

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

1 State of Arkansas
2 94th General Assembly
3 Regular Session, 2023
4

As Engrossed: H2/20/23

A Bill

HOUSE BILL 1370

5 By: Representative L. Fite
6 By: Senator J. Dismang
7

For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS RENEWABLE ENERGY
10 DEVELOPMENT ACT OF 2001; TO PREVENT COST-SHIFTING AND
11 ENSURE FAIRNESS TO ALL RATEPAYERS; TO DECLARE AN
12 EMERGENCY; AND FOR OTHER PURPOSES.
13
14

Subtitle

15 TO AMEND THE ARKANSAS RENEWABLE ENERGY
16 DEVELOPMENT ACT OF 2001; TO PREVENT COST-
17 SHIFTING AND ENSURE FAIRNESS TO ALL
18 RATEPAYERS; AND TO DECLARE AN EMERGENCY.
19
20
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:
23

24 SECTION 1. Arkansas Code Title 23, Chapter 18, Subchapter 6 is amended
25 to read as follows:

26 Subchapter 6 – Arkansas ~~Renewable Energy Development~~ Cost-Shifting Prevention
27 Act of ~~2001-2023~~

28
29 23-18-601. Title.

30 This subchapter shall be known and cited as the “Arkansas ~~Renewable~~
31 ~~Energy Development~~ Cost-Shifting Prevention Act of ~~2001~~ 2023”.

32
33 23-18-602. Legislative findings and declarations.

34 ~~(a) Net energy metering encourages the use of renewable energy~~
35 ~~resources and renewable energy technologies by reducing utility~~
36 ~~interconnection and administrative costs for small consumers of electricity.~~



1 ~~More than thirty (30) other states have passed similar laws or regulations in~~
 2 ~~support of net energy metering programs. Increasing the consumption of~~
 3 ~~renewable resources promotes the wise use of Arkansas's natural energy~~
 4 ~~resources to meet a growing energy demand, increases Arkansas's use of~~
 5 ~~indigenous energy fuels while reducing dependence on imported fossil fuels,~~
 6 ~~fosters investments in emerging renewable technologies to stimulate economic~~
 7 ~~development and job creation in the state, including the agricultural~~
 8 ~~sectors, reduces environmental stresses from energy production, and provides~~
 9 ~~greater consumer choices. The General Assembly finds that:~~

10 (1) Arkansas has an established process for the billing option
 11 that enables customer-owned net-metering facilities to offset part or all of
 12 a net-metering customer's electric consumption;

13 (2) This billing option should continue subject to certain
 14 modifications for the benefit and rate protection of all electric utility
 15 customers in Arkansas; and

16 ~~(b)(3) Arkansas has actively encouraged the manufacture of new~~
 17 ~~technologies in the state through promotion of the Arkansas Emerging~~
 18 ~~Technology Development Act of 1999, § 15-4-2101 et seq. [repealed]. Net~~
 19 ~~metering would help to further attract energy technology manufacturers, to~~
 20 ~~provide a foothold for these technologies in the Arkansas economy, and to~~
 21 ~~make it easier for customer access to these technologies.~~

22 ~~(c) Therefore, the General Assembly finds that it It is in Arkansas's~~
 23 ~~long-term interest to adopt this subchapter the modifications set forth in~~
 24 ~~this subchapter.~~

25
 26 23-18-603. Definitions.

27 As used in this subchapter:

28 (1) "Avoided cost" means:

29 (A) For an electric utility other than a municipal
 30 utility, ~~the costs to an electric utility of electric energy or capacity, or~~
 31 ~~both, that, but for the generation from the net-metering facility or~~
 32 ~~facilities, the utility would generate itself or purchase from another~~
 33 ~~source, as determined by a commission consistent with § 23-3-701 et seq.,~~
 34 twelve-month average for the prior calendar year of the applicable Locational
 35 Marginal Price associated with the electric utility's load zone in the
 36 following applicable Independent System Operator market:

1 (i) The Midcontinent Independent System Operator; or

2 (ii) The Southwest Power Pool; or

3 (B) For a municipal utility, the definition provided by
4 the governing body of the municipal utility;

5 (2) "Commission" means the Arkansas Public Service Commission or
6 other appropriate governing body for an electric utility as defined in
7 subdivision (3) of this section;

8 (3) "Electric utility" means a public or investor-owned utility,
9 an electric cooperative, or any private power supplier or marketer that is
10 engaged in the business of supplying electric energy to the ultimate consumer
11 or any customer classes within the state;

12 (4) "Monthly grid charge" means a charge expressed in dollars
13 per kilowatt applied to the nameplate direct current capacity of the net-
14 metering facility;

15 ~~(4)(A)(5)(A)~~ "Municipal utility" means a utility system owned or
16 operated by a municipality that provides electricity.

