

1 State of Arkansas As Engrossed: H3/23/21 H3/29/21 H4/1/21

2 93rd General Assembly

# A Bill

3 Regular Session, 2021

HOUSE BILL 1787

4

5 By: Representative L. Fite

6 By: Senator B. Johnson

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## For An Act To Be Entitled

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AN ACT TO AMEND THE ARKANSAS RENEWABLE ENERGY

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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

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ARKANSAS CUSTOMERS; AND FOR OTHER PURPOSES.

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## Subtitle

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TO AMEND THE ARKANSAS RENEWABLE ENERGY

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DEVELOPMENT ACT OF 2001; TO MODIFY THE

19

AUTHORITY OF THE ARKANSAS PUBLIC SERVICE

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COMMISSION; AND TO MODIFY NET-METERING

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FACILITIES FOR JUST COMPENSATION TO

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ARKANSAS CUSTOMERS.

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

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SECTION 1. Arkansas Code § 23-18-604 is amended to read as follows:

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23-18-604. Commission authority – Definition.

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

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~~(b) Following notice and opportunity for public comment, a commission~~

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By August 1, 2021, the Arkansas Public Service Commission shall adopt new or revised net-metering rules that require an electric utility to:

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~~(1) Shall establish appropriate rates, terms, and conditions for~~

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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~~

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

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

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

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

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

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

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

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

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

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

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

~~(10)(A) Shall allow the net metering facility of a net metering customer who has submitted a standard interconnection agreement, as referred to in the rules of the Arkansas Public Service Commission, to the electric utility after July 24, 2019, but before December 31, 2022, to remain under the rate structure in effect when the net metering contract was signed, for a 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 December~~  
24 ~~31, 2022;~~

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's 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 a net-metering facility that is larger than the average of the net-~~  
17 ~~metering customer's twelve-months' prior load, as applied to the specific~~  
18 ~~net-metering facility.~~

19 (e)(1) Rates, terms, and conditions for net metering under this  
20 subchapter apply to all electric utilities unless an electric utility, in the  
21 electric utility's discretion, files a formal application with the  
22 accompanying tariff changes with the commission requesting different  
23 treatment.

24 (2) An application for different treatment requested by an  
25 electric utility under subdivision (e)(1) of this section shall be approved  
26 by the commission if the application is in the public interest.

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28 /s/L. Fite  
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