

Senate Bill 299

By: Senators Mullis of the 53rd, Robertson of the 29th, Kirkpatrick of the 32nd, Anavitarte of the 31st and Butler of the 55th

A BILL TO BE ENTITLED
AN ACT

1 To amend Article 1 of Chapter 3 of Title 46 of the Official Code of Georgia Annotated,
2 relating to generation and distribution of electricity generally, so as to change certain
3 provisions relating to "The Georgia Cogeneration and Distributed Generation Act of 2001"
4 and the "Solar Power Free-Market Financing Act of 2015"; to provide for definitions; to
5 require that fees imposed on solar customers meet certain criteria; to expand the state-wide
6 cumulative limit to a larger percentage of each utility's annual peak demand; to provide the
7 commission with the authority to determine the appropriate credit available once the existing
8 credit limit is reached; to allow certain nonprofit customers to aggregate demand from
9 multiple locations and subscribe to certain off-site solar facilities; to allow customers to
10 access their own meter usage and to provide such usage data to authorized third parties; to
11 provide for related matters; to provide for an effective date; to repeal conflicting laws; and
12 for other purposes.

13 BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

S. B. 299

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14

SECTION 1.

15 Article 1 of Chapter 3 of Title 46 of the Official Code of Georgia Annotated, relating to
16 generation and distribution of electricity generally, is amended by revising Part 3, relating
17 to "The Georgia Cogeneration and Distributed Generation Act of 2001," as follows:

18

Part 3

19 46-3-50.

20 This part shall be known and may be cited as 'The Georgia Cogeneration and Distributed
21 Generation Act of 2001.'

22 46-3-51.

23 (a) The legislature finds that it is in the public interest to:

24 (1) Encourage private investment in renewable energy resources;

25 (2) Stimulate the economic growth of Georgia; and

26 (3) Enhance the continued diversification of the energy resources used in Georgia.

27 (b) The General Assembly further finds and declares that a program to provide distributed
28 generation for eligible cogenerators is a way to encourage private investment in renewable
29 energy resources, stimulate in-state economic growth, enhance the continued
30 diversification of this state's energy resource mix, and reduce interconnection and
31 administrative costs.

32 46-3-52.

33 As used in this part, the term:

34 (1) 'Bidirectional metering' means measuring the amount of electricity supplied by an
35 electric service provider and the amount fed back to the electric service provider by the
36 customer's distributed generation facility using the same meter.

- 37 (2) 'Cogeneration facility' means a facility, other than a distributed generation facility,
38 which produces electric energy, steam, or other forms of useful energy (such as heat)
39 which are used for industrial, commercial, heating, or cooling purposes.
- 40 (3) 'Commission' means the Georgia Public Service Commission.
- 41 (4) 'Customer generator' means ~~the owner and operator of~~ a customer who utilizes the
42 electrical energy from a distributed generation facility.
- 43 (5) 'Distributed generation facility' means a facility ~~owned and operated by a customer~~
44 ~~of the electric service provider~~ provided by or for a customer generator for the production
45 of electrical energy that:
- 46 (A) Uses a solar ~~Photovoltaic~~ photovoltaic system, fuel cell, or wind turbine;
- 47 (B) Has a peak generating capacity ~~of not more than 10kw~~ in alternating current that
48 is no greater than 20kw for a residential application and ~~100kw~~ 125 percent of the
49 actual or expected maximum annual peak demand of the premises that a solar
50 photovoltaic system serves for a commercial application;
- 51 (C) Is located on the customer's ~~premises property.~~ For purposes of the subparagraph,
52 the term 'property' shall have the same meaning as provided in Code Section 46-3-62;
- 53 (D) Operates in parallel with the electric service provider's distribution facilities;
- 54 (E) Is connected ~~Connected~~ to the electric service provider's distribution system on
55 either side of the electric service provider's meter; and
- 56 (F) Is intended primarily to offset part or all of the customer generator's requirements
57 for electricity.
- 58 (6) 'Electric membership corporation' means a corporation organized under Article 2 of
59 this chapter.
- 60 (7) 'Electric service provider' means any electric utility, electric membership corporation,
61 or municipal electric utility that is engaged in the business of distributing electricity to
62 retail electric customers in the state.

