

ARKANSAS SENATE
92nd General Assembly - Regular Session, 2019
Amendment Form

Subtitle of Senate Bill No. 145

TO AMEND THE DEFINITION OF "PUBLIC UTILITY"; AND TO AMEND CERTAIN DEFINITIONS UNDER
THE ARKANSAS RENEWABLE ENERGY DEVELOPMENT ACT OF 2001.

Amendment No. 1 to Senate Bill 145

Amend Senate Bill No. 145 as originally introduced:

Add Senator Hester as a cosponsor of the bill

AND

Delete the title in its entirety and substitute the following:
"AN ACT TO AMEND CERTAIN DEFINITIONS UNDER THE ARKANSAS RENEWABLE ENERGY
DEVELOPMENT ACT OF 2001; TO AMEND THE LAW CONCERNING THE AUTHORITY OF THE
ARKANSAS PUBLIC SERVICE COMMISSION; AND FOR OTHER PURPOSES."

AND

Delete the subtitle in its entirety and substitute the following:
"TO AMEND CERTAIN DEFINITIONS UNDER THE ARKANSAS RENEWABLE ENERGY DEVELOPMENT
ACT OF 2001; AND TO AMEND THE LAW CONCERNING THE AUTHORITY OF THE ARKANSAS
PUBLIC SERVICE COMMISSION."

AND

Delete everything after the enacting clause and substitute the following:
"SECTION 1. Arkansas Code § 23-18-603 is amended to read as follows:
23-18-603. Definitions.

As used in this subchapter:

(1) "Avoided cost" means:

(A) For an electric utility other than a municipal utility, the costs to an electric utility of electric energy or capacity, or both, that, but for the generation from the net metering facility or facilities, the utility would generate itself or purchase from another source, as determined by the commission consistent with § 23-3-701 et seq.;
or

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



~~(1)~~(2) "Commission" means the Arkansas Public Service Commission or other appropriate governing body for an electric utility as defined in subdivision ~~(2)~~ (3) of this section;

~~(2)~~(3) "Electric utility" means a public or investor-owned utility, an electric cooperative or any private power supplier or marketer that is engaged in the business of supplying electric energy to the ultimate consumer or any customer classes within the state;

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

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

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

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

~~(3)~~(5) "Net excess generation" means the amount of electricity as measured in kilowatt hours or kilowatt hours multiplied by the applicable rate that a net-metering customer has fed back to the electric utility that exceeds the amount of electricity as measured in kilowatt hours or kilowatt hours multiplied by the applicable rate used by that customer during the applicable period determined by the commission;

~~(4)~~(6) "Net metering" means measuring the difference ~~between in~~ amount of electricity as measured in kilowatt hours or kilowatt hours multiplied by the applicable rate supplied by an electric utility to a net metering customer and the electricity generated by a net-metering customer and fed back to the electric utility over the applicable ~~billing~~ period determined by a commission;

~~(5)~~(7) "Net-metering customer" means ~~an owner of a net metering facility~~ a customer of an electric utility that:

(A) Is an owner of a net metering facility;

(B) Leases a net metering facility; or

(C) Is a government entity or other entity that is exempt from state and federal income tax and obtains electric energy from a net metering facility under a service contract as provided under 26 U.S.C. § 7701;

~~(6)~~(8) "Net-metering facility" means a facility for the production of ~~electrical~~ electric energy that:

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

(B) Has a generating capacity of not more than:

(i) The greater of twenty-five kilowatts (25 kW) or one hundred percent (100%) of the net-metering customer's highest monthly usage in the previous twelve (12) months for residential use; ~~or~~

(ii) ~~Three hundred kilowatts (300 kW)~~ For customers of electric utilities, one thousand kilowatts (1,000 kW) for any other use other than residential use unless otherwise allowed by a commission under § 23-18-604(b)-(5) 23-18-604; or

(iii) For customers of a municipal utility, the limits established by the governing body of the municipal utility under § 23-18-605;

(C) Is located in Arkansas;

(D) Can operate in parallel with an electric utility's existing transmission and distribution facilities; ~~and~~

(E) Is intended primarily to offset part or all of the net-metering customer requirements for electricity; and

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

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

(9) "Quantifiable benefits" means the:

(A) Reasonably demonstrated costs that:

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

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

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

(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

~~(7)~~(10) "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.

SECTION 2. Arkansas Code § 23-18-604 is amended to read as follows:
23-18-604. Commission authority – Definition.

(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.