17 (B) "Municipal utility" includes without limitation a:

18 (i) Utility system managed or operated by a
19 nonprofit corporation under § 14-199-701 et seq.; and

20 (ii) Utility system owned or operated by a
21 municipality or by a consolidated utility district under the General
22 Consolidated Public Utility System Improvement District Law, § 14-217-101 et
23 seq.;

24 ~~(5)(6)~~ "Net excess generation" means the amount of electricity
25 as measured in kilowatt hours or kilowatt hours multiplied by the applicable
26 rate that a net-metering customer has fed back to the electric utility that
27 exceeds the amount of electricity as measured in kilowatt hours or kilowatt
28 hours multiplied by the applicable rate used by that customer during the
29 applicable period determined by a commission;

30 ~~(6)(7)~~ "Net metering" means ~~measuring a billing option that~~
31 measures the ~~difference in~~ amount of electricity as measured in kilowatt
32 hours ~~or kilowatt hours multiplied by the applicable rate~~ supplied by an
33 electric utility to ~~a~~ an individual net-metering customer and separately
34 measuring the electricity as measured in kilowatt hours generated by a ~~net-~~
35 ~~metering customer and~~ an individual net-metering customer's net-metering
36 facility and fed back to the electric utility ~~over the applicable period~~

1 ~~determined by a commission;~~

2 (8) "Net-metering surplus" means the dollar value resulting from
3 multiplying the avoided cost of the electric utility to all kilowatt hours
4 supplied to the electric utility by a net-metering customer during the
5 applicable billing period under § 23-18-604(c)(4);

6 ~~(7)(9)(A)~~ "Net-metering customer" means a an individual customer
7 of an electric utility that:

8 ~~(A)(i)~~ Is an owner of a net-metering facility;

9 ~~(B)(ii)~~ Leases a net-metering facility subject to the
10 following limitations:

11 ~~(i)(a)~~ A lease shall not permit the sale of electric
12 energy measured in kilowatt hours or electric capacity measured in kilowatts
13 between the lessor and lessee; and

14 ~~(ii)(b)~~ A lease shall not include any charge per
15 kilowatt hour or any charge per kilowatt; or

16 ~~(C)(iii)(a)~~ Is a government entity or other entity that is
17 exempt from state and federal income tax, and that, for the sole purpose of
18 this subchapter, obtains electric energy from a net-metering facility under a
19 service contract qualifying for safe-harbor protection as provided under 26
20 U.S.C. § 7701(e)(3)(A), as in effect on ~~July 24, 2019,~~ August 16, 2022.

21 (b) Revenues collected under contracts for
22 obtaining electric energy from a net-metering facility under a service
23 contract qualifying for safe-harbor protection as provided under 26 U.S.C. §
24 7701(e)(3)(A), as in effect on August 16, 2022, are exempt from state and
25 local sales taxes.

26 (B) "Net-metering customer" does not mean a customer that
27 is an interruptible customer of the electric utility and takes service under
28 an electric utility's rate schedule for interruptible service, unless a
29 commission has:

30 (i) Considered an application and issued an order, before
31 December 31, 2022, addressing an individual net-metering customer's
32 application for approval of a net-metering facility with a name plate
33 generating capacity in excess of ten thousand kilowatts (10,000 kW) where an
34 individual net-metering customer also takes service under an electric
35 utility's rate schedule for interruptible service; and

36 (ii) Concluded that it is in the public interest for that

1 individual interruptible customer to be a net-metering customer;

2 ~~(8)(10)~~ “Net-metering facility” means a facility for the
3 production of electric energy to meet all or part of a net-metering
4 customer’s need for electric energy within a single utility’s allocated
5 service territory that:

6 (A) Uses solar, wind, hydroelectric, geothermal, or
7 biomass resources to generate electricity, including, but not limited to,
8 fuel cells and micro turbines that generate electricity if the fuel source is
9 entirely derived from renewable resources;

10 (B)(i)(a) Has a nameplate generating capacity of not more
11 than:

12 ~~(i)(1)~~ ~~The greater of twenty five kilowatts (25 kW)~~
13 ~~or one~~ For a residential customer for residential use, the lesser of twenty-
14 five (25) kilowatts alternating current or one hundred percent (100%) of the
15 net-metering customer’s highest monthly usage in the previous twelve (12)
16 months ~~for residential use;~~

