
Councilmember Mary Cheh

Councilmember Yvette M. Alexander

A BILL

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Retail Electric Competition and Consumer Protection Act of 1999 to update the Net Metering provisions to ensure consistency across programs; to allow for the creation of Community Energy Generating Facilities that are renewable energy facilities interconnected at the distribution system level and located in a community served by an Electric Company; to allow retail customers of an Electric Company whose meters or accounts are within the District of Columbia and within the same service territory as a Community Energy Generating Facility to subscribe to a Community Energy Generating Facility; to allow for the establishment of Subscriber Organizations to beneficially own or operate Community Energy Generating Facilities for Subscribers; to allow for third parties under contract with Subscriber Organizations to build, own, or operate Community Energy Generating Facilities; to allow for the electricity generated by a Community Energy Generating Facility to be credited to its Subscribers in order to offset Subscribers' electricity bills via Net Metering; to create a mechanism to credit excess production from Community Energy Generating Facilities to benefit eligible Low Income Housing Energy Assistance Program recipients; and to establish a mechanism to finance renewable energy production facilities.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this Act be cited as the "Community Renewables Energy Act of 2012".

Sec. 2. The Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000 (D.C. Law 13-107; Official Code § 34-1501 *et seq.*), is amended as follows:

(a) Section 118 (D.C. Official Code § 34-1518) is amended as follows:

(1) Paragraph (2) is amended to read as follows:

“(2) The Commission shall ensure that:

“(A) The metering equipment installed for net metering shall be

capable of measuring the flow of electricity in 2 directions, and shall allocate fairly the cost of such equipment and any necessary interconnection;

“(B) An eligible customer-generator’s net metering system for renewable resources, cogeneration, fuel cells, and microturbines shall meet all applicable safety and performance standards. The Commission may adopt by regulation additional control and testing requirements for customer-generators that the Commission deems necessary to protect public safety and system reliability;

“(C) An eligible customer-generator’s net metering system shall be intended primarily to offset part or all of the customer-generator’s own electrical requirements, but shall represent no more than 120% of the customer-generator’s energy consumption over the previous 12 months.”.

(2) A new paragraph (5) is added to read as follows:

“(5) At the end of a customer-generator’s April billing cycle, the Electric Company shall determine and report the value of any unutilized excess electricity credits, accrued during the previous 12 months, for all customer-generators to the District of Columbia’s administrator for the Low Income Housing Energy Assistance Program (LIHEAP). The Electric Company shall allocate the value of any utilized excess electricity credits to residential customer-generators eligible for LIHEAP assistance as directed by the LIHEAP administrator. The LIHEAP administrator shall make a determination on allocation of the value of any unutilized excess electricity credits to eligible LIHEAP customers located within the District of Columbia within 60 days of receipt of the Electric Company’s report.”.

(b) A new section is added to read as follows:

“(a) As used in this section, the term:

“(1) “Community Energy Generating Facility” means a renewable energy facility that is interconnected at the distribution system level within the District of Columbia and where the electricity generated by the facility is credited to the Subscribers of the facility. A Community Energy Generating Facility may be no larger than 5 megawatts. A Community Energy Generating Facility must have at least 2 Subscribers. A Community Energy Generating Facility must generate energy from a tier one renewable source, as defined in § 34-1431(15).

“(2) “Electric Company” shall have the same meaning as in § 34-207.

“(3) “Net Metering” means a billing arrangement under which electric energy generated by a Community Energy Generating Facility and delivered to the Electric Company’s local distribution facilities may be used to offset electric energy charges accrued during a Subscriber’s applicable billing period consistent with this section and with the methodology contained in § 34-1518.

“(4) “Subscriber” means a retail customer of an Electric Company who owns a Subscription and who has identified one or more individual meters or accounts to which the Subscription shall be attributed. Such individual meters or accounts shall be within the District of Columbia and within the same Electric Company’s distribution service territory as the Community Energy Generating Facility.

“(5) “Subscriber Organization” means an organization whose sole purpose is to beneficially own or operate a Community Energy Generating Facility for the Subscribers to the Community Energy Generating Facility. A Subscriber Organization may be any for-profit or non-profit entity permitted by District of Columbia law. A Community Energy Generating Facility may be built, owned, or operated by a third party under contract with a Subscriber Organization.

