

SENATE BILL 432

56TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2023

INTRODUCED BY

Carrie Hamblen

This document may incorporate amendments proposed by a committee, but not yet adopted, as well as amendments that have been adopted during the current legislative session. The document is a tool to show amendments in context and cannot be used for the purpose of adding amendments to legislation.

AN ACT

RELATING TO UTILITIES; ENACTING THE LOW-INCOME SOLAR ACT;
REQUIRING EQUITABLE DISTRIBUTION OF BENEFITS OF ON-SITE
SOLAR-GENERATED ENERGY GENERATED ON AFFORDABLE HOUSING;
RESTRICTING SOME UTILITY FEES FOR SOLAR ON AFFORDABLE HOUSING;
PROVIDING FOR PROMULGATION OF RELATED RULES; REGULATING THE TAX
VALUATION OF SOLAR ENERGY SYSTEMS.

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

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SECTION 1. A new section of the Public Utility Act is enacted to read:

"[NEW MATERIAL] SHORT TITLE.--Sections 1 through 5 of this act may be cited as the "Low-Income Solar Act"."

SECTION 2. A new section of the Public Utility Act is enacted to read:

"[NEW MATERIAL] DEFINITIONS.--As used in the Low-Income Solar Act:

A. "allocation" means a portion of the capacity from or the electricity that is produced by a low-income housing shared distributed generation system that is attributed to one of its users;

B. "low-income housing shared distributed generation system" means an energy system for the generation of electricity that:

(1) uses a renewable energy resource as its primary source of energy to generate electricity;

(2) is located on a qualifying low-income multifamily residential property;

(3) has a generating capacity that is designed to produce no more than one hundred twenty percent of the average metered historic usage or reasonably expected future usage of the qualifying low-income multifamily residential property;

(4) operates in parallel with the utility's transmission and distribution facilities;

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(5) equitably allocates the capacity and associated production of the system to each of the individually metered units or common areas within the qualifying low-income multifamily residential property, or if the property is master-metered, equitably allocates benefits to residents;

(6) is intended primarily to offset part or all of the qualifying low-income multifamily residential property's requirements for electricity and is subject to the following maximum allocations:

(a) in the case of common-area meters or master meters, capacity that is sized to supply no more than one hundred twenty percent of the metered historic usage or reasonably expected future usage; and

(b) in the case of meters serving tenant units, a capacity of not more than ten kilowatts per unit; and

(7) is virtually net metered by the utility by allocating the virtual net metering credits either to common-area meters or to individually metered accounts, or to both, according to the allocation schedule provided by the system owner, that receive an allocation, without requiring the system to be physically interconnected with each accounts' meter;

C. "master meter" means a single electric meter used to measure electric usage for multiple tenants or units within a multi-unit building;

D. "net electricity" means the difference, which

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can be either positive, negative or zero, within a billing period between the electricity produced by a user's allocation from a low-income housing shared distributed generation system and the electricity that the utility delivered to that user;

E. "qualifying low-income multifamily residential property" means a multifamily residential property with at least five rental housing units that:

(1) contains one or more qualifying low-income residential buildings and is in a single low-income housing enterprise on contiguous or closely adjacent parcels of land, which parcels may be divided by a dedicated street, highway or public thoroughfare or railway, as long as they are otherwise closely adjacent and are operated as part of the same single low-income housing enterprise and are under common ownership; and

(2) consists of tenant housing units, which may be individually metered and the occupants of which may maintain individual utility customer accounts, along with common areas served by one or more common meters under the property owner's customer account; provided, however, that, in the case of a mixed-use property, any independent commercial units on the premises that are not appurtenant to the housing use are not considered to be a part of the qualifying low-income multifamily residential property;

F. "qualifying low-income residential building"

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means a residential rental building that participates in:

- (1) a housing program defined in Section 41411(a) of the federal Violence Against Women Act of 1994;
- (2) a housing assistance program administered by the United States department of agriculture under Title 5 of the federal Housing Act of 1949;
- (3) a housing program administered by a tribally designated housing entity as defined in Section 4(22) of the federal Native American Housing Assistance and Self-Determination Act of 1996; or
- (4) such other affordable housing programs as state or federal law may provide;

G. "qualifying low-income residential building project" means an energy facility that is located on and provides energy to a qualifying low-income multifamily residential property;

H. "system owner" means a landlord or third party that owns or controls any part of a low-income housing shared distributed generation system; "system owner" shall not be deemed to be a public utility based on its ownership of, or allocation of capacity or associated electricity production to, a low-income housing shared distributed generation system;

I. "user" means:

- (1) the owner of a low-income housing shared distributed generation system;

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(2) tenant meters or common-area meters that receive an allocation of the low-income housing shared distributed generation system's capacity or its associated electricity production, regardless of the legal ownership of the system; and

(3) a master meter operator that receives either an allocation of, or all of, the capacity or associated electricity production from a low-income housing shared distributed generation system and allocates the benefits to residential tenants in the form of additional property amenities or services, which are equitably accessible to all residents of the property, regardless of the legal ownership of the system; STBTC→and←STBTC

STBTC→J. "utility" means an investor-owned electric public utility certified by the commission to provide retail electric service in New Mexico pursuant to the Public Utility Act but does not include a public utility owned and operated by a municipal corporation or a cooperative organized pursuant to the Rural Electric Cooperative Act; and←STBTC

STBTC→J.←STBTC STBTC→K.←STBTC "virtual net metering" means a utility tariff arrangement that enables individually metered billing accounts of a qualifying low-income multifamily residential property to receive calculated bill credits for their allocated share of a qualifying low-income residential building project's energy

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generation."