17 ~~(ii)(2)~~ ~~For customers of electric utilities, one~~
18 ~~thousand kilowatts (1,000 kW) for use other than residential use unless~~
19 ~~otherwise allowed by a commission under § 23-18-604~~ For nonresidential
20 customers of electric utilities for nonresidential use less than or equal to
21 the lesser of five thousand kilowatts (5,000 kW) alternative current or one
22 hundred percent (100%) of the net-metering customer’s highest monthly usage
23 in the previous twelve (12) months within a single utility’s allocated
24 service territory, unless a commission approved a greater amount for an
25 individual net-metering customer before December 31, 2022, when the net-
26 metering facility is located on a separate property from any other net-
27 metering facility or only co-locates on a property with one (1) other net-
28 metering facility within a single utility’s allocated service territory; or

29 ~~(iii)(3)~~ For customers of a municipal utility,
30 the limits established by the governing body of the municipal utility under §
31 23-18-605+.

32 (b) The total nameplate generating capacity of
33 all net-metering facilities owned by, leased by, or providing electric energy
34 under one (1) or more qualifying service contracts of an individual net-
35 metering customer, including without limitation any net-metering facilities
36 serving any net-metering customer, within a single utility’s allocated

1 service territory, shall be less than or equal to the lesser of five thousand
 2 kilowatts (5,000 kW) alternative current or one hundred percent (100%) of the
 3 net-metering customer's highest monthly usage in the previous twelve (12)
 4 months, unless a commission approved a greater amount for an individual net-
 5 metering customer before December 31, 2022.

6 (ii) The nameplate generating capacity under
 7 subdivisions (10)(B)(i)(a)(1) and (2) of this section includes the total
 8 kilowatt nameplate generating capacity of all net-metering facilities within
 9 a single electric utility's allocated service territory owned by, leased by,
 10 or providing electric energy under one (1) or more qualifying service
 11 contracts to a net-metering customer, including without limitation any net-
 12 metering facilities serving multiple meter locations under common ownership;

13 (C) Is located in Arkansas;

14 (D) Can operate in parallel with an electric utility's
 15 ~~existing transmission and distribution facilities~~ existing distribution
 16 facilities or, if permitted by the electric utility, an electric utility's
 17 transmission facilities;

18 (E) Is intended ~~primarily~~ to offset part or all of ~~the~~ an
 19 individual net-metering customer's requirements for electricity; and

20 (F)(i) May include an energy storage device that is
 21 configured to receive electric energy solely from a net-metering facility.

22 (ii) The capacity of an energy storage device shall
 23 not be used to calculate the capacity limits listed in subdivision
 24 ~~(8)(B)~~ (10)(B) of this section if the energy storage device is configured to
 25 receive electric energy solely from a net-metering facility;

26 ~~(9) "Quantifiable benefits" means the:~~

27 ~~(A) Reasonably demonstrated costs that:~~

28 ~~(i) Are related to the provision of electric service~~
 29 ~~and based on the utility's most recent cost of service study filed with the~~
 30 ~~commission; and~~

31 ~~(ii) Will be avoided by the utility by the use of~~
 32 ~~net metering;~~

33 ~~(B) Monetary value provided to a utility by the use of net~~
 34 ~~metering as specified by a market mechanism, if any, of the regional~~
 35 ~~transmission organization of which the electric utility is a member; and~~

36 ~~(C) Monetary value provided to a utility by the use of net~~

~~metering as specified by a market mechanism, if any, that measures utility distribution system benefits; and~~

~~(10)(11) “Renewable energy credit” means the environmental, economic, and social attributes of a unit of electricity, such as a megawatt hour, generated from renewable fuels that can be sold or traded separately.~~

23-18-604. Commission authority – Definition.