63 (8) 'Electric supplier' means any electric utility, electric membership corporation
64 furnishing wholesale service, any municipal electric utility or any other person which
65 furnishes wholesale service to any municipality, and the Tennessee Valley Authority.

66 (9) 'Electric utility' means any retail supplier of electricity whose rates are fixed by the
67 commission.

68 (10) 'Municipal electric utility' means a city or town that owns or operates an electric
69 utility.

70 (11) 'Person' means a natural person, corporation, trust, partnership, incorporated or
71 unincorporated association, or any other legal entity.

72 ~~(12) 'Renewable energy sources' means energy supplied from technologies as approved
73 in the Georgia Green Pricing Accreditation Program.~~

74 46-3-53.

75 (a) Any person may operate a cogeneration facility without being subject to the
76 jurisdiction or regulation of the commission if such person uses all of the electric energy,
77 steam, or other form of useful energy produced at such cogeneration facility. The electric
78 energy shall not be sold to any other person except as provided in subsection (b) of this
79 Code section.

80 (b) Any person may operate a cogeneration facility and sell any excess electric energy to
81 an electric supplier without being subject to the jurisdiction or regulation of the
82 commission; provided, however, that nothing in this article shall except a person from
83 compliance with federal law.

84 46-3-54.

85 An electric service provider:

- 86 (1) Shall make either bidirectional metering or single directional metering available to
87 customer generators depending on how the distributed generation facility is connected
88 to the distribution system of the electric service provider;
- 89 (2) Shall enter into a written agreement with the customer generator to charge the
90 customer generator ~~the~~ a commercially reasonable rate established by the commission,
91 or the appropriate governing body, in the case of any other electric service provider or
92 electric supplier, for metering services;
- 93 (3) In setting the fees for metering service, the commission, or the appropriate governing
94 body, in the case of any other electric service provider or electric supplier, will include
95 the direct costs associated with interconnecting or administering metering services or
96 distributed generation facilities and will not allocate these costs among the utility's entire
97 customer base; and
- 98 ~~In establishing such a fee for metering services, the~~ The electric service provider shall
99 not charge the customer generator any standby, capacity, interconnection, or other fee or
100 charge, other than a monthly service charge, unless ~~agreed to by the customer generator~~
101 ~~or~~ approved by the commission, in the case of an electric utility, or the appropriate
102 governing body, in the case of any other electric service provider or electric supplier,
103 after public notice and an opportunity for public comment. All fees imposed on customer
104 generators shall be just, reasonable, and nondiscriminatory; shall be based on the actual
105 cost of providing the service for which the fee is imposed; and must apply to other
106 similarly situated customers who are not customer generators.

107 46-3-55.

108 Consistent with the other provisions of this chapter, the energy flow shall be measured and
109 paid for in the following manner:

110 (1) If the distributed generation facilities are connected to the electric service provider's
111 distribution system on the customer generator's side of the customer's meter, the electric
112 service provider shall:

113 ~~(A) Measure the~~ measure the net electricity produced or consumed during the monthly
114 billing period, in accordance with normal metering practices using bidirectional
115 metering; ~~and~~:

116 ~~(B)~~(A) When the monthly electricity supplied by the electric service provider exceeds
117 the monthly electricity generated by the customer's distributed generation in the
118 monthly billing period, the electricity shall be billed by the electric service provider, in
119 accordance with tariffs filed with the commission, with the electricity generated by the
120 customer's distributed generation offsetting the highest cost electricity supplied during
121 the monthly billing period; or

122 ~~(C)~~(B) When the monthly electricity generated by the customer's distributed generation
123 system exceeds the monthly electricity supplied by the electric service provider in the
124 monthly billing period, the customer generator:

125 (i) Shall be billed for the appropriate customer charges for that monthly billing
126 period; and

127 (ii) Shall be credited for the net excess kilowatt-hours generated during the monthly
128 billing period at an agreed to avoided cost rate as filed with the commission, with ~~this~~
129 such kilowatt-hour credit appearing on the bill for the billing period; or

130 (2) If the distributed generation facilities are connected to the electric service provider's
131 distribution system on the electric service provider's side of the customer's meter, the
132 electric service provider shall:

133 (A) Measure the electricity produced or consumed during the monthly billing period,
134 in accordance with normal metering practices using single directional metering;

135 (B) Charge the customer generator a minimum monthly fee as established in Code
136 Section 46-3-54; and

137 (C) If there is electricity generated by the customer generator for the monthly billing
138 period, the customer generator shall be compensated at an agreed to rate as filed with
139 the commission.

