HOUSE BILL 365

AN ACT relative to net energy metering limits for customer generators.


COMMITTEE: Science, Technology and Energy

ANALYSIS

This bill increases the electric generating capacity of customer generators who may participate in net energy metering and modifies the transition of tariffs applicable to certain customer-generators. The bill also clarifies the definition of eligible customer-generator for purposes of the utility property tax.

Explanation: Matter added to current law appears in bold italics. Matter removed from current law appears [in bracketed and struckthrough.] Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Nineteen

AN ACT relative to net energy metering limits for customer generators.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 Findings. The general court finds that:

I. New Hampshire's electricity consumers, including municipalities, manufacturers, commercial businesses, and other large users, strongly support more competitive retail options to lower their energy costs.

II. These same consumers deserve the freedom to invest their own capital to become more self-sufficient and energy independent and less reliant on out-of-state electricity companies that control our high electricity rates.

III. ISO-New England, Inc., the independent, nonprofit regional transmission organization that oversees the operation of New England's bulk electric power system and transmission lines, has stated that infrastructure constraints could pose a challenge to the reliable operation of the regional power grid, create price increases and volatility, and contribute to increased air emissions, all of which would adversely impact New Hampshire's citizens, businesses, and economy.

IV. The current size limit of one megawatt on customer-generators that may participate in net energy metering is an unnecessary barrier that denies larger electricity users the same rights that smaller users already have to produce and use local renewable power that reduces their energy costs, increases supply, and insulates all New Hampshire ratepayers from electric price volatility and higher transmission costs.

V. The current size limit is also a barrier to significant investment in existing and new small renewable energy projects, which would help keep our energy dollars in-state, drive economic activity, support good-paying jobs, and increase state and local business and property tax revenues.

VI. The federal Public Utility Regulatory Policies Act (PURPA) as amended by the Energy Policy Act of 2005 calls upon states to consider the adoption and implementation of net metering policies. PURPA as amended states that electricity generated by an eligible on-site generating facility may be used to offset electric energy provided by the electric utility and allows states to define an eligible facility. Furthermore, under ISO New England's rules, a generating facility of less than 5 megawatts that is connected to the distribution grid is not required to register with ISO New England as a generator or participate in the wholesale energy markets; rather, if the generating facility elects not to register as a wholesale market participant or retires from such status, the customer generator is to be treated by ISO New England as a retail load reducer.
VII. It is therefore also in the best interests of all citizens of New Hampshire that the size
limit on customer-generators that may participate in net energy metering and serve as retail load
reducers be increased from one megawatt to up to but not including 5 megawatts to increase
customer supply choice, foster a more robust retail market for local renewable energy, help mitigate
the cost of electric service in the state, reduce the price volatility of that service, and reduce the
potential for disruptions in electricity supply due to inadequate wholesale generating capacity in the
New England marketplace.

2 Definition; Customer-generator. Amend RSA 362-A:1-a, II-b to read as follows:
II-b. "Eligible customer-generator" or "customer-generator" means an electric utility
customer who owns, operates, or purchases power from an electrical generating facility either
powered by renewable energy or which employs a heat led combined heat and power system, with a
[total peak generating] nameplate or maximum rated capacity of [up to and including one
megawatt,] less than 5 megawatts and that is located behind a retail meter on the customer's
premises, is interconnected and operates in parallel with the electric grid, and is used to offset the
customer's own electricity requirements in the first instance. Incremental generation added to an
existing generation facility, that does not itself qualify for net metering, shall qualify if such
incremental generation meets the qualifications of this paragraph and is metered separately from
the nonqualifying facility.

3 Net Energy Metering; Net Effects. Amend RSA 362-A:9, VII to read as follows:
VII. (a) A distribution utility may perform an annual calculation to determine the net effect
this section had on its default service and distribution revenues and expenses in the prior calendar
year. The method of performing the calculation and applying the results, as well as a reconciliation
mechanism to collect or credit any such net effects with appropriate carrying charges and credits
applied, shall be determined by the commission.

(b) For the purposes of accounting for any exports to the distribution grid by
customer-generators, such exports shall be treated as reductions to the customer-
generator's electricity supplier's wholesale load obligation for energy supply as a load
serving entity, net of any applicable line loss adjustments as approved by the commission.

(c) A generator that first becomes operational on or after July 1, 2019 shall only
be eligible to participate in net metering as a customer-generator if it does not register as a
generator with ISO New England, is not considered a “Network Resource” or “Asset” by ISO
New England, and does not participate in any other sale of electricity in interstate
commerce.

(d) A generator that first became operational before July 1, 2019 and that has
outstanding capacity commitments in the forward capacity market administered by ISO
New England, is registered as a generator with ISO New England, or is considered a
“Network Resource” or “Asset” by ISO New England, may elect to become a customer-
generator and participate in net metering upon retirement from all wholesale electric markets administered by ISO New England. A generator in the process of retiring from FERC regulated electric markets may prospectively register as a group host pursuant to paragraph XIV provided that net metering tariffs under this section shall not be effective until such retirement is effective.