~~(a)(1) An electric utility shall allow net-metering facilities to be interconnected using, at a minimum, a standard two-channel digital meter capable of registering the flow of electricity in two (2) directions that separately measures the electric energy in kilowatt hours that is:~~

~~(A) Supplied by an electric utility to the net-metering customer; and~~

~~(B) Generated by the net-metering customer’s net-metering facility and fed back to an electric utility.~~

~~(2) An electric utility may impose a charge to recover any cost of the standard two-channel digital meter that is not otherwise included in the rates paid by the net-metering customer.~~

~~(b)(1) Following notice, and opportunity for public comment, and a hearing, a commission shall:~~

~~(1) Shall establish appropriate rates, terms, and conditions for net metering, including without limitation the adoption or revision of any applicable rules on or before June 30, 2023.~~

~~(2) For net-metering customers who receive service under a rate that does not include a demand component, may:~~

~~(A) Require an electric utility to credit the net-metering customer with any accumulated net excess generation as measured in kilowatt hours or kilowatt hours multiplied by the applicable rate in the next applicable billing period and base the bill of the net-metering customer on the net amount of electricity as measured in kilowatt hours or kilowatt hours multiplied by the applicable rate that the net-metering customer has received from or fed back to the electric utility during the billing period;~~

~~(B) Take the following actions if those actions are in the public interest and doing so will not result in an unreasonable allocation of or increase in costs to other utility customers:~~

~~(i) Separately meter the electric energy, measured~~

1 ~~in kilowatt hours, supplied by the electric utility to the net metering~~
2 ~~customer and the electric energy, measured in kilowatt hours, that is~~
3 ~~generated by the net metering customer's net metering facility that is fed~~
4 ~~back to the electric utility at any time during the applicable billing~~
5 ~~period;~~

6 ~~(ii) Apply the commission approved retail rate to~~
7 ~~all kilowatt hours that are supplied by the electric utility to a net-~~
8 ~~metering customer by the electric utility during the applicable period~~
9 ~~determined by a commission;~~

10 ~~(iii) Apply the avoided cost of the electric utility~~
11 ~~plus any additional sum determined under subdivision (b)(2)(B)(iv) of this~~
12 ~~section to all kilowatt hours supplied to the electric utility by a net-~~
13 ~~metering customer, during the period determined by a commission, which shall~~
14 ~~be credited to the total bill of the net metering customer in a dollar value;~~
15 ~~and~~

16 ~~(iv) The additional sum added to the avoided cost of~~
17 ~~the electric utility may be applied after the demonstration of quantifiable~~
18 ~~benefits by the net metering customer and shall not exceed forty percent~~
19 ~~(40%) of the avoided cost of the electric utility;~~

20 ~~(C) Authorize an electric utility to assess a net metering~~
21 ~~customer that is being charged a rate that does not include a demand~~
22 ~~component a per kilowatt hour fee or charge to recover the quantifiable~~
23 ~~direct demand related distribution cost of the electric utility for providing~~
24 ~~electricity to the net metering customer that is not;~~

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

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

28 ~~(D) Take other actions that are in the public interest and~~
29 ~~do not result in an unreasonable allocation of costs to other utility~~
30 ~~customers; The right to a hearing under this subsection may be waived by the~~
31 ~~parties.~~

32 (c) Through its actions under subdivision (b)(1) of this section, a
33 commission shall:

34 (1)(A) Ensure that each net-metering customer pays the costs of
35 an electric utility's facilities and associated expenses required to:

36 (i) Provide service to the net-metering customer;

1 and

2 (ii) Enable the net-metering customer's use of the
3 electric utility's facilities.

4 (B) The costs described under subdivision (c)(1)(A) of
5 this section include without limitation any costs that are:

6 (i) Recovered through rates using the cost-of-
7 service study underlying the rates approved by a commission in the electric
8 utility's most recent application for a general change or modification of the
9 electric utility's rates under § 23-4-401 et seq.;

10 (ii) Recovered through riders or surcharges; and

11 (iii) Adjusted for any commission-approved:

12 (a) Formula rate plan adjustments under the
13 Formula Rate Review Act, § 23-4-1201 et seq.; or

14 (b) Adjustments under § 23-4-901 et seq.

15 (C) By June 30, 2023, a commission shall approve
16 modifications to each electric utility's rate schedules applicable to net-
17 metering customers to ensure that all existing and prospective net-metering
18 customers pay all applicable riders and surcharges;

19 (2) Allow an electric utility to modify the rates, terms, and
20 conditions, including without limitation the rate structure and any
21 individual rate components for net-metering customers, subject to approval by
22 the commission, without filing an application for a general change or
23 modification of the electric utility's rates under § 23-4-401 et seq.;

24 (3) Not adjust the costs of an electric utility's facilities and
25 associated expenses required to provide service to a net-metering customer
26 and to enable the net-metering customer's use of the electric utility's
27 facilities as specified in subdivision (c)(1)(A) of this section with any
28 amounts that are not quantified in the cost-of-service study underlying the
29 retail rates approved by a commission in the electric utility's most recent
30 application for a general change or modification in rates under § 23-4-401 et
31 seq., including without limitation any commission-approved:

