

HOUSE BILL 111

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

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AN ACT

RELATING TO UTILITIES; PROVIDING FOR SHARED RENEWABLE ENERGY FACILITIES TO QUALIFY AS DISTRIBUTED GENERATION FACILITIES; REQUIRING INVESTOR-OWNED UTILITIES TO ALLOW CONSTRUCTION, CONNECTION AND OPERATION OF SHARED RENEWABLE ENERGY FACILITIES WITHIN THEIR OPERATING TERRITORIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] FINDINGS AND PURPOSE.--

A. The legislature finds that:

(1) individuals should be able to obtain electricity from local, renewable energy distributed generation facilities, regardless of differences in income, owner or renter status or specific locale;

(2) local communities benefit from the deployment of renewable energy, including shared distributed generation facilities; and

(3) it is in the public interest to allow broad participation in renewable energy distributed generation facilities, including shared renewable energy facilities, by New Mexico residents.

B. It is the purpose of this 2015 act that the legislature enable the development and deployment of shared renewable energy facilities for the following purposes:

(1) to allow renters and low- to moderate-income retail electric customers to own interests in shared renewable energy facilities;

(2) to allow interests in shared renewable energy facilities to be portable and transferable;

(3) to facilitate market entry for all potential subscribers, while prioritizing those persons most sensitive to market barriers; and

(4) to encourage developers to allow participation by renters and low- to moderate-income retail electric customers.

SECTION 2. Section 62-13-13.1 NMSA 1978 (being Laws 2010, Chapter 102, Section 1 and Laws 2010, Chapter 103, Section 1) is amended to read:

"62-13-13.1. RENEWABLE ENERGY DISTRIBUTED GENERATION FACILITIES--OWNERS AND OPERATORS NOT PUBLIC UTILITIES.--

A. Notwithstanding any other provision of the Public Utility Act to the contrary, a person not otherwise a public utility shall not be deemed to be a public utility subject to the jurisdiction, control or regulation of the commission and the provisions of the Public Utility Act solely because the person owns or controls all or any part of any renewable energy distributed generation facility that:

(1) is located on the host's site or is a shared renewable energy facility;

(2) produces electric energy used:

(a) at the host's site and sold to the host or the host's tenants or employees located at the host's site; or

(b) by customers who are shared renewable energy subscribers; and

(3) shares a common point of connection with the electric utility serving the area and the host or the host's tenants and employees served by the renewable energy distributed generation facility or, in the case of a shared renewable energy facility, has a point of connection to the electric utility serving the area, including the shared renewable energy subscribers.

B. Nothing contained in this section shall be interpreted to prohibit the sale of energy produced by the renewable energy distributed generation facility to the

electric utility serving the area in which the renewable energy distributed generation facility is located.

C. The shared renewable energy facility may be owned by a customer of a public utility or a third party. The public utility may acquire renewable energy certificates from the owner of the shared renewable energy facility or from a third party at rates established in the utility's renewable procurement plan.

[~~C.~~] D. As used in this section:

(1) "host" means the customer of a public utility who uses the electric energy produced by a renewable energy distributed generation facility and occupies the site upon which the renewable energy distributed generation facility is located;

(2) "renewable energy distributed generation facility" means a facility that produces electric energy by the use of renewable energy and that is sized to supply no more than one hundred twenty percent of the average annual consumption of electricity by the host at the site of the renewable energy distributed generation facility or a facility that is a shared renewable energy facility that is sized at no more than ten megawatts alternating current in accordance with applicable interconnection rules; [~~and~~]

(3) "shared renewable energy facility" means a renewable energy distributed generation facility that provides for the purchase of one or more subscription shares in the facility, entitling the purchaser to a percentage of the energy generated by the facility;

(4) "shared renewable energy subscriber" means a purchaser of a subscription share or shares who is a customer of the public utility and receives net metering based on the energy generated by that customer's subscription shares at one or more physical locations to which the subscription is attributed;

[~~(3)~~] (5) "site" means all the contiguous property owned or leased by the host or the shared renewable energy facility, without regard to interruptions in

contiguity caused by easements, public thoroughfares, transportation rights of way or utility rights of way;

(6) "subscription" means a proportional interest in a shared renewable energy facility. Each subscription shall supply no more than one hundred twenty percent of the average annual consumption of electricity by each subscriber at the premises to which the subscription is attributed; and

(7) "subscription share" means the unit of purchase of interest in the energy generated by a shared renewable energy facility."

SECTION 3. A new section of the Public Utility Act is enacted to read:

"[NEW MATERIAL] INVESTOR-OWNED PUBLIC UTILITY--SHARED RENEWABLE ENERGY FACILITIES.--

A. An investor-owned public utility shall allow the construction, connection and operation of a shared renewable energy facility within its operating territory if the shared renewable energy facility is five megawatts or less of alternating current electricity at the point of connection to the utility's distribution lines. A utility may limit the total production of shared renewable energy facilities in its territory to ten percent of annual retail sales or five percent of annual peak demand after June 30, 2015, ten percent starting in fiscal year 2018, fifteen percent starting in fiscal year 2021 and twenty percent starting in fiscal year 2024. The commission may increase these limits if it is demonstrated that higher limits do not impose technical problems. Such a demonstration may be done by the utility, the commission or a third party and shall show to the commission's satisfaction that the addition of more renewable energy facilities of specific types will not destabilize the particular circuits to which they are proposed to be connected nor destabilize the utility's grid as a whole. A utility may limit the customers of a shared renewable energy facility to those in the same county as the facility and those in geographically adjacent counties.

B. An application for a shared renewable energy facility in an investor-owned public utility shall include a proposed location for the facility. The investor-owned public utility shall accept the proposed site unless the site is unsuitable. Suitability

shall be based solely on the ability of the utility's lines to carry the output of the proposed facility. If the proposed site is unsuitable, then the investor-owned public utility shall propose another site as close as possible to the proposed site. The investor-owned public utility shall:

(1) exercise good faith in selecting an alternative site that is similar to the proposed site in cost and access to a distribution line with adequate capacity; and

(2) submit a document with a suitable location to the commission and to the applicant for a shared renewable energy facility within sixty days of the date of an application for a facility to the utility.

C. Rural electric cooperatives are exempt from the provisions of this section."

SECTION 4. A new section of the Rural Electric Cooperative Act is enacted to read:

"[NEW MATERIAL] RURAL ELECTRIC COOPERATIVES--SHARED RENEWABLE ENERGY FACILITIES.-- Cooperatives may allow the construction, connection and operation of shared renewable energy facilities within their operating territories."