“(6) “Subscription” means an interest in a Community Energy Generating Facility. Each Subscription shall represent at least one kilowatt of the Community Energy Generating Facility’s generating capacity provided, however, that the Subscription is intended primarily to offset part or all of the customer’s own electrical requirements, but shall represent no more than 120% of the Subscriber’s energy consumption over the previous 12 months. For Subscribers aggregating more than one meter or account, the size of a Subscriber’s Subscription may be based on the sum of the loads associated with the individual meters or accounts that the Subscriber wishes to aggregate pursuant to this section. In sizing the Subscription, a deduction for the amount of any existing renewable energy generation at the Subscriber’s premises or any Subscriptions owned by the Subscriber in other Community Energy Generating Facilities shall be made.

“(7) “Renewable Energy Credit” shall have the same meaning as in §34-1431(10).

“(8) “Total Aggregate Retail Rate” means the total retail rate that would be charged to a Subscriber of all electric rate components of the Subscriber’s electric bill, including any surcharges, demand charges, riders or other additional tariffs, except for minimum monthly charges, such as meter reading fees or customer charges.

“(b) The Commission shall incorporate the following provisions into its rules and shall establish additional rules as necessary to implement the following provisions within 6 months of the effective date of this act:

“(1) New Subscribers may be added no more than once monthly. The owner of a Community Energy Generating Facility or its designated agent shall inform the Electric

Company of the following information concerning the Subscribers to the Community Energy Generating Facility as required to facilitate net metering for Subscribers, but on no more than a monthly basis:

“(A) a list of individual Subscribers by name, address, and account number; and

“(B) the proportional interest of each Subscriber in the output of the Community Energy Generating Facility;

“(C) for Subscribers who participate in meter aggregation, the rank order for the additional meters or accounts to which Net Metering credits are to be applied.

“(2) A Subscriber may change the individual meters or accounts to which the Community Energy Generating Facility’s electricity generation shall be attributed for that Subscriber no more than once monthly, so long as the individual meters or accounts are eligible to participate.

“(3) An Electric Company may require that customers participating in a Community Energy Generating Facility have their meters read on the same billing cycle.

“(4) If the full electrical output of a Community Energy Generating Facility is not fully allocated to Subscribers, the Electric Company shall purchase the unsubscribed energy at the avoided cost of energy set by the Commission pursuant to § 34-1509.

“(5) The owners of, Subscribers to, and any Subscriber Organization controlling a Community Energy Generating Facility shall not be considered public utilities subject to regulation by the Commission solely as a result of their interest or participation in the

Community Energy Generating Facility.

“(6) Prices paid for Subscriptions in a Community Energy Generating Facility shall not be subject to regulation by the Commission.

“(7) A Community Energy Generating Facility owns the Renewable Energy Credits associated with the electricity allocated to the Subscriber’s Subscription, unless such Renewable Energy Credits were explicitly contracted for through a separate transaction independent of any Net Metering or interconnection tariff or contract.

“(8) The owner or operator of each Community Energy Generating Facility is required to follow all procedures for interconnection specified in the District of Columbia Small Generator Interconnection Rules, 15-4000 through 15-4099.

“(9) All electricity exported to the grid by the Community Energy Generating Facility becomes the property of the Electric Company to which the facility is interconnected, but shall not be counted toward the Electric Company’s total retail sales for purposes of §§ 34-1431 through 34-1439.

“(10) Net Metering of energy produced by a Community Energy Generating Facility shall follow the same framework as established in § 34-1518, as implemented by the Commission.

“(c) The Commission shall revise its rules to include the following provisions within 6 months of the effective date of this act:

“(1) The total amount of electricity expressed in kilowatt-hours available for

allocation to Subscribers, and the total amount of Renewable Energy Credits generated by the Community Energy Generating Facility and allocated to Subscribers, shall be determined by a production meter installed and paid for by the owner(s) of the Community Energy Generating Facility. It shall be the Electric Company's responsibility to read the production meter.

“(2) The type of production meter required for use under this section shall be the minimum metering necessary to accurately and efficiently report production to the Electric Company after consideration of the size of the Community Energy Generating Facility, the cost of production meters being considered, and the information and operational needs of the Electric Company while maintaining least cost to the owner of the Community Energy Generating Facility.