32 (A) Formula rate plan adjustments under the Formula Rate
33 Review Act, § 23-4-1201 et seq.; or

34 (B) Adjustments under § 23-4-901 et seq.;

35 (4) Establish rates for a net-metering customer using one (1) of
36 the rate structures under § 23-18-606;

1 (5) Separately meter the electric energy, measured in kilowatt
2 hours, supplied by the electric utility to the net-metering customer and the
3 electric energy, measured in kilowatt hours, that is fed back to the electric
4 utility from the net-metering customer's net-metering facility at any time
5 during the applicable billing period;

6 (6) Apply the commission-approved customer charge, demand
7 charge, or minimum bill provision and other applicable commission-approved
8 charges addressed in subdivision (c)(1)(A) of this section;

9 (7) Apply the commission-approved charges addressed in
10 subdivision (c)(1)(A) of this section to the applicable net-metering
11 customers, including without limitation any rates, riders, and surcharges
12 that are applied based on the volume of kilowatt hours of electricity
13 supplied by an electric utility, to all kilowatt hours that are supplied by
14 the electric utility to a net-metering customer by the electric utility
15 during the applicable billing period;

16 (8) Authorize an electric utility to recover any net-metering
17 surplus or the dollar value of any net excess generation applied to the bills
18 of net-metering customers in the same manner that the electric utility
19 recovers the cost of fuel and purchased energy;

20 ~~(3) Shall require that net-metering equipment be installed to~~
21 ~~accurately measure the electricity;~~

22 ~~(A) Supplied by the electric utility to each net-metering~~
23 ~~customer; and~~

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

26 ~~(4) May authorize (9)(A) Authorize an electric utility to~~
27 ~~assess a net-metering customer a greater fee or charge of any type, if the~~
28 ~~electric utility's direct costs of interconnection and administration of net~~
29 ~~metering outweigh the distribution system, environmental, and public policy~~
30 ~~benefits of allocating the costs among the electric utility's entire customer~~
31 ~~base standard one-time fee, to be approved by the commission, to recover~~
32 ~~administrative and related interconnection review costs.~~

33 (B) Any costs incurred by the electric utility for an
34 interconnection study are the sole responsibility of the net-metering
35 customer and shall be paid in advance of any work's being undertaken by the
36 electric utility to:

1 (i) Enable the interconnection; and
2 (ii) Recover the electric utility's direct costs of
3 interconnection and any grid upgrades required to connect the net-metering
4 customer's net-metering facility;

5 (10) Require that a net-metering customer retains any renewable
6 energy credit created as a result of the electricity supplied by a net-
7 metering customer that generated the renewable energy credit as long as the
8 net-metering customer continues to be a net-metering customer; and

9 ~~(5) For net metering customers who receive service under a rate~~
10 ~~that does not include a demand component, shall require an electric utility~~
11 ~~to credit a net-metering customer with the amount of any accumulated net~~
12 ~~excess generation as measured in kilowatt hours or kilowatt hours multiplied~~
13 ~~by the applicable rate in the next applicable billing period;~~

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

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

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

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

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

36 ~~(iii) An electric utility shall purchase at the~~

1 ~~electric utility's avoided cost, plus any additional sum determined under~~
2 ~~this section, any net excess generation credit remaining in a net metering~~
3 ~~customer's account when the net metering customer:~~

4 ~~(a) Ceases to be a customer of the electric~~
5 ~~utility;~~

6 ~~(b) Ceases to operate the net metering~~
7 ~~facility; or~~

8 ~~(c) Transfers the net metering facility to~~
9 ~~another person; and~~

10 ~~(B) A renewable energy credit created as the result of~~
11 ~~electricity supplied by a net metering customer is the property of the net-~~
12 ~~metering customer that generated the renewable energy credit; and~~

13 ~~(9) May allow a net metering facility with a generating capacity~~
14 ~~that exceeds the limits provided under § 23-18-603(8)(B)(ii) or § 23-18-~~
15 ~~603(8)(B)(iii) of up to twenty thousand kilowatts (20,000 kW) if:~~

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

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

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

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

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

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

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

36 ~~(iii) Allowing an increased generating capacity for~~

1 ~~the net metering facility does not result in an unreasonable allocation of~~
 2 ~~costs to other utility customers; and~~

