



Hundredth Legislature - First Session - 2007
Committee Statement
LB 629

Hearing Date: February 14, 2007
Committee On: Natural Resources

Introducer(s): (Dierks)
Title: Adopt the Rural Community-Based Energy Development Act

Roll Call Vote – Final Committee Action:

- Advanced to General File
 - X Advanced to General File with Amendments
 - Indefinitely Postponed
-

Vote Results:

8	Yes	Senators Carlson, Christensen, Dubas, Fischer, Hudkins, Kopplin, Louden, Wallman
0	No	
0	Present, not voting	
0	Absent	

Proponents:

Senator Cap Dierks
Mark Lindquist
Dan Juhl
Keith Dittrich
Martin Kleinschmit
Kenneth Winston
John Dittrich
Robert Byrnes
Gale Lush
John Hansen

Representing:

Introducer
The Minnesota Project
C-BED organization
American Corn Growers Association
Center for Rural Affairs
Nebraska Chapter, Sierra Club
Self
Nebraska Renewable Energy Association
Self
Nebraska Farmers Union

Opponents:

Shelley Sahling-Zart

Representing:

Nebraska Power Association

Neutral:

None

Representing:

Summary of purpose and/or changes:

LB 629 does the following:

- Section 1 Creates the Rural Community-Based Energy Development Act.
- Section 2 Legislative intent language.
- Section 3 Definitions:
- (1) C-BED project means a new wind energy project that:
 - (a) (i) consists of more than two turbines, has no single qualified owner owning more than 15% of the project and with at least 33% of the power purchase agreement payments flowing to the qualified owner; or
consists of one or two turbines, is owned by one or more qualified owners with at least 33% of the power purchase agreement payments flowing to a qualified owner; and
 - (b) has a resolution of support adopted by the county board where the project is located; or by the tribal council located within the boundaries of an Indian reservation.
 - (2) C-BED tariff – community-based energy development tariff.
 - (3) Net present value – rate equal to the net present value of the nominal payments to a C-Bed project dividend by the total expected energy production of the C-BED project over the life of its power purchase agreement.
 - (4) Qualified owner:
 - (a) Nebraska resident;
 - (b) Limited liability company composed of Nebraska residents;
 - (c) A Nebraska nonprofit corporation;
 - (d) A Nebraska cooperative association, other than a rural electric cooperative association or generation and transmission cooperative;
 - (e) A political subdivision or unit of local government, including a school district, postsecondary educational institution, or any other local or regional governmental organization but excludes a municipal electric utility or the municipal power agency; or
 - (f) A tribal council.
- Section 4
- (1) A C-BED tariff – a rate of three cents per kilowatt hour net present value over the 20-year life of the power purchase agreement and must be higher in the first ten years of the agreement. The discount rate for calculating the net present value shall be the public utility’s normal discount rate used for its other business purposes.
 - (2) Requires the C-BED project developer and a public utility to negotiate the rate and power purchase agreement consistent with the tariff.
 - (3) The project developer may negotiate a power purchase agreement with terms different from the tariff.
 - (4) A qualified owner may have an equity partner that is not a qualified owner.

- (5) A C-BED project operating under a power purchase agreement is not eligible for net energy billing or production credits.

- Section 5 Requires a public power district to:
- (a) Encourage the aggregation of C-BED projects; and
 - (b) Require any qualified owner to provide sufficient security performance under the agreement and prohibit the transfer of any C-BED project to any other person other than a qualified owner during the initial 20 years of the agreement.
- Section 6
- (1) If a public utility needs to comply with a renewable portfolio standard requirement it must determine if one or more C-BED projects are available that can be safely integrated into the system and is consistent with the public utility's resource needs at minimal impact to customer rates.
 - (2) Requires a public utility, in its resources plan, to include a description of its efforts to purchase energy from C-BED projects and the amount of energy purchased.
 - (3) Clarifies that a public utility is not required to enter into a power purchase agreement under a C-BED tariff.
- Section 7 A C-BED project developer shall provide an opportunity to invest in the project to each property owner on whose property a high-voltage transmission line is constructed that will transmit the energy generated by the project to market if the property is located and the owner resides in the county where the C-BED project is located.

Explanation of amendments, if any:

The committee amendment becomes the bill.

- Section 1 Creates the Rural Community-Based Energy Development Act.
- Section 2 Intent language – create new economic development opportunities through rural community-based energy development.
- Section 3 Definitional section.
- Section 4
- (1) Allows a C-BED project developer to negotiate with an electric utility a power purchase agreement.
 - (2) Allows a C-BED project to have an equity partner so long as not more than 67% of the power purchase payments flow to the non-qualified owner.
 - (3) Prohibits transfer from a qualified owner to a non-qualified owner for the 20-year term of the power purchase agreement, except for an inherited interest.
 - (4) Prohibits the granting of net energy billing for a C-BED project that is

operating under a power purchase agreement.

(5) Requires Power Review Board approval for a C-BED project.

Section 5 Requires an electric utility to:

(1) Encourage the aggregation of C-BED projects located in the same general geographical area.

(2) Require any owner to provide sufficient security to assure performance under the power purchase agreement.

Section 6 Requires the board of directors of any electric utility that has determined the necessity to construct new renewable generation facilities to examine the possibility of using C-BED projects to meet that need if they are technically, economically, and operationally feasible.

Section 7 Requires a C-BED developer to provide an opportunity to invest in the project to each property owner on whose property a turbine is located.

Section 8 Nothing in the act requires an electric utility to enter into a power purchase agreement with a C-BED project.

Section 9 Allows an electric utility to limit its power of eminent domain to acquire a C-BED project if such electric utility has a contract to purchase power from such facility for a period of at least ten years.

Section 10 Severability clause.

Section 11 Emergency clause.

Senator LeRoy Loudon, Chairperson