

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

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A Bill

HOUSE BILL 1390

By: Representatives Sabin, Hutchison, *Ferguson, Leding, F. Smith, D. Whitaker*
By: Senators *Elliott, S. Flowers, D. Johnson, U. Lindsey, J. Woods*

For An Act To Be Entitled

AN ACT TO CREATE THE ARKANSAS DISTRIBUTED GENERATION ACT; TO INCREASE THE USE OF RENEWABLE ENERGY RESOURCES IN THE STATE; TO REGULATE THE USE OF DISTRIBUTED GENERATION CONTRACTS; AND FOR OTHER PURPOSES.

Subtitle

TO CREATE THE ARKANSAS DISTRIBUTED GENERATION ACT.

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

SECTION 1. Arkansas Code Title 23, Chapter 18, is amended to add an additional subchapter to read as follows:

Subchapter 10 – Arkansas Distributed Generation Act

23-18-1001. Title.

This subchapter shall be known and may be cited as the “Arkansas Distributed Generation Act”.

23-18-1002. Legislative findings and purpose.

(a) The General Assembly finds that it is in the public interest to:

(1) Promote and encourage the development and use of the state’s renewable energy resources;

(2) Foster investment in emerging renewable energy technologies using the renewable energy resources available in this state; and



(3) Require electric utilities to include renewable energy resources as an integral part of their energy portfolios.

(b) The purpose of this subchapter is to:

(1) Ensure that each electric utility includes renewable energy resources as an integral part of its energy resource plan;

(2) Provide for increased consumer choice in obtaining electrical energy; and

(3) Encourage additional competition within the energy sector.

23-18-1003. Definitions.

As used in this subchapter:

(1) "Distributed generation contract" means a standard contract approved by a regulatory authority that governs the purchase of energy by an electric utility from a renewable electric generation facility;

(2) "Electric utility" means a public utility as defined in § 23-1-101 or a municipal utility that is engaged in the business of supplying electricity to an end user in this state;

(3) "Nameplate value" means the maximum capacity of an electric generation facility;

(4) "Regulatory authority" means the Arkansas Public Service Commission or the appropriate regulatory governing body for an electric utility that is not regulated by the commission;

(5) "Renewable electric generation facility" means a facility for the generation of electric energy that:

(A) Is connected to an electric utility grid;

(B) Is fueled by a renewable energy resource; and

(C) Has an effective alternating current generation capacity that does not exceed twenty megawatts (20 MW) nameplate value;

(6) "Renewable energy generation credit" means the monetary value per kilowatt hour (kWh) of the added value and environmental benefits; and

(7) "Renewable energy resource" means a solar, wind, water, geothermal, or biomass resource, including without limitation agricultural waste and landfill waste that is converted into renewable energy, located in the state.

23-18-1004. Distributed generation contracts – Requirements – Approval.

(a)(1) Each regulatory authority shall direct each electric utility in its jurisdiction to develop and maintain a standardized distributed generation contract for the generation of each renewable energy resource.

(2) The distributed generation contracts required under subdivision (a)(1) of this section shall:

(A)(i) Require the electric utility to purchase renewable energy produced by a renewable electric generation facility at the rate, terms, and other conditions approved by the regulatory authority for a period of not less than twenty (20) years.

(ii) However, a renewable electric generation facility may request the execution of a distributed generation contract for a period of less than twenty (20) years;

(B) Contain terms and conditions that:

(i) Attract investment in and encourage the development and use of renewable energy resources to generate electricity within the state;

(ii) Protect the integrity and reliability of each electric utility's electric system; and

(iii) Protect the health, safety, and welfare of the public;

(C) Incorporate the rates, terms, and other conditions determined by the regulatory authority for renewable electric generation facilities that consider and may be differentiated by:

(i) The renewable energy generation technology being used, including without limitation the system, public policy, and environmental attributes of the renewable electric generation facility;

(ii) The location, size, and capacity of the renewable electric generation facility;

(iii) The electric utility's ability to schedule and control the delivery of electric energy from the renewable energy generated by a renewable electric generation facility; and

(iv) The applicable electric utility's avoided cost and renewable energy generation credit as determined by the regulatory authority;

(D) Be in the public interest; and

(E) Not include an indemnity and liability provision applicable to the state, an entity of the state, a local government, an entity of a local government, or a federal agency.

