

LEGISLATURE OF NEBRASKA  
ONE HUNDREDTH LEGISLATURE  
SECOND SESSION

**LEGISLATIVE BILL 1065**

Introduced by Louden, 49.

Read first time January 22, 2008

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to energy; to amend section 70-1012,  
2 Reissue Revised Statutes of Nebraska; to provide for  
3 customer-generators of electricity; to state findings;  
4 to define terms; to provide requirements for public  
5 electric utilities and customer-generators; to provide  
6 for immunity as prescribed; to provide for applicability  
7 of sections; to provide for an exemption from approval  
8 by the Nebraska Power Review Board; and to repeal the  
9 original section.  
10 Be it enacted by the people of the State of Nebraska,

1           Section 1. The Legislature finds that it is in the  
2 interest of the state to:

3           (1) Facilitate investment in customer-owned renewable  
4 energy resources;

5           (2) Stimulate the economic growth of the state;

6           (3) Enhance the continued diversification of the energy  
7 resources used in this state as long as diversification does not  
8 shift fixed costs to other distribution system customers; and

9           (4) Ensure that electric consumers throughout the state  
10 are treated equitably when providing incentives for renewable  
11 energy development that benefits the state.

12           Sec. 2. For purposes of sections 1 to 6 of this act:

13           (1) Customer-generator means the end-use customer that is  
14 the owner or operator of a qualified generation unit;

15           (2) Customer-generator rate class means a rate class for  
16 customers that interconnect qualified generation units rated above  
17 ten kilowatts to the local distribution system;

18           (3) Excess generation means the energy generated which  
19 exceeds the customer-generator's requirements for electric energy  
20 at the same location;

21           (4) Facility charges means the local distribution  
22 system's costs associated with providing electric service for the  
23 customer-generator that are not avoidable by the local distribution  
24 utility as a result of the operation of a qualified generation unit  
25 rated above ten kilowatts;

1           (5) Local distribution system means any system utilized  
2 for the distribution of electric energy to the end-use consumer.  
3 Transmission facilities rated higher than sixty-nine kilovolts  
4 shall not be considered a component of the local distribution  
5 system;

6           (6) Local distribution utility means a public power  
7 district, public power and irrigation district, individual  
8 municipality, or nonprofit electric cooperative corporation which  
9 is the owner or operator of the local distribution system to which  
10 the customer-generator is interconnected;

11           (7) Net metering means billing the customer-generator  
12 according to the difference between the amount of electricity  
13 supplied by the local distribution utility in a billing period and  
14 the amount of electricity generated from the customer side of the  
15 meter using a qualified generation unit; and

16           (8) Qualified generation unit means a facility for the  
17 generation of electricity which:

18           (a) Uses as its energy source solar, wind, biomass, or  
19 hydropower resources;

20           (b) Is located on premises that are owned, operated,  
21 leased, or otherwise controlled by the customer-generator;

22           (c) Operates parallel with the local distribution system;

23           (d) Is intended primarily to offset part of or all of the  
24 customer-generator's requirements for electric energy at the same  
25 location;

1           (e) Is not intended to offset or provide credits for  
2 electric consumption at another location owned, operated, leased,  
3 or otherwise controlled by the customer-generator or for any other  
4 customer; and

5           (f) Meets all applicable safety, performance, and  
6 reliability standards established by the National Electrical Code  
7 filed with the Secretary of State and adopted by the State  
8 Electrical Board under subdivision (5) of section 81-2104, the  
9 National Electrical Safety Code, the Institute of Electrical and  
10 Electronics Engineers, Underwriters Laboratories, Inc., and the  
11 American National Standards Institute and meets the interconnection  
12 standards adopted by the local distribution utility.

13           Sec. 3. (1) A local distribution utility  
14 shall interconnect the qualified generation unit of any  
15 customer-generator that the local distribution utility serves if  
16 the customer-generator pays for any costs incurred by a local  
17 distribution utility for equipment or services required for safety  
18 or performance necessary to meet the standards referred to in  
19 sections 1 to 6 of this act.

20           (2) A local distribution utility shall provide at  
21 no additional cost to any customer-generator with a qualified  
22 generation unit a meter that is capable of measuring the flow of  
23 electricity in both directions at the same rate. Such measurement  
24 for a qualified generation unit rated ten kilowatts or less may  
25 be accomplished through use of a single, bidirectional electric

1 revenue meter that has only a single register for billing purposes.

2 (3) A local distribution utility may, at its own expense,  
3 install additional monitoring equipment to separately monitor the  
4 flow of electricity in each direction.

5 (4) A local distribution utility may create a  
6 customer-generator rate class or classes for qualified generation  
7 units rated above ten kilowatts. Rate classes shall be based on a  
8 cost of service study, may be designated according to the size of  
9 a qualified generation unit, shall be nondiscriminatory, and may  
10 allow for facility charges to cover the use of the distribution  
11 system. In addition, rates shall be developed for purchases or  
12 deliveries of electricity by the customer-generator for qualified  
13 generation units rated above ten kilowatts. Such rates shall  
14 not be less than the wholesale power supply costs of the local  
15 distribution utility and shall provide monetary credits to the  
16 customer-generator for its excess generation deliveries. Monetary  
17 credits shall be applied to monthly bills of the customer-generator  
18 for the preceding monthly period and shall offset the cost of  
19 energy owed by the customer-generator. If the energy portion of  
20 the customer-generator's bill is less than zero in any month,  
21 monetary credits shall be carried over to future bills of the  
22 customer-generator until the balance is zero. At the end of the  
23 calendar year, any excess monetary credits shall be paid out to  
24 coincide with the final bill of each calendar year.