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

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

11 ~~(B) A net metering facility under subdivision (b)(10)(A)~~
 12 ~~of this section remains subject to any other change or modification in rates,~~
 13 ~~terms, and conditions (11)(A) Allow a net-metering customer that submitted a~~
 14 ~~standard interconnection agreement to the electric utility before December~~
 15 ~~31, 2022, or has submitted a facilities agreement or equivalent document to~~
 16 ~~establish an account with an electric utility and paid all costs of~~
 17 ~~constructing the electric utility facilities necessary to interconnect the~~
 18 ~~net-metering facility before September 30, 2023, to remain under the rate~~
 19 ~~structure in effect before December 31, 2022, as set forth in § 23-18-~~
 20 ~~606(a)(2)(A)-(G), until June 1, 2040.~~

21 ~~(B) A net-metering customer that installs a net-metering~~
 22 ~~facility after December 31, 2022, and that submits a standard interconnection~~
 23 ~~agreement shall be billed using one (1) of the rate structures established in~~
 24 ~~§ 23-18-606.~~

25 ~~(C) A net-metering facility billed using the rate~~
 26 ~~structures described in subdivisions (c)(11)(A) and (B) of this section~~
 27 ~~remains subject to any other change or modification in rates, terms, and~~
 28 ~~conditions.~~

29 ~~(e)(1)(d)(1) Except as provided in subdivision (e)(2)(d)(2) of this~~
 30 ~~section, an electric utility shall separately meter, bill, and credit each~~
 31 ~~net-metering facility even if one (1) or more net-metering facilities are~~
 32 ~~under common ownership.~~

33 ~~(2)(A)(i) At the an individual net-metering customer's~~
 34 ~~discretion, an electric utility may shall apply net-metering credits the net-~~
 35 ~~metering surplus from a an individual net-metering customer's net-metering~~
 36 ~~facility to the bill for another meter location of the individual net-~~

1 metering customer if the net-metering facility and the separate meter
 2 location are under common ownership of the same individual net-metering
 3 customer within a single electric utility's allocated service area territory
 4 and are located within five (5) miles of any of the individual net-metering
 5 customer's accounts to which the net-metering surplus is applied, unless a
 6 commission has approved a greater distance for an individual net-metering
 7 customer before December 31, 2022.

8 (ii) ~~Subdivision (e)(2)(A)(i) of this section does~~
 9 ~~not apply if more than two (2) customers that are governmental entities or~~
 10 ~~other entities that are exempt from state and federal income tax defined~~
 11 ~~under § 23-18-603(7)(C) co-locate at a site hosting the net-metering facility~~
 12 A separate meter location under subdivision (d)(2)(A)(i) of this section
 13 shall be credited only with net-metering surplus from one (1) net-metering
 14 facility owned by the same net-metering customer, with all accounts being
 15 under common ownership for the same individual net-metering customer.

16 (B) ~~Net-excess generation~~ Net-metering surplus shall be
 17 credited first to ~~the~~ an individual net-metering customer's bill for the
 18 meter to which the net-metering facility is physically attached.

19 (C) After applying ~~net-excess generation~~ net-metering
 20 surplus under subdivision ~~(e)(2)(B)(d)(2)(B)~~ of this section and upon request
 21 of the net-metering customer under subdivision ~~(e)(2)(A)(d)(2)(A)~~ of this
 22 section, any remaining ~~net-excess generation~~ net-metering surplus shall be
 23 credited to one (1) or more of the individual net-metering customer's bills
 24 for the individual net-metering customer's meters in the rank order provided
 25 by the individual net-metering customer.

26 ~~(d)(e)~~ A person ~~who~~ that acts as a lessor or service provider as
 27 described in ~~§ 23-18-603(7)(B)~~ § 23-18-603(9)(B) or ~~§ 23-18-603(7)(C)~~ § 23-
 28 18-603(9)(C) shall not be considered a public utility as defined in § 23-1-
 29 101.

30 (f) An electric utility shall not be obligated to:

31 (1) Accept or release any portion of its or another electric
 32 utility's allocated service territory to accommodate the development,
 33 construction, or operation of a net-metering facility; or

34 (2) Publish, provide, or release any information regarding its
 35 electric utility facilities or system to aid in the location of the net-
 36 metering facilities beyond its established site review process.

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23-18-605. Municipal utilities.

(a) A municipal utility shall allow net-metering facilities to be interconnected according to the ordinances, rules, or regulations established by the governing body of the municipal utility.