“(3) The determination of the quantity of kilowatt-hour credits allocated to each Subscriber to a particular Community Energy Generating Facility for Net Metering shall be based on each Subscriber's proportional interest of the total exported generation of the Community Energy Generating Facility.

“(4) The value of the kilowatt-hour credits allocated to each Subscriber shall be calculated by multiplying the quantity of kilowatt-hour credits allocated to each Subscriber by the Total Aggregate Retail Rate determined for the Subscriber.

“(5) If the value of the kilowatt-hour credits generated by the Community Energy Generating Facility as allocated to the Subscriber exceeds amount owed by the Subscriber as shown on their bill at end of the billing period, the remaining value of the kilowatt-hour credits generated by the Community Energy Generating Facility shall carry over from month-to-month until the value of any remaining credits are used or until the April billing cycle

of each calendar year.

“(6) If the value of the kilowatt-hour credits generated by the Community Energy Facility as allocated to the Subscriber are less than the amount owed by the Subscriber as shown on their bill at the end of the applicable billing period, the customer-generator shall be billed for the difference between the amount shown on the bill and the value of the available kilowatt-hour credits.

“(7) At the end of each Subscriber’s April billing cycle, the Electric Company shall determine and report the value of any unutilized kWh credits for all Subscribers to the District of Columbia’s administrator for the Low Income Housing Energy Assistance Program (LIHEAP). The Electric Company shall allocate the value of any utilized kilowatt-hour credits to residential Subscribers eligible for LIHEAP assistance as directed by the LIHEAP administrator. The LIHEAP administrator shall make a determination on allocation of the value of any unutilized kilowatt-hour credits to eligible LIHEAP customers located within the District of Columbia within 60 days of receipt of the Electric Company’s report.

“(d) Within six months of the effective date of this Act, The District of Columbia Department of Environment and the Sustainable Energy Utility shall research the feasibility and begin to implement a public-private financing program to increase the feasibility of Renewable Portfolio Standards tier one renewable energy projects serving District of Columbia Subscribers. Financing options may include hybrid public-private power purchase agreements using government-issued private bonds with government guarantees, private investment capital, private bonds issued by a nonprofit organization or quasi-governmental agencies, social investment capital, or other low-cost capital. The financing program shall maximize federal tax credits in

District of Columbia renewable energy projects, maximize the benefits and minimize the costs of renewable energy to Subscribers, and minimize risk exposure and costs to D.C. taxpayers. The public-private financing program shall be open to benefit any type of Subscriber, and establish specific targets for participation by Subscribers that are low-income consumers, affordable housing properties, public agencies, and may include local businesses and nonprofit organizations.

“(e) The Commission shall adopt interconnection rules to facilitate the interconnection of customer generation within the District, including Community Energy Generating Facilities, by adopting the interconnection standards contained in model interconnection standards maintained by the Interstate Renewable Energy Council. This requirement shall remain in place so long as the Interstate Renewable Energy Council maintains interconnection standards and, from time to time, updates those standards.

“(1) Adoption of the Interstate Renewable Energy Council’s model standards shall occur within one month of the effective date of this legislation unless the Commission finds modification of the model interconnection standards is necessary to maintain the safety and reliability of the electric grid. If the Commission finds that modification of the Interstate Renewable Energy Council’s model interconnection standards is necessary, any proceeding concerning modifications to the Interstate Renewable Energy Council’s standards shall be completed within six months. In any proceeding concerning the modification of the Interstate State Renewable Energy Council’s model interconnection standards, any party opposing any portion of the model standards bears the burden of proof for establishing the necessity of deviating from model standards.

“(2) In the event, the Interstate Renewable Energy Council no longer maintains interconnection standards, the Commission shall review interconnection standards on a biannual basis and shall continue to update its interconnection standards to maintain best practices as promulgated by the United States Department of Energy, the National Association of Regulatory Commissioners, the Institute of Electrical and Electronic Engineers, or other relevant body.

“(f) This section applies to Electric Companies as defined in §34-207.

“(g) After the Commission has established rules implementing sub-sections (a) through (f) of this section and those rules have been effective for at least 6 months, the Commission may at any point revise those rules as necessary and appropriate so long as the rules remain consistent with this section and its intent.”

Sec. 3. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 4. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.