ownership~~ Net-metering rules adopted by the commission under subsection (b)  
8 of this section shall:

9                   ~~(1)(A) Authorize an electric utility to assess a net-metering~~  
10 ~~customer the fees and charges for administrative fees, interconnection costs,~~  
11 ~~and any other costs incurred by the electric utility to enable~~  
12 ~~interconnection and operation or use of the net-metering facility for the~~  
13 ~~purpose of supplying net-metered power to the electric utility.~~

14                   ~~(B) The fees and charges described in subdivision~~  
15 ~~(c)(1)(A) of this section shall be paid by the net-metering customer before~~  
16 ~~any work is undertaken by the electric utility to interconnect a net-metering~~  
17 ~~facility unless otherwise agreed to by the electric utility;~~

18                   ~~(2)(A)(i) At the net metering customer's discretion, an electric~~  
19 ~~utility may apply net metering credits from a net metering facility to the~~  
20 ~~bill for another meter location if the net metering facility and the separate~~  
21 ~~meter location are under common ownership within a single electric utility's~~  
22 ~~service area~~ Prohibit grandfathering of the rates, terms, or conditions of  
23 net metering for any net-metering facility placed in service after August 1,  
24 2021;

25                   ~~(ii) Subdivision (c)(2)(A)(i) of this section does~~  
26 ~~not apply if more than two (2) customers that are governmental entities or~~  
27 ~~other entities that are exempt from state and federal income tax defined~~  
28 ~~under § 23-18-603(7)(C) co-locate at a site hosting the net metering~~  
29 ~~facility.~~

30                   ~~(B) Net excess generation shall be credited first to the~~  
31 ~~net metering customer's meter to which the net metering facility is~~  
32 ~~physically attached.~~

33                   ~~(C) After applying net excess generation under subdivision~~  
34 ~~(c)(2)(B) of this section and upon request of the net metering customer under~~  
35 ~~subdivision (c)(2)(A) of this section, any remaining net excess generation~~  
36 ~~shall be credited to one (1) or more of the net metering customer's meters in~~

1 ~~the rank order provided by the net-metering customer.~~

2 (3) For a net-metering facility that generates at least one  
3 thousand kilowatt hours (1,000 kWh) and no more than twenty thousand kilowatt  
4 hours (20,000 kWh), establish clear and objective criteria for each net-  
5 metering customer to prove net quantitative benefits of a proposed net-  
6 metering facility, excluding environmental benefits, within the public  
7 utility service area where the net-metering facility is located; and

8 (4) Prohibit the separation of a net-metering facility from the  
9 location where the majority of the net-metering customer's energy consumption  
10 occurs.

11 ~~(d) A person who acts as a lessor or service provider as described in~~  
12 ~~§ 23-18-603(7)(B) or § 23-18-603(7)(C) shall not be considered a public~~  
13 ~~utility as defined in § 23-1-101. Under this subchapter, the commission may~~  
14 approve a net-metering facility with a generating capacity of up to twenty  
15 thousand kilowatts (20,000 kW), but in no instance shall the commission  
16 approve net-metering facility that is larger than the net-metering customer's  
17 twelve-months' prior load, as applied to the specific net-metering facility.

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19 /s/L. Fite  
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