(b) The governing body of a municipal utility may elect to follow procedures under § 23-18-604, § 23-18-606, or § 23-18-607 or may adopt ordinances, rules, or regulations establishing the rates, terms, and conditions allowing the interconnection of net-metering facilities, including generation facilities and energy storage devices, whether owned or leased by a customer or operated by a third party on behalf of a customer.

(c) The governing body of a municipal utility may limit the generating capacity of a net-metering facility to less than twenty-five kilowatts (25 kW) for residential customers or three hundred kilowatts (300 kW) for nonresidential customers only after the governing body finds that the capacity limit is necessary for reliable utility operations or the public health, safety, or welfare.

(d) The governing body of a municipal utility shall not establish a rate or fee that reduces the value of electric energy from a net-metering facility to below the avoided cost of the municipal utility.

(e) For customers who receive service under a rate that includes a demand component, the governing body of the municipal utility shall require a municipal utility to credit a net-metering customer with any accumulated net excess generation in the next applicable billing period and base the bill of the customer on the net amount of electricity that the net-metering customer has received from or fed back to the municipal utility during the billing period.

23-18-606. Rate structure determination.

(a) At its discretion, an electric utility may elect to use one (1) of the following rate structures to develop rates for net-metering customers:

(1) A rate structure in which the electric utility:

(A) Separately meters the electric energy, measured in kilowatt hours:

(i) Supplied by the electric utility to the net-metering customer; and

1 (ii) Fed back to the electric utility from the net-
2 metering customer's net-metering facility at any time during the applicable
3 billing period;

4 (B) Applies the:

5 (i) Commission-approved customer charge, demand
6 charge, minimum bill provision, and other applicable commission-approved
7 charges under § 23-18-604(c)(1)(A);

8 (ii) Commission-approved charges under § 23-18-
9 604(c)(1)(A) to the applicable net-metering customers, including without
10 limitation any rates, riders, and surcharges applied based on the volume of
11 kilowatt hours of electricity supplied by an electric utility, to all
12 kilowatt hours that are supplied by the electric utility to a net-metering
13 customer by the electric utility during the applicable billing period; and

14 (iii) Avoided cost of the electric utility to all
15 kilowatt hours supplied to the electric utility by a net-metering customer
16 during the applicable billing period to be credited to the total bill of the
17 net-metering customer in a dollar value, excluding the customer charge and
18 any applicable demand charge or minimum bill provision that the net-metering
19 customer shall pay each month;

20 (C) Credits the net-metering customer with any accumulated
21 net-metering surplus as measured in dollars during the next applicable
22 billing period; and

23 (D) Credits the bills of the net-metering customer's other
24 meters with the net-metering surplus measured in dollars under § 23-18-
25 604(d)(2); or

26 (2) A rate structure in which the electric utility:

27 (A) Separately meters the electric energy, measured in
28 kilowatt hours:

29 (i) Supplied by the electric utility to the net-
30 metering customer; and

31 (ii) Fed back to the electric utility from the net-
32 metering customer's net-metering facility at any time during the applicable
33 billing period;

34 (B) Applies the:

35 (i) Commission-approved customer charge, demand
36 charge, minimum bill provision, and other applicable commission-approved

1 charges under § 23-18-604(c)(1)(A); and

2 (ii) Commission-approved riders or surcharges under
3 § 23-18-604(c)(1)(A), including without limitation any rates, riders, and
4 surcharges applied based on the volume of kilowatt hours of electricity
5 supplied by an electric utility, to all kilowatt hours that are supplied by
6 the electric utility to a net-metering customer by the electric utility
7 during the applicable billing period prior to crediting any net excess
8 generation under subdivision (a)(2)(C) of this section;

9 (C) Credits the net-metering customer with any accumulated
10 net excess generation during the next applicable billing period;

11 (D) Calculates the net kilowatt hours of the electric
12 energy supplied by the electric utility to the net-metering customer, less
13 the net excess generation and any net excess generation carried forward from
14 prior billing periods;

15 (E) Applies the commission-approved retail rate, except as
16 provided in subdivision (a)(2)(B) of this section, not to exceed the kilowatt
17 hours supplied to the net-metering customer by the electric utility during
18 the applicable billing period;

19 (F) Carries forward any net excess generation that exceeds
20 the kilowatt hours supplied by the electric utility during the applicable
21 billing period to the next billing period;

22 (G) Excludes any net excess generation applied to another
23 meter location of the net-metering customer under § 23-18-604(d); and

24 (H) Applies the monthly grid charge under § 23-18-607.

25 (b) A commission shall approve the rates established by a rate
26 structure used by an electric utility under subsection (a) of this section.

