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HOUSE BILL

51ST LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2014

INTRODUCED BY

DISCUSSION DRAFT

AN ACT

RELATING TO UTILITIES; AMENDING A SECTION OF THE PUBLIC UTILITY ACT TO PROVIDE FOR SHARED RENEWABLE ENERGY FACILITIES TO QUALIFY AS DISTRIBUTED GENERATION FACILITIES; ENACTING A NEW SECTION OF THE PUBLIC UTILITY ACT TO REQUIRE INVESTOR-OWNED UTILITIES TO ALLOW CONSTRUCTION, CONNECTION AND OPERATION OF SHARED RENEWABLE ENERGY FACILITIES WITHIN THEIR OPERATING TERRITORIES; ENACTING A NEW SECTION OF THE RURAL ELECTRIC COOPERATIVE ACT TO ALLOW CONSTRUCTION, CONNECTION AND OPERATION OF SHARED RENEWABLE ENERGY FACILITIES WITHIN RURAL ELECTRIC COOPERATIVES' OPERATING TERRITORIES.

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:

.194730.1

underscoring material = new
~~[bracketed material] = delete~~

underscored material = new
[bracketed material] = delete

1 "62-13-13.1. RENEWABLE ENERGY DISTRIBUTED GENERATION
2 FACILITIES--OWNERS AND OPERATORS NOT PUBLIC UTILITIES.--

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

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

12 (2) produces electric energy used at the
13 host's site and sold to the host or the host's tenants or
14 employees located at the host's site or to customers who are
15 shared renewable energy subscribers; and

16 (3) shares a common point of connection with
17 the electric utility serving the area and the host or the
18 host's tenants [~~and~~] or employees or the shared renewable
19 energy subscribers served by the renewable energy distributed
20 generation facility.

21 B. Nothing contained in this section shall be
22 interpreted to prohibit the sale of energy produced by the
23 renewable energy distributed generation facility to the
24 electric utility serving the area in which the renewable energy
25 distributed generation facility is located.

underscored material = new
[bracketed material] = delete

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

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

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

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

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

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[bracketed material] = delete

1 generated by the facility;

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

8 [~~3~~] (5) "site" means all the contiguous
9 property owned or leased by the host or the shared renewable
10 energy facility, without regard to interruptions in contiguity
11 caused by easements, public thoroughfares, transportation
12 rights of way or utility rights of way;

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

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

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

24 "[NEW MATERIAL] INVESTOR-OWNED PUBLIC UTILITY--SHARED
25 RENEWABLE ENERGY FACILITIES.--An investor-owned public utility

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1 shall allow the construction, connection and operation of a
2 shared renewable energy facility within its operating territory
3 if the shared renewable energy facility is two megawatts or
4 less of alternating current electricity at the point of
5 connection to the utility's distribution lines. A utility may
6 limit the total production of shared renewable energy
7 facilities in its territory to ten percent of annual retail
8 sales or twenty percent of annual peak demand. The commission
9 may increase these limits if it is demonstrated that higher
10 limits do not impose technical problems. Such a demonstration
11 may be done by the utility, the commission or a third party and
12 shall show to the commission's satisfaction that more renewable
13 energy of specific types will not destabilize the particular
14 circuit to which they are proposed to be connected, nor the
15 utility's grid as a whole. An investor-owned public utility
16 shall define suitable locations for shared renewable energy
17 facilities based on the ability of the utility's lines to carry
18 the proposed outputs of the facilities. An investor-owned
19 public utility shall submit a document with a suitable location
20 to the commission and to the applicant for a shared renewable
21 energy facility within sixty days of the date of an application
22 by a potential facility to the utility."

23 SECTION 3. A new section of the Rural Electric
24 Cooperative Act is enacted to read:

25 "[NEW MATERIAL] RURAL ELECTRIC COOPERATIVES--SHARED

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1 RENEWABLE ENERGY FACILITIES.--Cooperatives may allow the
2 construction, connection and operation of shared renewable
3 energy facilities within their operating territories."

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