140 46-3-56.

141 (a) An electric service provider will only be required to purchase ~~energy~~ electricity as
142 specified in Code Section 46-3-55 from an eligible customer generator on a first-come,
143 first-served basis until the cumulative generating capacity of all ~~renewable energy sources~~
144 equals 0.2 distributed generation facilities of the electric service provider equals 5 percent
145 of the utility's annual peak demand in the previous year; ~~provided, however, that no electric~~
146 ~~service provider will be required to purchase such energy at a price above avoided energy~~
147 ~~cost unless that amount of energy has been subscribed under any renewable energy~~
148 program, without regard to the number of customer generators.

149 (b) Once the 5 percent cap under subsection (a) of this Code section is reached, the
150 commission shall commence a proceeding to determine the appropriate crediting
151 mechanism for eligible customer generators that interconnect after the effective date
152 established in the commission's final order as a result of such proceeding. In establishing
153 such appropriate crediting mechanism, the commission shall consider the direct and
154 indirect economic impact of distributed generation facilities to the state and shall seek to
155 avoid disruption to the growing market for distributed generation facilities. The crediting
156 mechanism provided under Code Section 46-3-55 shall remain in place unless and until
157 replaced by a final order of the commission pursuant to this Code section. The commission
158 may, if it deems appropriate, raise or remove the 5 percent cap under subsection (a) of this
159 Code section at that time. Once the capacity is subscribed, an electric service provider may
160 ~~purchase energy from an eligible customer generator at a cost of energy as defined for a~~
161 ~~utility by the commission, in the case of an electric utility, or by the appropriate governing~~
162 ~~body, in the case of any other electric service provider or electric supplier.~~

163 (c) A distributed generation facility used by a customer generator shall include, at the
164 customer's own expense, all equipment necessary to meet applicable safety, power quality,
165 and interconnection requirements established by the National Electrical Code, National
166 Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and
167 Underwriters Laboratories.

168 (d) The commission, in the case of an electric utility, or the appropriate governing body,
169 in the case of other electric service providers or electric suppliers, after appropriate notice
170 and opportunity for comment, may adopt by regulation additional safety, power quality,
171 and interconnection requirements for customer ~~generator~~ generators that the commission
172 or governing body determines are necessary to protect public safety and system reliability.

173 (e) An electric service provider ~~may~~ shall not require a customer generator whose
174 distributed generation facility meets the standards in subsections (a) and (b) of this Code
175 section; to comply with additional safety or performance standards, perform or pay for
176 additional tests, or purchase additional liability insurance.

177 (f) No electric service provider or electric supplier shall be liable to any person, directly
178 or indirectly, for loss of property, injury, or death resulting from the interconnection of a
179 cogenerator or distributed generation facility to its electrical system."

180

SECTION 2.

181 Said article is further amended by revising Part 4, relating to the "Solar Power Free-Market
182 Financing Act of 2015"; as follows:

183

"Part 4

184 46-3-60.

185 This part shall be known and may be cited as the 'Solar Power Free-Market Financing Act
186 of 2015.'

187 46-3-61.

188 The General Assembly hereby finds and declares that:

189 (1) It is in the public interest to facilitate customers of electric service providers to invest
190 in and install on their property solar technologies of their choice;

191 (2) Free-market financing of solar technologies may provide more customers with
192 opportunities to install solar technology;

193 (3) Solar energy procurement agreements, and other similar financing arrangements,
194 including those in which the payments are based on the performance and output of the
195 solar technology installed on the property of customers of electric service providers, are
196 financing arrangements which may help reduce or eliminate upfront costs involved in
197 solar technology investments and installation by such customers; and

198 (4) Individuals and entities which offer or receive such financing opportunities through
199 solar energy procurement agreements pursuant to this part should not be considered or
200 treated as electric service providers.