(e) Any provisions of settlement agreements or orders that have been approved or issued by the commission that relate to a distribution utility’s treatment of the output from qualifying facilities or independent power producers shall not apply to the output from an eligible customer-generator participating in net metering.

4 Net Energy Metering; Transition of Tariffs. Amend RSA 362-A:9, XV to read as follows:

XV. Standard tariffs that are available to eligible customer-generators under this section shall terminate on December 31, 2040 and such customer-generators shall transition to tariffs that are in effect at that time. Alternative tariffs shall be applicable and have such grandfathering provisions as may be approved or adopted by the commission under this section. Customer-generators with a nameplate or maximum rated capacity of more than one megawatt and less than 5 megawatts that are eligible for net metering before the commission adopts tariffs specifically for customer-generators with a generating capacity of more than one megawatt shall:

(a) Be eligible to receive the export credit rate approved by the commission in Order No. 26,029 (DE 16-576) for one megawatt sized customer-generators on default service, namely, the applicable default energy service rate.

(b) Be grandfathered by the terms of currently applicable tariffs for customer-generators with a total peak generating capacity of one megawatt if the customer-generator’s electrical generating facility first becomes operational on or after July 1, 2019.

(c) Transition to such new tariffs as are specifically approved by the commission for customer-generators with a nameplate or maximum rated capacity of more than one megawatt if the customer-generator’s electrical generating facility first became operational before July 1, 2019.

5 Utility Property Tax; Eligible Customer-Generator; Exclusion Clarified. Amend RSA 83-F:1, V(d) to read as follows:

(d) The electrical generation, production, storage, and supply equipment of an "eligible customer-generator" as defined in RSA 362-A:1-a, II-b, up to and including one megawatt;

6 Effective Date. This act shall take effect 60 days after its passage.

VETOED June 3, 2019
Veto Sustained September 18, 2019
AN ACT relative to net energy metering limits for customer generators.

FISCAL IMPACT: [ X ] State [ X ] County [ X ] Local [ ] None

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METHODOLOGY:

This bill increases the electric generating capacity of customer generators who may participate in net energy metering and modifies the transition of tariffs applicable to certain customer-generators. The bill also clarifies the definition of eligible customer-generator for purposes of the utility property tax.

The Public Utilities Commission (PUC) indicates this bill would increase net metering eligibility from the current 1-megawatt capacity level to a nameplate or maximum rated capacity of less than 5 megawatts. Generation capacity located behind the retail meter on the customer's site, interconnected and operating in parallel with the electric grid, and used to offset the customer's own load in the first instance, would qualify as an “Eligible Customer Generator” under proposed RSA 362-A:1-a, II-b.

The bill would impose accounting treatment upon exports of energy to the distribution grid by customer generators and make the provisions of settlement agreements and orders of the PUC relating to a distribution utility's treatment of the output from qualifying facilities or
independent power producers inapplicable to the output from eligible customer generators participating in net metering.

The bill determines the net metering credit to be paid to newly eligible customer generators and provides certain grandfathering rights. The bill clarifies that the utility property tax exemption for customer generators up to and including 1 megawatt would remain in place and that newly eligible facilities with greater capacity would not be eligible for the exemption.

The PUC reports there 25 existing projects in New Hampshire with nameplate capacity values between 1 megawatt and 5 megawatts that could be eligible to net meter under this bill once they no longer have a capacity commitment with ISO-NE or are no longer a registered generator with ISO-NE. Retiring from the wholesale markets normally takes several years, so the fiscal impact from the current generators choosing to qualify as an “Eligible Customer Generator” would not occur until after FY 2023, beyond the period consider by the fiscal note. The existing generators would likely become eligible in the future. Exports to the grid from the existing facilities as well as new "eligible customer-generators" would be treated as "reductions to the customer-generator's electric supplier's wholesale load obligation for energy supply as a load serving entity, net of any applicable line loss adjustments as approved by the commission."

The net effects on default service, distribution revenues and the costs of increasing the eligibility of net metering under this bill may be conducted annually by the distribution utility, and the net effects may be credited or collected by the utility in a manner determined by the commission. The PUC states the effect of such exports is difficult to determine. The PUC does not know how many new eligible facilities will be built but expects the bill would result in the development of new projects, especially at municipal sites. The overall effect also will depend on whether and to what extent a default service provider will factor any additional risk from the provisions of this bill into their default service bids. The PUC has no information from default service providers upon which to base the potential cost effect of that risk. Based on the uncertainty associated with the bill's impact on market behavior, the effect on electric rates and therefore on state, county and local government expenditures is indeterminable.

AGENCIES CONTACTED:
Public Utilities Commission