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

(1) Shall establish appropriate rates, terms, and conditions for ~~net-metering~~ net metering contracts, ~~including;~~

~~(A)(i) A requirement that the rates charged to each net-metering customer recover the electric utility's entire cost of providing service to each net-metering customer within each of the electric utility's class of customers.~~

~~(ii) The electric utility's entire cost of providing service to each net-metering customer within each of the electric utility's class of customers under subdivision (b)(1)(A)(i) of this section;~~

~~(a) Includes without limitation any quantifiable additional cost associated with the net-metering customer's use of the electric utility's capacity, distribution system, or transmission system and any effect on the electric utility's reliability; and~~

~~(b) Is net of any quantifiable benefits associated with the interconnection with and providing service to the net-metering customer, including without limitation benefits to the electric utility's capacity, reliability, distribution system, or transmission system; and~~

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

(A) Take the following action:

(i) Approve a retail rate that shall be applied to all kilowatt hours that are supplied to a net metering customer by the electric utility during the period determined by a commission;

(ii) Apply the avoided cost of the electric utility plus any additional sum determined under this section to generation supplied to the electric utility by a net metering customer, during the period determined by a commission, and credited to the total bill of the net metering customer in a dollar value; and

(iii)(a) For the purposes provided in this subdivision (b)(2), authorize an additional sum to the avoided cost of the electric utility to be applied to the generation supplied to the electric utility by a net metering customer after the demonstration of quantifiable benefits.

(b) The additional sum to the avoided cost of the electric utility shall not be more than forty percent (40%) of the avoided cost of the electric utility; or

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

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

(ii) Offset by quantifiable benefits;

~~(B)(3)~~ A requirement Shall require that net-metering equipment be installed to accurately measure the electricity:

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

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

~~(2)(4)~~ May authorize an electric utility to assess a net-metering customer a greater fee or charge of any type, if the electric utility's direct costs of interconnection and administration of net metering outweigh the distribution system, environmental, and public policy benefits of allocating the costs among the electric utility's entire customer base;

~~(3)(5)~~ Shall For a net-metering customer who receives service under a rate that does not include a demand component, shall require an electric utilities utility to credit a net-metering customer with the amount of any accumulated net excess generation as measured in kilowatt hours or kilowatt hours multiplied by the applicable rate in the next applicable billing period;

(6) For a net-metering customer that receives service under a rate that includes a demand component, shall require an electric utility to

credit the net-metering customer with any accumulated net excess generation in the next applicable billing period and base the bill of the net-metering customer on the net amount of electricity that the net-metering customer has received from or fed back to the electric utility during the billing period;

~~(4)(7)~~ May expand the scope of net metering to include additional facilities that do not use a renewable energy resource for a fuel if so doing results in distribution system, environmental, or public policy benefits;

~~(5)(8)~~ May increase the generating capacity limits for individual net-metering facilities if doing so results in distribution system, environmental, or public policy benefits;

~~(6)(9)~~ Shall provide that:

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

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

(iii) An electric utility shall purchase at the electric utility's ~~estimated annual average avoided cost, rate for wholesale energy~~ plus any additional sum determined under this section, any net excess generation credit remaining in a net-metering customer's account when the net-metering customer:

- (a) Ceases to be a customer of the electric utility;
- (b) Ceases to operate the net-metering facility; or
- (c) Transfers the net-metering facility to another person; and

(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

~~(7)(10)~~ May allow a net-metering facility with a generating capacity that exceeds ~~three hundred kilowatts (300 kW)~~ the limits provided under § 23-18-603(8)(ii) or (iii) if:

(A) The net-metering facility is not for residential use; and

(B) Allowing an increased generating capacity for the net-metering facility would increase the state's ability to attract businesses to Arkansas.

(c)(1) ~~As used in this section, "avoided costs":~~

~~(A) For the Arkansas Public Service Commission, means the same as defined in § 23-3-702; and~~

~~(B) For a municipal utility, is defined by the governing body of the municipal utility.~~

~~(2) Avoided costs shall be determined under § 23-3-704.~~

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

(2)(A)(i) At the net-metering customer's discretion, an electric utility may apply net-metering credits from a net-metering facility to the bill for another meter location if the net-metering facility and the separate meter location are under common ownership within a single electric utility's service area.

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

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

(C) After applying net excess generation under subdivision ~~(d)(2)(B)(c)(2)(B)~~ of this section and upon request of the net-metering customer under subdivision ~~(d)(2)(A)(c)(2)(A)~~ of this section, any remaining net excess generation shall be credited to one (1) or more of the net-metering customer's meters in the rank order provided by the net-metering customer.

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

SECTION 3. Arkansas Code Title 23, Chapter 18, Subchapter 6 is amended to add an additional section to read as follows:

23-18-605. Municipal utilities.

(a) A municipal utility shall allow a 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 municipal utility may elect to follow procedures under § 23-18-604 or adopt ordinances, rules or regulations established.

(c) The governing body of a municipal utility 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.

(d) 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.

(e) 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.

(f) For customers who receive service under a rate that includes a demand component, the governing body of the municipal utility shall require an electric 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 electric utility during the billing period."

The Amendment was read the first time, rules suspended and read the second time and _____

By: Senator D. Wallace

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Secretary