201 46-3-62.

202 As used in this part, the term:

203 (1) 'Affiliate' means any entity directly or indirectly controlling or controlled by or under
204 direct or indirect common control with an electric service provider.

205 (2) 'Aggregated solar facility' means a solar technology that is no more than 3 megawatts
206 in alternating current, serves one or more tax-exempt customers, and is located within the
207 same electric service territory as such tax-exempt customers.

208 ~~(2)~~(3) 'Capacity limit' means a peak generating capacity in alternating current that is no
209 greater than:

210 (A) ~~Ten~~ Twenty kilowatts, for a residential application; or

211 (B) One hundred and twenty-five percent of the actual or expected maximum annual
212 peak demand of the premises the solar technology serves, for a commercial application.

213 ~~(3)~~(4) 'Control' means the power to significantly influence the management and policies
214 of any affiliate, directly or indirectly, whether through the ownership of voting securities,
215 by contract, or otherwise.

216 ~~(4)~~(5) 'Electric service provider' means any electric supplier that is engaged in the
217 business of distributing electricity to retail electric customers in this state.

218 ~~(5)~~(6) 'Electric supplier' has the same meaning as provided in ~~paragraph (3)~~ of Code
219 Section 46-3-3.

220 ~~(6)~~(7) 'Entity' means any business entity, including, but not limited to, a corporation,
221 partnership, limited liability company, or sole proprietorship.

222 ~~(7)~~(8) 'Maximum annual peak demand' means the maximum single hour electric demand
223 actually occurring or expected to occur at a premises, measured at the premises' electrical
224 meter.

225 ~~(8)~~(9) 'Person' means any individual or entity.

226 ~~(9)~~(10) 'Premises' has the same meaning as provided in ~~paragraph (6)~~ of Code Section
227 46-3-3.

228 ~~(10)~~(11) 'Property' means the tract of land on which a premises is located, together with
229 all adjacent contiguous tracts of land owned, occupied, or utilized by or for the same
230 retail electric customer.

231 ~~(11)~~(12) 'Retail electric customer' means a person who purchases electric service from
232 an electric service provider for such person's use and not for the purpose of resale.

233 ~~(12)~~(13) 'Solar energy procurement agreement' means any agreement, lease, or other
234 arrangement under which a solar financing agent finances the installation, operation, or
235 both of solar technology in which the payments are based on the performance and output
236 of the solar technology installed on the property.

237 ~~(13)~~(14) 'Solar financing agent' means any person, including an electric service provider
238 and an affiliate, whose business includes the leasing, financing, or installation of solar
239 technology.

240 ~~(14)~~(15) 'Solar technology' means a system that:

- 241 (A) Generates electric energy that is fueled solely by ambient sunlight;
- 242 (B) Is installed upon property owned ~~or~~, occupied, or utilized by or for a retail electric
- 243 customer; and
- 244 (C) Is connected to the electric service provider's distribution system on either side of
- 245 the electric service provider's meter.
- 246 (16) 'Tax-exempt customer' means a governmental entity or any other entity that is
- 247 exempt from state and federal income tax.

248 46-3-63.

249 (a) Solar technology at or below the capacity limit may be financed by a retail electric

250 customer through a solar financing agent utilizing a solar energy procurement agreement,

251 provided that:

252 (1) Such solar technology and the installation thereof complies with all applicable state

253 laws and all applicable county and municipal ordinances and permitting requirements;

254 and

255 (2) The retail electric customer or the solar financing agent gives notice to the electric

256 service provider serving the premises at least 30 days prior to operation of such solar

257 technology.

258 (b) No electric service provider shall prevent or otherwise interfere with the installation,

259 operation, or financing of solar technology by a retail electric customer through a solar

260 financing agent pursuant to subsection (a) of this Code section, except that an electric

261 service provider may require the retail electric customer to meet applicable safety, power

262 quality, and interconnection requirements as provided in Code Section 46-3-64.

