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HOUSE BILL 189

56TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2024

INTRODUCED BY

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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:

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

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1 Solar Act:

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

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

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

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

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

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

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

25 (6) is intended primarily to offset part or

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1 all of the qualifying low-income multifamily residential
2 property's requirements for electricity and is subject to the
3 following maximum allocations:

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

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

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

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

19 D. "net electricity" means the difference, which
20 can be either positive, negative or zero, within a billing
21 period between the electricity produced by a user's allocation
22 from a low-income housing shared distributed generation system
23 and the electricity that the utility delivered to that user;

24 E. "qualifying low-income multifamily residential
25 property" means a multifamily residential property with at

1 least five rental housing units that:

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

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

19 F. "qualifying low-income residential building"
20 means a residential rental building that participates in:

21 (1) a housing program defined in Section
22 41411(a) of the federal Violence Against Women Act of 1994;

23 (2) a housing assistance program administered
24 by the United States department of agriculture under Title 5 of
25 the federal Housing Act of 1949;

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1 (3) a housing program administered by a
2 tribally designated housing entity as defined in Section 4(22)
3 of the federal Native American Housing Assistance and
4 Self-Determination Act of 1996; or

5 (4) such other affordable housing programs as
6 state or federal law may provide;

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

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

17 I. "user" means:

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

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

25 (3) a master meter operator that receives

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1 either an allocation of, or all of, the capacity or associated
2 electricity production from a low-income housing shared
3 distributed generation system and allocates the benefits to
4 residential tenants in the form of additional property
5 amenities or services, which are equitably accessible to all
6 residents of the property, regardless of the legal ownership of
7 the system;

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

14 K. "virtual net metering" means a utility tariff
15 arrangement that enables individually metered billing accounts
16 of a qualifying low-income multifamily residential property to
17 receive calculated bill credits for their allocated share of a
18 qualifying low-income residential building project's energy
19 generation."

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

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

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1 follows:

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

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

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

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

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

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

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

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

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

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

15 (3) except as otherwise specified in this
16 section, users shall be billed for service in accordance with
17 the rate structure and monthly charges that the user would be
18 assigned if the user had not been a user of a low-income
19 housing shared distributed generation system."

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

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

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

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1 in the same rate class.

2 B. A utility shall not require a user to be placed
3 in a rate class based on the user's status as a user of a
4 low-income housing shared distributed generation system.

5 However, a utility shall, regardless of actual electricity
6 usage, allow owners or users of low-income housing shared
7 distributed generation systems, at their option, to be placed
8 in the utilities' residential or small commercial rate class.

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

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

18 "[NEW MATERIAL] PUBLIC REGULATION COMMISSION--RULES.--By
19 July 1, 2025, the commission shall adopt rules prescribing the
20 form and substance for a low-income housing shared distributed
21 generation system virtual net metering tariff or tariffs and a
22 standard low-income housing shared distributed generation
23 contract between the utility and the system owner. The rules
24 shall include:

25 A. the particular provisions, limitations and

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1 responsibilities of owners and users of low-income housing
2 shared distributed generation systems and the utility, which
3 shall be included in a standard shared virtual net metering
4 tariff;

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

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

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

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

22 C. the manner and frequency, which shall be at
23 least annually, in which owners of low-income housing shared
24 distributed generation systems may update utilities on the
25 proper allocation of capacity and associated electricity

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1 production to various users;

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

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

11 SECTION 6. A new section of the Property Tax Code is
12 enacted to read:

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

15 A. A solar energy system subject to valuation for
16 property taxation purposes shall be valued at zero dollars
17 (\$0.00).

18 B. As used in this section, "solar energy system"
19 means a device that:

- 20 (1) is installed on residential property;
21 (2) includes equipment that is part of a
22 system designed and installed to use, collect, store or
23 distribute solar energy to provide electricity, heat or heated
24 water to a residence where the device or equipment is
25 installed;

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1 (3) includes photovoltaic panels, solar
2 thermal technology, energy storage equipment, mounting
3 equipment, support structures, tracking equipment, monitoring
4 equipment or other power condition equipment; and

5 (4) is used, produced, manufactured, held for
6 sale, leased or maintained by a person for purposes of the
7 person's profession, business or occupation."

8 SECTION 7. APPLICABILITY.--The provisions of Section 6 of
9 this act apply to valuations for property tax purposes that are
10 made on or after January 1, 2025.

11 SECTION 8. EFFECTIVE DATE.--The effective date of the
12 provisions of this act is July 1, 2024.

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