

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 436

FINAL READING

Introduced by Haar, 21; Pirsch, 4.

Read first time January 20, 2009

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to electricity; to amend section 70-1012,
2 Reissue Revised Statutes of Nebraska; to provide for
3 net metering; to state findings; to define terms; to
4 provide duties for local distribution utilities and
5 customer-generators; to require a report; to exempt
6 qualified facilities from approval by the Nebraska Power
7 Review Board; to provide severability; and to repeal the
8 original section.
9 Be it enacted by the people of the State of Nebraska,

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

- 3 (1) Encourage customer-owned renewable energy resources;
4 (2) Stimulate the economic growth of this state;
5 (3) Encourage diversification of the energy resources
6 used in this state; and
7 (4) Maintain low-cost, reliable electric service.

8 Sec. 2. For purposes of sections 1 to 5 of this act:

9 (1) Customer-generator means an end-use electricity
10 customer that generates electricity on the customer's side of the
11 meter from a qualified facility;

12 (2) Interconnection agreement means an agreement between
13 a local distribution utility and a customer-generator that
14 establishes the financial, interconnection, safety, performance,
15 and reliability requirements relating to the installation and
16 operation of a qualified facility in accordance with the standards
17 prescribed in sections 1 to 5 of this act;

18 (3) Local distribution system means the equipment and
19 facilities used for the distribution of electric energy to the
20 end-use electricity customer;

21 (4) Local distribution utility means the owner or
22 operator of the local distribution system;

23 (5) Net excess generation means the net amount of energy,
24 if any, by which the output of a qualified facility exceeds
25 a customer-generator's total electricity requirements during a

1 billing period;

2 (6) Net metering means a system of metering electricity
3 in which a local distribution utility:

4 (a) Credits a customer-generator at the applicable
5 retail rate for each kilowatt-hour produced by a qualified
6 facility during a billing period up to the total of the
7 customer-generator's electricity requirements during that billing
8 period. A customer-generator may be charged a minimum monthly fee
9 that is the same as other noncustomer-generators in the same rate
10 class but shall not be charged any additional standby, capacity,
11 demand, interconnection, or other fee or charge; and

12 (b) Compensates the customer-generator for net excess
13 generation during the billing period at a rate equal to the local
14 distribution utility's avoided cost of electric supply over the
15 billing period. The monetary credits shall be applied to the bills
16 of the customer-generator for the preceding billing period and
17 shall offset the cost of energy owed by the customer-generator. If
18 the energy portion of the customer-generator's bill is less than
19 zero in any month, monetary credits shall be carried over to future
20 bills of the customer-generator until the balance is zero. At the
21 end of each annualized period, any excess monetary credits shall be
22 paid out to coincide with the final bill of that period; and

23 (7) Qualified facility means a facility for the
24 production of electrical energy that:

25 (a) Uses as its energy source either methane, wind, solar

1 resources, biomass, hydropower resources, or geothermal resources;

2 (b) Is controlled by the customer-generator and is
3 located on premises owned, leased, or otherwise controlled by
4 the customer-generator;

5 (c) Interconnects and operates in parallel with the local
6 distribution system;

7 (d) Is intended to meet or offset the
8 customer-generator's requirements for electricity;

9 (e) Is not intended to offset or provide credits
10 for electricity consumption at another location owned, operated,
11 leased, or otherwise controlled by the customer-generator or for
12 any other customer;

13 (f) Has a rated capacity at or below twenty-five
14 kilowatts;

15 (g) Meets all applicable safety, performance,
16 interconnection, and reliability standards established by
17 the National Electrical Code filed with the Secretary of State and
18 adopted by the State Electrical Board under subdivision (5) of
19 section 81-2104, the National Electrical Safety Code, the Institute
20 of Electrical and Electronics Engineers, and the Underwriters
21 Laboratories, Inc.; and

22 (h) Is equipped to automatically isolate the qualified
23 facility from the electrical system in the event of an electrical
24 power outage or other conditions where the line is de-energized.

25 Sec. 3. (1) A local distribution utility shall

1 interconnect the qualified facility of any customer-generator
2 that enters into an interconnection agreement with the local
3 distribution utility, satisfies the requirements for a qualified
4 facility and all other requirements of sections 1 to 5 of this act,
5 and pays for costs incurred by the local distribution utility for
6 equipment or services required for interconnection that would not
7 be necessary if the qualified facility were not interconnected to
8 the local distribution system, except as provided in subsection (2)
9 of this section and as may be provided for in the utility's aid
10 in construction policy.