263 (c) An electric service provider not acting as a solar financing agent at the specific

264 property where the liability arises shall not be liable for any loss of assets, injury, or death

265 that may arise from, be caused by, or relate to:

266 (1) The act, or failure to act, of the retail electric customer or the solar financing agent

267 relating to the solar technology;

268 (2) The solar energy procurement agreement or any other agreement between the retail
269 electric customer and the solar financing agent; or

270 (3) The solar technology.

271 (d) A solar financing agent which is not an electric service provider or affiliate may
272 provide solar energy procurement agreements authorized by this part, notwithstanding the
273 restrictions of Part 1 of this article.

274 (e) A property with multiple premises may have multiple solar technologies financed by
275 solar energy procurement agreements; ~~provided, however, that a single solar technology~~
276 ~~is not connected to multiple premises and that the cumulative capacity of solar technologies~~
277 ~~connected to a premises shall not exceed the capacity limit. Solar technology installed to~~
278 ~~serve one premises shall only generate electric energy that is used on and by such premises~~
279 ~~or fed back to an electric service provider.~~

280 46-3-64.

281 (a) For solar technology with a peak generating capacity of not more than ~~10~~ 20 kilowatts
282 for a residential application and not more than 100 kilowatts for a commercial application,
283 the electric service provider may require the retail electric customer or solar financing
284 agent to provide, at the retail electric customer's or solar financing agent's expense, all
285 equipment necessary to meet applicable safety, power quality, and interconnection
286 requirements established by the National Electrical Code, National Electrical Safety Code,
287 Institute of Electrical and Electronics Engineers, and Underwriters Laboratories, prior to
288 interconnecting the solar technology to the electric service provider's electric system. If
289 such applicable safety, power quality, and interconnection requirements are met, an electric
290 service provider shall not require compliance with additional safety or performance
291 standards, require the performance of or payment for additional tests, or require the
292 purchase of additional liability insurance.

293 (b) For solar technology with a peak generating capacity of more than ~~10~~ 20 kilowatts for
294 a residential application and more than 100 kilowatts for a commercial application, the

295 electric service provider may require compliance with additional requirements beyond
296 those specified in subsection (a) of this Code section. Such additional requirements shall
297 include only those necessary to protect public safety, power quality, and system reliability,
298 as supported by engineering documents or other evidence made available by the electric
299 service provider.

300 46-3-65.

301 (a) Provided that the solar technology does not exceed the capacity limit, the leasing,
302 financing, or installation of such solar technology through a solar energy procurement
303 agreement shall not be considered the provision of electric service to the public, retail
304 electric service, or retail supply of electricity by the solar financing agent, and neither the
305 retail electric customer nor the solar financing agent shall be considered an electric supplier
306 within the meaning of Part 1 of this article or in violation of exclusive electric service
307 rights arising therein.

308 (b) Notwithstanding any other provision of law, a solar financing agent's actions under this
309 part shall not cause the solar financing agent to be considered an electric service provider
310 for any purpose under this title.

311 (c) Any electric service provider or affiliate shall be authorized to become a solar
312 financing agent; provided, however, that the restrictions of Part 1 of this article shall apply
313 to any such electric service provider's provision of solar technology. An electric service
314 provider and an affiliate shall be subject to subsection (a) of Code Section 46-3-11 in
315 providing services as a solar financing agent.

316 46-3-66.

317 (a) Except as provided in subsection (d) of Code Section 46-3-63 and subsections (a)
318 and (b) of Code Section 46-3-65, nothing in this part shall be construed as modifying the
319 restrictions of Part 1 of this article on the sale, offer for sale, or distribution of retail electric
320 service in this state.

321 (b) Nothing in this part shall be construed to create or alter rights in real property or to
322 change any restrictions or regulations on the use of real property that may exist under any
323 means, including, but not limited to, a covenant, contract, ordinance, or state or federal law.