25 (5) A local distribution utility shall provide net

1 metering service to any customer-generator with a qualified  
2 generation unit rated at ten kilowatts or less. Excess generation  
3 shall be compensated as a monetary credit not less than the  
4 average wholesale cost per kilowatt hour for the distribution  
5 utility for the month of generation. Monetary credits shall  
6 be applied to monthly bills of the customer-generator for the  
7 preceding monthly period and shall offset the cost of energy  
8 owed by the customer-generator. If the energy portion of the  
9 customer-generator's bill is less than zero in any month,  
10 monetary credits shall be carried over to future bills of the  
11 customer-generator until the balance is zero. At the end of  
12 the calendar year, any excess monetary credits shall be paid  
13 out to coincide with the final bill of each calendar year.  
14 Facility charges shall not be applied to customer-generators having  
15 qualified generation units less than ten kilowatts. Nothing in this  
16 section shall prevent a local distribution utility from providing  
17 net metering services to customer-generators having qualified  
18 generation units at or above ten kilowatts with the approval of  
19 the governing board.

20 (6) A local distribution utility shall not be required  
21 to provide net metering service to additional customer-generators  
22 regardless of size after the date during a calendar year on which  
23 the total generating capacity of all customer-generators using net  
24 metering served by such local distribution utility is equal to  
25 or in excess of one percent of the capacity necessary to meet

1 the local distribution utility's average aggregate customer monthly  
2 peak demand forecast for that calendar year.

3 (7) A local distribution utility shall not be liable  
4 directly or indirectly for permitting the interconnection of  
5 a qualified generation unit or for acts or omissions of the  
6 customer-generator that cause property damage or injury, including  
7 death, to any third party, to the local distribution utility, or to  
8 the customer-generator. The local distribution utility may require  
9 proof of liability insurance coverage.

10 Sec. 4. (1) A customer-generator shall, at its own  
11 expense, provide lockable switching equipment capable of isolating  
12 the qualified generation unit from the local distribution system.  
13 The equipment shall be approved by the local distribution utility  
14 and shall be accessible by the local distribution utility at all  
15 times.

16 (2) A customer-generator shall request an inspection  
17 from the State Electrical Division pursuant to subsection (1)  
18 of section 81-2124 or subsection (1) of section 81-2125 and  
19 shall provide documentation of the completed inspection to the  
20 local distribution utility prior to interconnection with the local  
21 distribution system.

22 (3) A customer-generator is responsible for notifying the  
23 local distribution utility of its intent to install a qualified  
24 generation unit at least sixty days prior to its installation  
25 and is responsible for all costs associated with the qualified

1 generation unit, including all costs related to any modifications  
2 to the qualified generation unit or the local distribution system  
3 that may be required for the purpose of safety and reliability.

4 (4) A customer-generator owns the renewable energy  
5 credits of the electricity it generates.

6 Sec. 5. A local distribution utility shall not require  
7 a customer-generator whose qualified generation unit meets the  
8 standards of sections 1 to 6 of this act to comply with additional  
9 safety, performance, or reliability standards or to perform or pay  
10 for additional tests.

11 Sec. 6. Sections 3 to 5 of this act do not apply  
12 to any local distribution utility that, prior to the effective  
13 date of this act, has properly adopted a net metering standard  
14 utilizing the public process set forth in the federal Public  
15 Utility Regulatory Policies Act of 1978, 16 U.S.C. 2601 et seq., as  
16 such act existed on the effective date of this act.

17 Sec. 7. Section 70-1012, Reissue Revised Statutes of  
18 Nebraska, is amended to read:

19 70-1012 Before any electric generation facilities or any  
20 transmission lines or related facilities carrying more than seven  
21 hundred volts are constructed or acquired by any supplier, an  
22 application, filed with the board and containing such information  
23 as the board shall prescribe, shall be approved by the board,  
24 except that such approval shall not be required (1) for the  
25 construction or acquisition of a transmission line extension or

1 related facilities within a supplier's own service area or for the  
2 construction or acquisition of a line not exceeding one-half mile  
3 outside its own service area when all owners of electric lines  
4 located within one-half mile of the extension consent thereto in  
5 writing and such consents are filed with the board, (2) for any  
6 generation facility when the board finds that: (a) Such facility is  
7 being constructed or acquired to replace a generating plant owned  
8 by an individual municipality or registered group of municipalities  
9 with a capacity not greater than that of the plant being replaced,  
10 (b) such facility will generate less than twenty-five thousand  
11 kilowatts of electric energy at rated capacity, and (c) the  
12 applicant will not use the plant or transmission capacity to supply  
13 wholesale power to customers outside the applicant's existing  
14 retail service area or chartered territory, ~~or~~ (3) for acquisition  
15 of transmission lines or related facilities, within the state,  
16 carrying one hundred fifteen thousand volts or less, if the current  
17 owner of the transmission lines or related facilities notifies the  
18 board of the lines or facilities involved in the transaction and  
19 the parties to the transaction, or (4) for the construction of a  
20 new or the interconnection of an existing qualified generation unit  
21 as defined in section 2 of this act.

22           Sec. 8. Original section 70-1012, Reissue Revised  
23 Statutes of Nebraska, is repealed.