

AMENDMENTS TO LB 629

Introduced by Dierks, 40

1 1. Strike the original sections and insert the following
2 new sections:

3 Section 1. Sections 1 to 7 of this act shall be known and
4 may be cited as the Rural Community-Based Energy Development Act.

5 Sec. 2. It is the intent of the Legislature to
6 create new rural economic development opportunities through rural
7 community-based energy development.

8 Sec. 3. For purposes of the Rural Community-Based Energy
9 Development Act:

10 (1) C-BED project or community-based energy development
11 project means a new wind energy project that:

12 (a) (i) For a C-BED project that consists of more than two
13 turbines, has no single qualified owner owning more than fifteen
14 percent of the project and with at least thirty-three percent of
15 the power purchase agreement payments flowing to the qualified
16 owner or local community; or

17 (ii) For a C-BED project that consists of one or two
18 turbines, is owned by one or more qualified owners with at least
19 thirty-three percent of the power purchase agreement payments
20 flowing to a qualified owner or local community; and

21 (b) Has a resolution of support adopted (i) by the county
22 board of each county in which the C-BED project is to be located or

23 (ii) by the tribal council for a C-BED project located within the

1 boundaries of an Indian reservation;

2 (2) C-BED tariff or tariff means a community-based energy
3 development tariff;

4 (3) Electric utility means a power supplier responsible
5 for generating more than two hundred megawatts for delivery in
6 Nebraska. Electric utility does not include distribution utilities
7 purchasing total power requirements from another utility or
8 wind-based generating facility;

9 (4) Net present value rate means a rate equal to the net
10 present value of the nominal payments to a C-BED project divided by
11 the total expected energy production of the C-BED project over the
12 life of its power purchase agreement; and

13 (5) Qualified owner means:

14 (a) A Nebraska resident;

15 (b) A limited liability company that is organized under
16 the Limited Liability Company Act and that is made up of members
17 who are Nebraska residents;

18 (c) A Nebraska nonprofit corporation organized under the
19 Nebraska Nonprofit Corporation Act;

20 (d) A Nebraska cooperative association, other than
21 a rural electric cooperative association or generation and
22 transmission cooperative;

23 (e) A political subdivision or unit of local government,
24 including, but not limited to, a school district or public or
25 private postsecondary educational institution, or any other local
26 or regional governmental organization such as a board, commission,
27 or association, but excluding publicly owned electric utilities; or

1 (f) A tribal council.

2 Sec. 4. (1) A C-BED tariff shall have a negotiated per
3 kilowatt hour net present value rate over the twenty-year life of
4 the power purchase agreement. The negotiated rate shall provide for
5 a rate that is higher in the first ten years of the power purchase
6 agreement than in the last ten years. The discount rate required
7 to calculate the net present value shall be the electric utility's
8 normal discount rate used for its other business purposes.

9 (2) A C-BED project developer and an electric utility
10 shall negotiate the rate and power purchase agreement terms
11 consistent with the tariff.

12 (3) At the discretion of a C-BED project developer, the
13 C-BED project developer and an electric utility may negotiate a
14 power purchase agreement with terms different from the tariff.

15 (4) A qualified owner, or any combination of qualified
16 owners, may develop a community-based energy development project
17 with an equity partner that is not a qualified owner.

18 (5) Except for an inherited interest, the transfer of
19 a C-BED project to any person other than a qualified owner is
20 prohibited during the initial twenty years of the power purchase
21 agreement.

22 (6) A C-BED project that is operating under a power
23 purchase agreement under a tariff is not eligible for net energy
24 billing.

25 Sec. 5. An electric utility shall:

26 (a) Consider mechanisms to encourage the aggregation of
27 C-BED projects in the same geographical area; and

1 (b) Require any qualified owner to provide sufficient
2 security to insure performance under the power purchase agreement.

3 Sec. 6. (1) An electric utility that needs to construct
4 new generation or purchase the output from additional generation
5 shall take reasonable steps to determine if one or more C-BED
6 projects are available that (a) can be safely integrated into and
7 operated within the electric utility's grid without causing any
8 adverse or unsafe consequences; and (b) is consistent with the
9 electric utility's resource needs as identified in its most recent
10 resource plan, to fulfill some or all of the identified need at
11 minimal impact to customer rates.

12 (2) An electric utility shall include in its integrated
13 resource plan filed with the Nebraska Power Review Board a
14 description of its efforts to purchase energy from C-BED projects,
15 including a list of the C-BED projects under a power purchase
16 agreement and the amount of C-BED project energy purchased.

17 (3) Nothing in this section shall be construed to
18 obligate an electric utility to enter into a power purchase
19 agreement under a C-BED tariff.

20 Sec. 7. To the extent feasible, a C-BED project developer
21 shall provide, in writing, an opportunity to invest in the C-BED
22 project to each property owner on whose property a high-voltage
23 transmission line is constructed that will transmit the energy
24 generated by the C-BED project to market if the property is located
25 and the owner resides in the county where the C-BED project is
26 located.