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SENATE BILL 394

51ST LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2013

INTRODUCED BY
William Soules

AN ACT

RELATING TO UTILITIES; AMENDING A SECTION OF THE PUBLIC UTILITY
ACT TO PROVIDE FOR COMMUNITY SOLAR FACILITIES TO QUALIFY AS
DISTRIBUTED GENERATION FACILITIES.

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

SECTION 1. 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

.191136.2

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1 because the person owns or controls all or any part of any
2 renewable energy distributed generation facility that:

3 (1) is located on the host's site or is a
4 community solar facility;

5 (2) produces electric energy used at the
6 host's site and sold to the host or the host's tenants or
7 employees located at the host's site or to customers who are
8 community solar subscribers; and

9 (3) shares a common point of connection with
10 the electric utility serving the area and the host or the
11 host's tenants [~~and~~] or employees or the community solar
12 subscribers served by the renewable energy distributed
13 generation facility.

14 B. Nothing contained in this section shall be
15 interpreted to prohibit the sale of energy produced by the
16 renewable energy distributed generation facility to the
17 electric utility serving the area in which the renewable energy
18 distributed generation facility is located.

19 C. The community solar facility may be owned by a
20 customer of a public utility or a third party. The public
21 utility shall purchase renewable energy certificates from the
22 owner of the community solar facility or third party at rates
23 established in the utility's renewable procurement plan.

24 [~~G.~~] D. As used in this section:

25 (1) "community solar facility" means a

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1 renewable energy distributed generation facility that provides
2 for the purchase of one or more subscription shares in the
3 facility, entitling the purchaser to a percentage of the energy
4 generated by the facility;

5 (2) "community solar subscriber" means a
6 purchaser of a subscription share or shares who is a customer
7 of the public utility and receives net metering based on the
8 energy generated by that customer's subscription shares at one
9 or more physical locations to which the subscription is
10 attributed;

11 [~~(1)~~] (3) "host" means the customer of a
12 public utility who uses the electric energy produced by a
13 renewable energy distributed generation facility and occupies
14 the site upon which the renewable energy distributed generation
15 facility is located;

16 [~~(2)~~] (4) "renewable energy distributed
17 generation facility" means a facility that produces electric
18 energy by the use of renewable energy, [~~and~~] that is sized to
19 supply no more than one hundred twenty percent of the average
20 annual consumption of electricity by the host at the site of
21 the renewable energy distributed generation facility or for a
22 community solar facility, and that is sized at no more than ten
23 megawatts alternating current in accordance with applicable
24 interconnection rules; [~~and~~

25 [~~(3)~~] (5) "site" means all the contiguous

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1 property owned or leased by the host or the community solar
2 facility, without regard to interruptions in contiguity caused
3 by easements, public thoroughfares, transportation rights of
4 way or utility rights of way;

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

10 (7) "subscription share" means the unit of
11 purchase of interest in the energy generated by a community
12 solar facility."