27
28 23-18-607. Monthly grid charge.

29 (a)(1) If an electric utility follows the rate structure in § 23-18-
30 606(2), the electric utility shall apply a monthly grid charge to:

31 (A) Collect any of the fixed charges that are collected
32 through volumetric charges, including without limitation any riders and
33 surcharges; and

34 (B) Exclude the cost of fuel and purchased energy.

35 (2) The monthly grid charge shall be calculated based upon the:

36 (A) Currently approved rates; and

1 (B) Cost-of-service study underlying the electric
2 utility's currently approved rates adjusted for any commission-approved:

3 (i) Formula rate plan adjustments under the Formula
4 Rate Review Act, § 23-4-1201 et seq.; or

5 (ii) Adjustments under § 23-4-901 et seq.

6 (b) The monthly grid charge under this section shall be calculated for
7 each customer class as follows:

8 (1)(A) Calculate the sum of all fixed costs collected through
9 volumetric rates.

10 (B) The fixed costs collected through volumetric rates
11 shall be any demand-related or customer-related costs collected in rates
12 stated in dollars per kilowatt hour; and

13 (2)(A) Convert the fixed costs calculated in subdivision (b)(1)
14 of this section into a rate, expressed in dollars per kilowatt hour, by
15 dividing the total of the fixed costs under subdivision (b)(1) of this
16 section for each customer class by the electric utility's sales during the
17 test-year used to develop the retail rates approved by the commission in the
18 electric utility's most recent application for a general change or
19 modification in rates under § 23-4-401 et seq.

20 (B) The monthly grid charge for each customer class shall
21 be determined by multiplying the fixed costs expressed under subdivision
22 (b)(2)(A) of this section by the expected monthly output of a one-kilowatt
23 direct current solar photovoltaic solar system determined under subsection
24 (c) of this section.

25 (c)(1) The expected monthly output of a one-kilowatt direct current
26 solar photovoltaic solar system shall be:

27 (A) Expressed in kilowatt hours; and

28 (B) Calculated by dividing the expected average annual
29 output for a one-kilowatt direct current solar photovoltaic solar system
30 using the process described in subdivisions (c)(2) and (3) of this section by
31 twelve (12).

32 (2) For a fixed-tilt solar photovoltaic system, the average
33 annual output for a one-kilowatt direct current solar photovoltaic solar
34 system shall be:

35 (A) Expressed in kilowatt hours; and

36 (B) Determined using the National Renewable Energy

1 Laboratory PVWatts Calculator using a direct current to alternating current
2 (DC/AC) ratio of one and one-tenth (1.1) using a single location central to
3 the electric utility's service territory.

4 (3) For a single-axis tracking solar photovoltaic system, the
5 average annual output for a one-kilowatt direct current solar photovoltaic
6 solar system shall be:

7 (A) Expressed in kilowatt hours; and

8 (B) Determined using the National Renewable Energy

9 Laboratory PVWatts Calculator using a direct current to alternating current
10 (DC/AC) ratio of one and three-tenths (1.3) using a single location central
11 to the electric utility's service territory.

12 (d) The monthly grid charge shall not be less than the amount of any
13 electric utility fixed costs that are collected through volumetric charges,
14 including without limitation any riders, and excluding the cost of fuel and
15 purchased energy that the net-metering customer avoids.

16
17 SECTION 2. DO NOT CODIFY. TEMPORARY LANGUAGE. Rules.

18 (a) The Arkansas Public Service Commission, after notice and hearing,
19 shall:

20 (1) Modify the commission rules to conform to this act; and

21 (2) Submit the commission rules to the Legislative Council by
22 June 30, 2023.

23 (b) The commission shall approve modifications to the electric
24 utilities' rate schedules applicable to net-metering to conform to this act
25 by June 30, 2023.

26
27 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the
28 General Assembly of the State of Arkansas that delay in the enactment of this
29 act may result in unjust, unreasonable, and unduly discriminatory rates; and
30 that this act is immediately necessary for the protection of Arkansas
31 ratepayers. Therefore, an emergency is declared to exist, and this act being
32 immediately necessary for the preservation of the public peace, health, and
33 safety shall become effective on:

34 (1) The date of its approval by the Governor;

35 (2) If the bill is neither approved nor vetoed by the Governor,
36 the expiration of the period of time during which the Governor may veto the

1 bill; or

2 (3) If the bill is vetoed by the Governor and the veto is
3 overridden, the date the last house overrides the veto.

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/s/L. Fite

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