

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 436

Introduced by Haar, 21.

Read first time January 20, 2009

Committee: Natural Resources

A BILL

1 FOR AN ACT relating to public power districts; to amend section
2 70-1012, Reissue Revised Statutes of Nebraska; to
3 provide for net metering; to state findings; to define
4 terms; to provide duties for electric suppliers 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 private investment in renewable energy
4 resources;

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

6 (3) Enhance the continued diversification of the energy
7 resources used in this state.

8 Sec. 2. For purposes of sections 1 to 7 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) Electric supplier means any public power district,
13 electric cooperative, or municipal electric utility that is engaged
14 in the business of supplying electric energy to the ultimate
15 consumer thereof;

16 (3) Local distribution system means the equipment and
17 facilities used for the distribution of electric energy to the
18 ultimate consumer thereof, whether or not such system is owned or
19 operated by the electrical supplier;

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

22 (5) Net metering means a system of metering electricity
23 in which an electric supplier:

24 (a) Credits a customer-generator at the full retail rate
25 for each kilowatt-hour from a qualified facility, up to one hundred

1 twenty-five kilowatt hours used by the customer-generator during an
2 annualized period; and

3 (b) Compensates the customer-generator at the end of the
4 annualized period for any remaining credits, at a rate equal to the
5 electric supplier's average hourly incremental cost of electricity
6 supply over the most recent calendar year; and

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

9 (a) Uses as its fuel either wind, solar, biomass, new
10 hydropower resources or new geothermal resources;

11 (b) Is located on the premises owned, operated, leased,
12 or otherwise controlled by the customer-generator;

13 (c) Connects with and operates in parallel with the local
14 distribution system; and

15 (d) Is intended primarily to offset part or all of the
16 customer-generator's requirements for electricity through the use
17 of net metering.

18 Sec. 3. (1) All electric suppliers shall allow a
19 customer-generator's retail electricity consumption to be offset
20 by a qualified facility that is interconnected with the local
21 distribution system. If the electricity generated by the
22 customer-generator exceeds the customer-generator's consumption,
23 the excess kilowatt-hours shall be carried forward from month
24 to month and credited at a ratio of one to one against the
25 customer-generator's retail kilowatt-hour consumption in subsequent

1 months. Within sixty days after the end of each calendar year, or
2 within sixty days after the date the customer-generator terminates
3 its retail service, the electric supplier shall compensate the
4 customer-generator for any accrued excess kilowatt-hour credits at
5 the best negotiated rate agreed on between the customer-generator
6 and the electric supplier.

7 (2) An electric supplier shall provide net-metering
8 service at nondiscriminatory rates to a customer-generator with
9 a qualified facility. A customer-generator shall not be required
10 to change the rate under which he, she, or it received retail
11 service in order for the customer-generator to install a qualified
12 facility. A customer-generator may be charged a minimum monthly fee
13 that is the same as other non-customer-generators in the same rate
14 class but shall not be charged any additional standby, capacity,
15 demand, interconnection, or other fee or charge.

16 (3) An electric supplier shall not be required to provide
17 local distribution service to additional customer-generators after
18 the date during any calendar year on which the total generating
19 capacity of all customer-generators with qualified facilities
20 served by the local distribution utility is equal to or in excess
21 of two percent of the capacity necessary to meet the electric
22 supplier's average forecast aggregate customer peak demand for that
23 calendar year.

24 Sec. 4. (1) An electric supplier shall offer to make
25 available metering equipment that can measure the flow of electric

1 energy in both directions to each customer-generator that has
2 installed a qualified facility. The electric supplier shall utilize
3 a single bi-directional meter with a single register that displays
4 the net reading for billing purposes. The electric supplier may
5 choose to meter additional information within such meter if the net
6 reading can be easily and clearly read by the customer-generator.

7 (2) If the customer-generator's existing meter does
8 not meet the requirements of subsection (1) of this section,
9 the electric supplier shall install and maintain a single
10 bi-directional meter for the customer-generator at the electric
11 supplier's expense. Any subsequent revenue meter change
12 necessitated by the customer-generator shall be paid for by the
13 customer-generator.

14 (3) The electric supplier shall not require more than one
15 meter per customer to comply with this section.

16 Sec. 5. (1) A qualified facility installed by a
17 customer-generator shall meet all applicable safety and performance
18 standards established in this section.

19 (2) Within ninety days after the effective date of
20 this act, each electric supplier shall establish interconnection
21 standards for the physical connection between local distribution
22 systems and qualified facilities. Such standards shall not be
23 unreasonably burdensome and shall be designed to encourage the use
24 of qualified facilities and to insure the safety and reliability
25 of such qualified facilities and the local distribution systems

1 interconnected with such qualified facilities.

2 (3) The standards under this section shall establish
3 measures for the safety and reliability of the affected equipment
4 and local distribution systems as may be appropriate. Such
5 standards shall:

6 (a) Be consistent with all applicable safety and
7 performance standards established by the National Electrical Code,
8 the Institute of Electrical and Electronics Engineers, Underwriters
9 Laboratories, or the American National Standards Institute;

10 (b) Ensure that qualified facilities will automatically
11 isolate themselves from the electrical system in the event of an
12 electrical power outage; and

13 (c) Permit the owner or operator of the local
14 distribution system to interrupt or reduce deliveries of available
15 energy from the qualified facilities to the system when necessary
16 in order to construct, install, maintain, repair, replace, remove,
17 investigate, or inspect any of its equipment or part of its system
18 if the local distribution system determines that curtailment,
19 interruption, or reduction is necessary because of emergencies,
20 forced outages, acts of nature, or compliance with prudent
21 electrical practices.

22 (4) No electric supplier may require a customer-generator
23 whose qualified facility meets the standards established under this
24 section to:

25 (a) Comply with additional safety or performance

1 standards or pay additional charges for equipment or services for
2 interconnection that are additional to those necessary to meet the
3 standards established under this section;

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

5 (c) Purchase additional liability insurance.

6 Sec. 6. A customer-generator that is eligible for
7 net metering owns the renewable and environmental attributes of
8 the electricity it generates unless there is a contract with
9 an express provision that assigns ownership of such renewable
10 and environmental attributes. A customer-generator shall not be
11 required to assign renewable and environmental attributes of the
12 electricity it generates in order to receive net metering or
13 interconnection.

14 Sec. 7. Beginning March 1, 2010, and on each March 1
15 thereafter, each electric supplier shall produce and publish on
16 its web site an annual net metering report that shall include the
17 following information:

18 (1) The total number of qualified facilities;

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

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

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

25 Sec. 8. Section 70-1012, Reissue Revised Statutes of

1 Nebraska, is amended to read:

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

1 board of the lines or facilities involved in the transaction and
2 the parties to the transaction, or (4) for the construction of a
3 qualified facility as defined in section 2 of this act.

4 Sec. 9. If any section in this act or any part of any
5 section is declared invalid or unconstitutional, the declaration
6 shall not affect the validity or constitutionality of the remaining
7 portions.

8 Sec. 10. Original section 70-1012, Reissue Revised
9 Statutes of Nebraska, is repealed.