11 (2) A local distribution utility shall provide at no
12 additional cost to any customer-generator with a qualified facility
13 a metering system that is capable of measuring the flow of
14 electricity in both directions and may be accomplished through use
15 of a single, bidirectional electric revenue meter that has only
16 a single register for billing purposes, a smart metering system,
17 or another meter configuration that can easily be read by the
18 customer-generator.

19 (3) A local distribution utility may, at its own expense,
20 install additional monitoring equipment to separately monitor the
21 flow of electricity in each direction as may be necessary to
22 accomplish the reporting requirements of sections 1 to 5 of this
23 act.

24 (4) Subject to the requirements of sections 1 to 5 of
25 this act and the interconnection agreement, a local distribution

1 utility shall provide net metering to any customer-generator with
2 a qualified facility. The local distribution utility shall allow
3 a customer-generator's retail electricity consumption to be offset
4 by a qualified facility that is interconnected with the local
5 distribution system. A qualified facility's net excess generation
6 during a billing period, if any, shall be determined by the local
7 distribution utility in accordance with section 2 of this act
8 and shall be credited to the customer-generator at a rate equal
9 to the local distribution utility's avoided cost of electricity
10 supply during the billing period, and the monetary credits shall
11 be carried forward from billing period to billing period and
12 credited against the customer-generator's retail electric bills
13 in subsequent billing periods. Any excess monetary credits shall
14 be paid out to coincide with the final bill at the end of
15 each annualized period or within sixty days after the date the
16 customer-generator terminates its retail service.

17 (5) A local distribution utility shall not be required to
18 provide net metering to additional customer-generators, regardless
19 of the output of the proposed generation unit, after the date
20 during a calendar year on which the total generating capacity of
21 all customer-generators using net metering served by such local
22 distribution utility is equal to or exceeds one percent of the
23 capacity necessary to meet the local distribution utility's average
24 aggregate customer monthly peak demand forecast for that calendar
25 year.

1 (6) No local distribution utility may require a
2 customer-generator whose qualified facility meets the standards
3 established under sections 1 to 5 of this act to:

4 (a) Comply with additional safety or performance
5 standards or pay additional charges for equipment or services for
6 interconnection that are additional to those necessary to meet the
7 standards established under sections 1 to 5 of this act;

8 (b) Perform or pay for additional tests; or

9 (c) Purchase additional liability insurance if all safety
10 and interconnection requirements are met.

11 (7) Nothing in sections 1 to 5 of this act prevents a
12 local distribution utility from entering into other arrangements
13 with customers desiring to install electric generating equipment or
14 from providing net metering to customer-generators having renewable
15 generation units with a rated capacity above twenty-five kilowatts.

16 Sec. 4. (1) A customer-generator shall request an
17 inspection from the State Electrical Division pursuant to
18 subsection (1) of section 81-2124 or subsection (1) of section
19 81-2125 and shall provide documentation of the completed inspection
20 to the local distribution utility prior to interconnection with the
21 local distribution system.

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

1 (3) A local distribution utility shall not be required
2 to interconnect with a qualified facility that fails to meet or
3 maintain the local distribution utility's requirements for safety,
4 reliability, and interconnection.

5 (4) A customer-generator owns the renewable energy
6 credits of the electricity its qualified facility generates.

7 Sec. 5. Beginning March 1, 2010, and on each March
8 1 thereafter, each local distribution utility shall produce and
9 publish on its web site, or if no web site is available, in
10 its main office, and provide to the Nebraska Power Review Board
11 an annual net metering report that shall include the following
12 information:

13 (1) The total number of qualified facilities;

14 (2) The total estimated rated generating capacity of
15 qualified facilities;

16 (3) The total estimated net kilowatt-hours received from
17 customer-generators; and

18 (4) The total estimated amount of energy produced by the
19 customer-generators.

20 Sec. 6. Section 70-1012, Reissue Revised Statutes of
21 Nebraska, is amended to read:

22 70-1012 Before any electric generation facilities or any
23 transmission lines or related facilities carrying more than seven
24 hundred volts are constructed or acquired by any supplier, an
25 application, filed with the board and containing such information

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

24 Sec. 7. If any section in this act or any part of any
25 section is declared invalid or unconstitutional, the declaration

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1 shall not affect the validity or constitutionality of the remaining
2 portions.

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