(b) After providing notice and a hearing and determining that the distributed generation contracts satisfy the requirements of this subchapter, the regulatory authority shall approve the distributed generation contracts developed under subsection (a) of this section, and each electric utility shall make the distributed generation contracts available by July 1, 2014.

(c)(1) After an electric utility makes the approved distributed generation contracts available under subsection (b) of this section, the electric utility shall begin accepting offers to enter into individual distributed generation contracts on a first-come, first-served basis to renewable electric generation facilities that are located within the allocated service territory of the electric utility.

(2)(A) An electric utility shall offer to enter into distributed generation contracts until the electric utility meets its proportionate share of one thousand two hundred megawatts (1,200 MW) nameplate value, which represents the combined cumulatively rated alternating current generation capacity of the renewable electric generation facilities in this state.

(B) In any calendar year, an electric utility shall offer to enter into distributed generation contracts until the electric utility meets its proportionate share of two hundred fifty megawatts (250 MW) nameplate value.

(3)(A) The determination of each electric utility's proportionate-share requirement under subdivision (c)(2) of this section shall be based on a comparison of the electric utility's peak demand to the total statewide peak demand of all the electric utilities in the state.

(B) An electric utility may meet up to fifty percent (50%) of the electric utility's proportionate-share requirement under subdivision (c)(2) of this section by installing, owning, and operating a renewable electric generation facility.

(C)(i) An electric utility shall offer at least twenty percent (20%) of the electric utility's proportionate-share requirement under subdivision (c)(2) of this section to one (1) or more residential or commercial renewable electric generation facilities.

(ii) However, the commission or regulatory authority may modify the requirement under subdivision (c)(3)(C)(i) of this section if an electric utility's costs of satisfying the requirement outweigh the distribution system, environmental, and public policy benefits of the requirement.

23-18-1005. Net-metering facilities.

A net-metering facility installed or interconnected under the Arkansas Renewable Energy Development Act of 2001, § 23-18-601 et seq., on or after the effective date of this act qualifies as a renewable electric generation facility under this subchapter.

23-18-1006. Renewable energy generation credits.

A renewable energy generation credit shall:

(1) Be conveyed to the electric utility under the distributed generation contract; and

(2) Qualify in helping an electric utility meet any statewide clean or renewable energy standards adopted by the state.

23-18-1007. Cost of interconnection facilities.

(a) The cost of an addition or modification to an electric utility's system that is made at or beyond the point at which a renewable electric generation facility interconnects with an electric utility's system for the sole purpose of receiving electricity from a renewable electric generation facility is the exclusive responsibility of the renewable electric generation facility unless the regulatory authority determines that it is in the public interest for the electric utility to bear a portion of that cost under § 23-18-1008.

(b) A necessary metering upgrade for a renewable electric generation facility that has executed a distributed generation contract under this subchapter is the exclusive responsibility of the renewable electric generation facility unless the regulatory authority determines that it is in the public interest for the electric utility to bear a portion of the cost under § 23-18-1008.

23-18-1008. Cost recovery.

A regulatory authority shall allow an electric utility to recover the reasonable and prudent costs associated with distributed generation contracts and facilities, including:

(1) The cost of electric energy purchased under a distributed generation contract approved by the regulatory authority under § 23-18-1004;

(2) The cost of electric energy produced from a renewable electric generation facility owned and operated by the electric utility that is comparable to the costs recovered under a distributed generation contract for the electric energy approved by the regulatory authority under § 23-18-1004 and purchased by the electric utility from a renewable electric generation facility not owned and operated by the electric utility;

(3) The investment costs incurred by the electric utility for the construction of an electric system upgrade that is:

(A) Reasonably necessary to receive the electric energy purchased under a distributed generation contract; and

(B) Not paid by the renewable electric generation facility under § 23-18-1007; and

(4) The costs incurred by the electric utility to administer and manage a distributed generation contract.

23-18-1009. Limitation on distributed generation contracts.

Each regulatory authority shall:

(1) Continually monitor the rate impact of distributed generation contracts executed under this subchapter; and

(2) Limit the number of new distributed generation contracts executed under this subchapter and the annual nameplate value quantities stated in § 23-18-1004(c)(2) as necessary to avoid an undue burden on electricity customers as the result of a significant increase in rates.

23-18-1010. Rules.

Each regulatory authority shall promulgate rules necessary to implement and administer this subchapter.

/s/Sabin