

LEGISLATIVE BILL 436

Approved by the Governor May 13, 2009

Introduced by Haar, 21; Pirsch, 4.

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

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

(1) Encourage customer-owned renewable energy resources;
(2) Stimulate the economic growth of this state;
(3) Encourage diversification of the energy resources used in this state; and

(4) Maintain low-cost, reliable electric service.

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

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

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

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

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

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

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

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

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

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

(a) Uses as its energy source either methane, wind, solar resources, biomass, hydropower resources, or geothermal resources;

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

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

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

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

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

(g) Meets all applicable safety, performance, interconnection, and

reliability standards established by the National Electrical Code filed with the Secretary of State and adopted by the State Electrical Board under subdivision (5) of section 81-2104, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and the Underwriters Laboratories, Inc.; and

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

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

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

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

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

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

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

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

(b) Perform or pay for additional tests; or

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

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

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

(2) A customer-generator is responsible for notifying the local distribution utility of its intent to install a qualified facility at least

sixty days prior to its installation and is responsible for all costs associated with the qualified facility.

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

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

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

(1) The total number of qualified facilities;

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

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

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

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

70-1012 Before any electric generation facilities or any transmission lines or related facilities carrying more than seven hundred volts are constructed or acquired by any supplier, an application, filed with the board and containing such information as the board shall prescribe, shall be approved by the board, except that such approval shall not be required (1) for the construction or acquisition of a transmission line extension or related facilities within a supplier's own service area or for the construction or acquisition of a line not exceeding one-half mile outside its own service area when all owners of electric lines located within one-half mile of the extension consent thereto in writing and such consents are filed with the board, (2) for any generation facility when the board finds that: (a) Such facility is being constructed or acquired to replace a generating plant owned by an individual municipality or registered group of municipalities with a capacity not greater than that of the plant being replaced, (b) such facility will generate less than twenty-five thousand kilowatts of electric energy at rated capacity, and (c) the applicant will not use the plant or transmission capacity to supply wholesale power to customers outside the applicant's existing retail service area or chartered territory, ~~or~~ (3) for acquisition of transmission lines or related facilities, within the state, carrying one hundred fifteen thousand volts or less, if the current owner of the transmission lines or related facilities notifies the board of the lines or facilities involved in the transaction and the parties to the transaction, or (4) for the construction of a qualified facility as defined in section 2 of this act.

Sec. 7. If any section in this act or any part of any section is declared invalid or unconstitutional, the declaration shall not affect the validity or constitutionality of the remaining portions.

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