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

"[NEW MATERIAL] VIRTUAL NET METERING BILL CREDITS.--A utility shall provide virtual net metering bill credits equal to the full retail value of the kilowatt-hour to users of low-income housing shared distributed generation systems as follows:

A. the billing period for calculating virtual net metering bill credits shall be a monthly period;

B. to determine net electricity produced or delivered during the billing period, the utility shall use the following procedures:

(1) for low-income housing shared distributed generation systems that serve only one meter, including a master meter, the utility shall measure, in kilowatt-hours, the net electricity produced or consumed by the user during the billing period, by using a meter that is capable of registering the flow of electricity in two directions; and

(2) for low-income housing shared distributed generation systems that serve individually metered accounts, including multiple master meters, the utility shall:

(a) measure, in kilowatt-hours, the total generation output of the system using a production meter, which shall be read at the end of the billing cycle;

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(b) calculate the total kilowatt-hour output associated with each user's allocation; and

(c) calculate the net electricity produced or delivered by deducting the user's allocated total kilowatt-hour output from the user's total measured consumption in that billing period; and

C. the utility shall calculate each user's bill for the billing period as follows:

(1) if the user has net electricity delivered during a billing period, the user shall be billed only for the net electricity supplied by the utility under the applicable rates;

(2) if the user has net electricity produced during a billing period, the utility shall credit the user on the next bill for the excess kilowatt-hours generated, by crediting the customer for the net kilowatt-hours of electricity produced; provided that unused credits shall be carried forward from month to month; and provided further that if the user leaves the system, the user's unused credits for excess kilowatt-hours generated shall be paid to the user at the utility's avoided cost; and

(3) except as otherwise specified in this section, users shall be billed for service in accordance with the rate structure and monthly charges that the user would be assigned if the user had not been a user of a low-income

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housing shared distributed generation system."

SECTION 4. A new section of the Public Utility Act is enacted to read:

"[NEW MATERIAL] FEES--CHARGES--RATES.--

A. Except as explicitly provided in this section, a utility shall not charge a user any fee or charge that is different than that charged to other customers of the utility in the same rate class.

B. A utility shall not require a user to be placed in a rate class based on the user's status as a user of a low-income housing shared distributed generation system. However, a utility shall, regardless of actual electricity usage, allow owners or users of low-income housing shared distributed generation systems, at their option, to be placed in the utilities' residential or small commercial rate class.

C. A utility may charge the owner of a low-income housing shared distributed generation system for its reasonable costs to install a production meter to monitor the output of the low-income housing shared distributed generation system or for the actual and reasonable costs of any upgrades to the utility's distribution system that are required to make the net metering system compatible with the system of the utility."

SECTION 5. A new section of the Public Utility Act is enacted to read:

"[NEW MATERIAL] PUBLIC REGULATION COMMISSION--RULES.--By

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STBTC→January←STBTC STBTC→July←STBTC 1, 2024, the commission shall adopt rules prescribing the form and substance for a low-income housing shared distributed generation system virtual net metering tariff or tariffs and a standard low-income housing shared distributed generation contract between the utility and the system owner. The rules shall include:

A. the particular provisions, limitations and responsibilities of owners and users of low-income housing shared distributed generation systems and the utility, which shall be included in a standard shared virtual net metering tariff;

B. a provision that allows allocation by the owner of the low-income housing shared net metering system, in consultation with the owner of the qualifying low-income multifamily residential property, of the financial benefits of the electricity produced by the low-income housing shared distributed generation system to ensure that:

(1) in the case of individually metered tenant units, virtual net metering credits are allocated equitably among the tenant units based on each unit's size measured in square feet;

(2) in the case of master-metered buildings, benefits are in the form of additional property amenities or services equitably accessible to all residents of the property; and

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(3) in either case, an equitable allocation to occupants shall not preclude any allocation of the generation output to common-area accounts;

C. the manner and frequency, which shall be at least annually, in which owners of low-income housing shared distributed generation systems may update utilities on the proper allocation of capacity and associated electricity production to various users;

D. how utilities shall meter and bill users, including the provision of bill credits, of low-income housing shared distributed generation systems; and

E. interconnection of low-income housing shared distributed generation systems without requiring individual meters to be directly interconnected to the low-income housing shared distributed generation system; interconnection procedures and time lines shall be consistent with those established for other distributed generation systems."

SECTION 6. A new section of Chapter 7 NMSA 1978 is enacted to read:

"[NEW MATERIAL] SOLAR ENERGY SYSTEMS--TAXATION--METHOD OF VALUATION.--

A. A solar energy system subject to valuation for property taxation purposes shall be valued at zero dollars (\$0.00).

B. As used in this section, "solar energy system"

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means a device that:

- (1) is installed on residential property;
- (2) includes equipment that is part of a system designed and installed to use, collect, store or distribute solar energy to provide electricity, heat or heated water to a residence where the device or equipment is installed;
- (3) includes photovoltaic panels, solar thermal technology, energy storage equipment, mounting equipment, support structures, tracking equipment, monitoring equipment or other power condition equipment; and
- (4) is used, produced, manufactured, held for sale, leased or maintained by a person for purposes of the person's profession, business or occupation."

SECTION 7. APPLICABILITY.--The provisions of Section 6 of this act apply to valuations for property tax purposes that are made on or after July 1, 2023.

SECTION 8. EFFECTIVE DATE.--The effective date of the provisions of this act is July 1, 2023.