324 (c) Nothing in this part shall be construed to restrict, affect, or diminish the ability of any
325 county or municipality to adopt or enforce ordinances, permits, or regulations, or otherwise
326 to exercise any lawful power under the Constitution or laws of this state, including, without
327 limitation, those affecting zoning, land use, or the use of public rights of way.

328 (d) Nothing in this part shall be applied to impair any obligation or right under a contract
329 entered into prior to the effective date of this part or any amendment to or extension of such
330 contract.

331 (e) Nothing in this part shall be applied to any party to a wholesale electric power or
332 transmission service contract entered into prior to the effective date of this part or to any
333 original party to such contract that is subsequently amended or extended to the extent that
334 the financing and installation of the solar technology would cause such party to be in
335 breach of such contract or increase the costs of such contract by \$100,000.00 or more. Any
336 legal successor to substantially all rights and assets of a party shall also be considered a
337 party under this subsection.

338 46-3-67.

339 (a) One or more tax-exempt customers may enter into an agreement with a solar financing
340 agent for the installation, maintenance, and operation of solar technology that is located in
341 the territory of such tax-exempt customers' electric service provider. The solar financing
342 agent may sell subscriptions of the capacity or energy generated from the solar technology
343 to such tax-exempt customers. Such transactions shall not be considered retail sales of
344 electricity and shall not subject the solar financing agent to regulation under this chapter.
345 The solar financing agent shall meter the energy generated from the renewable energy
346 source pursuant to each subscription by a tax-exempt customer and provide such metering
347 information to the electric utility in whose service territory the solar technology is located.

348 (b) Each electric service provider shall provide meter aggregation to all tax-exempt
349 customers that seek to allocate bill credits within a single electric service provider's service
350 territory from one or more aggregated solar facilities. Each electric service provider shall
351 allocate credits to a tax-exempt customer's bill as if the solar technology were located on
352 the tax-exempt customer's premises, as specified in Code Section 46-3-55.

353 (c) If an aggregated solar facility and the tax-exempt customer's metered accounts are
354 served by the same electric service provider, a tax-exempt customer may elect to have bill
355 credits from one or more aggregated solar facilities allocated to the tax-exempt customer's
356 accounts within the service territory without regard to physical location.

357 (d) The annual allocated credits in kilowatt hours may not exceed 125 percent of the prior
358 three-year annual average usage of the tax-exempt customer's aggregated metered accounts
359 to which the bill credits are transferred.

360 (e) Subject to review by the commission in the case of an electric utility, or by the
361 appropriate governing body in the case of any other electric service provider, each electric
362 service provider shall adopt a tariff providing for meter aggregation which complies with
363 this Code section by January 1, 2022.

364 46-3-68.

365 (a) A utility shall maintain and provide at least 24 months of meter usage data or the
366 period of time that a customer has had an account at a given address, whichever is less.
367 Customers shall have the right to access their own meter usage data and to share their own
368 meter usage data with authorized third parties of their choice to obtain services or products
369 provided by those third parties. As part of basic utility service, an electric service provider
370 shall provide meter usage data in electronic machine-readable form, without additional
371 charge, to the customer or to any third-party recipient to whom the customer has authorized
372 disclosure of the customer's meter usage data. Such access shall conform to nationally
373 recognized open standards and best practices and shall be provided in 15 minute intervals,
374 or the shortest interval available through existing meters.

375 (b) If requests are made for information other than meter usage data or data older than
376 24 months preceding the request, the electric utility may charge customers a fee to provide
377 such data. The amount of such fee shall be established by the commission based on the
378 amount the commission deems reasonable based on the utility's marginal cost to provide
379 such data.

380 (c) On or before October 1, 2022, each electric utility shall file a proposed process with
381 the commission in conformity with this Code section to allow customers to access their
382 own meter usage data and to share such data with third parties authorized by the customer.
383 Following notice and an opportunity to comment, the commission shall adopt or amend
384 such proposed process, which the electric utility shall make available to customers within
385 nine months of the commission's final order."

386 **SECTION 3.**

387 This Act shall become effective on July 1, 2022.

388 **SECTION 4.**

389 All laws and parts of laws in conflict with this Act are repealed.