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Sixty-seventh
Legislative Assembly
of North Dakota

SENATE BILL NO. 2295

Introduced by

Senators Piepkorn, Hogan, Mathern

Representatives Dobervich, Hager

A BILL for an Act to create and enact chapter 49-20.2 of the North Dakota Century Code, relating to net metering of electricity.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. Chapter 49-20.2 of the North Dakota Century Code is created and enacted as follows:

49-20.2-01. Definitions.

As used in this chapter:

1. "Annualized billing period" means:
   a. A twelve-month billing cycle beginning on a fiscal or calendar year; or
   b. An additional twelve-month billing cycle as defined by an electric provider's net metering tariff or rate schedule.
2. "Customer-generated electricity" means electricity that:
   a. Is generated by a customer generation system for a customer participating in a net metering program;
   b. Exceeds or offsets the electricity the customer needs for the customer's own use; and
   c. Is supplied to the electric provider's administering the net metering program.
3. "Customer generation system":
   a. Means an eligible facility used to supply energy to or for a specific customer that:
      (1) Has a generating capacity of not more than one hundred kilowatts;
      (2) Is located on, or within the electric provider's service territory, subject to its service requirements;
      (3) Operates in parallel and is interconnected with the electric provider's distribution facilities;

(4) Is intended primarily to offset part or all the customer's requirements for electricity; and

(5) Is controlled by an inverter; and

b. Includes an electric generator and its accompanying equipment package.

4. "Electric provider" means an electric public utility or a rural electric cooperative.

5. "Eligible facility" means a facility that uses energy derived from one of the following to generate electricity:

a. Solar photovoltaic and solar thermal energy;

b. Wind energy;

c. Hydrogen;

d. Organic waste;

e. Hydroelectric energy;

f. Waste gas and waste heat capture or recovery;

g. Biomass and biomass byproducts, except for the combustion of:

(1) Wood that has been treated with chemical preservatives such as creosote, pentachlorophenol, or chromated copper arsenate; or

(2) Municipal waste in a solid form;

h. Forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce wildfire risk;

i. Agricultural residues;

j. Dedicated energy crops;

k. Landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters, or municipal solid waste;

l. Geothermal energy; or

m. An electron-based storage device.

6. "Equipment package" means a group of components connecting an electric generator to an electric distribution system, including all interface equipment and the interface equipment's controls, switchgear, inverter, and other interface devices.

7. "Excess customer-generated electricity" means the amount of customer-generated electricity in excess of the customer's consumption from the customer generation system during a monthly billing period, as measured at the electric provider's meter.

8. "Fuel cell" means a device in which the energy of a reaction between a fuel and an oxidant is converted directly and continuously into electrical energy.

9. "Inverter" means a device that:

   a. Converts direct current power into alternating current power that is compatible with power generated by an electric provider; and

   b. Has been designed, tested, and certified to underwriters' laboratories standard 1741 or another equivalent standard, and installed and operated in accordance with institute of electrical and electronics engineers standard 1547.

10. "Net electricity" means the difference, as measured at the meter owned by the electric provider between:

   a. The amount of electricity an electric provider supplies to a customer participating in a net metering program; and

   b. The amount of customer-generated electricity delivered to the electric provider.

11. "Net metering" means measuring the amount of net electricity for the applicable billing period.

12. "Net metering program" means a program administered by an electric provider whereby a customer with a customer generation system may:

   a. Generate electricity primarily for the customer's own use;

   b. Supply customer-generated electricity to the electric provider; and

   c. If net metering results in excess customer-generated electricity during a billing period, receive a credit as provided in section 49-20.2-03.

13. "Switchgear" means the combination of electrical disconnects, fuses, or circuit breakers:

   a. Used to isolate electrical equipment and de-energize equipment to allow work to be performed or faults downstream to be cleared; and

   b. Designed, tested, and certified to underwriters' laboratories standard 1741 or another equivalent standard, and installed and operated in accordance with institute of electrical and electronics engineers standard 1547.

49-20.2-02. Net metering program - Metering equipment - Interconnection agreement.

1. Each electric provider shall:

   a. Make a net metering program available to the electric provider's customers; and

b. Allow customer generation systems to be interconnected to the electric provider's facilities using, except as provided in subsection 4, a kilowatt-hour meter capable of net metering.

2. a. Notwithstanding subdivision b of subsection 1, an electric provider may require a customer participating in the electric provider's net metering program to use metering equipment other than a standard kilowatt-hour meter if the commission, after appropriate notice and opportunity for public comment:

(1) Determines the use of other metering equipment is necessary and appropriate to monitor the flow of electricity from and to the electric provider; and

(2) Approves the requirement for other metering equipment, after considering the benefits and costs associated with the other metering equipment.

b. If the electric provider requires other metering equipment under subdivision a, the electric provider shall determine how the cost of purchasing and installing the other metering equipment is to be allocated between the electric provider and the customer, but not more than twenty-five percent may be allocated to the customer.

3. An electric provider may require a customer to enter an interconnecting agreement and disclose the necessary control equipment needed to interconnect which may not additionally burden the customer connecting the customer generation system to the electric provider's facilities.

49-20.2-03. Charges or credits for net electricity.

Each electric provider with a customer participating in a net metering program shall measure net electricity on a net energy basis as follows:

1. If the customer's kilowatt-hour usage plus any kilowatt-hour credits created under subsection 3 exceed the customer-generated electricity delivered to the electric provider during the monthly billing period, the electric provider shall bill the customer for the net electricity, in accordance with normal billing practices with a value per kilowatt hour equal to what the electric provider would otherwise have charged per kilowatt hour for electricity supply during that monthly billing period.

2. If the customer-generated electricity plus any kilowatt-hour credits created under subsection 3 from previous billing periods exceed the customer's kilowatt-hour usage during the billing period, the excess must be applied to the customer's bill for the following billing period as a reduction in the customer's kilowatt-hour usage.
3. A customer may accumulate unused kilowatt-hour credit and apply the credit against kilowatt-hour usage over a twelve-month rolling period. At the end of each twelve-month rolling period, any accumulated unused kilowatt-hour credit must be eliminated and may not be applied against any future kilowatt-hour usage. The customer will not receive any compensation for unused kilowatt-hour credit created and unused more than twelve months prior.

49-20.2-04. Determination of costs and benefits - Determination of just and reasonable charge, credit, or ratemaking structure.

The commission shall:

1. Determine, after appropriate notice and opportunity for public comment, whether costs the electric provider or other customers will incur from a net metering program will exceed the benefits of the net metering program, or whether the benefits of the net metering program will exceed the costs; and
2. Determine a just and reasonable charge, credit, or ratemaking structure, including new or existing tariffs, in light of the costs and benefits.

49-20.2-05. Customer to provide equipment necessary to meet certain requirements - Commission may adopt additional reasonable requirements - Testing an inspection of interconnection.

1. Each customer participating in a net metering program shall provide at the customer's expense all equipment necessary to meet:
   a. Applicable local and national standards regarding electrical and fire safety, power quality, and interconnection requirements established by the national electrical code, the national electrical safety code, the institute of electrical and electronics engineers, and underwriters laboratories; and
   b. Any other electric provider interconnection requirements as determined by the commission by rule made in accordance with North Dakota Administrative Code chapter 69-09-07.

2. After appropriate notice and opportunity for public comment, the commission may adopt by rule additional reasonable safety, power quality, and interconnection requirements for customer generation systems the commission considers to be necessary to protect public safety and system reliability.

3. a. If a customer participating in a net metering program complies with requirements referred to under subsection 1 and additional requirements established under subsection 2, an electric provider may not require that customer to:

(1) Perform or pay for additional tests; or

(2) Purchase additional liability insurance.

b. An electric provider may not be held liable for permitting or continuing to permit an interconnection of a customer generation system to the electric provider's system or for an act or omission of a customer participating in a net metering program for loss, injury, or death to a third party.

4. An electric provider may test and inspect an interconnection at times the electric provider considers necessary to ensure the safety of electrical workers and to preserve the integrity of the electric power grid.

5. The electrical function, operation, or capacity of a customer's immediate generation system, at the point of connection to the electric provider's distribution system, may not compromise the quality of service to the electric provider's other customers. Any carbon credits or renewable energy credits associated with the distributed power generation must be retained by the interconnected power generator.