

CHAPTER 218
SB 321 - FINAL VERSION

03/17/2022 1059s
4May2022... 1641h

2022 SESSION

22-3054
12/10

SENATE BILL **321**

AN ACT relative to the purchase of output of limited electrical energy producers in intrastate commerce and including qualifying storage systems.

SPONSORS: Sen. Watters, Dist 4; Sen. Bradley, Dist 3; Sen. Sherman, Dist 24; Sen. Perkins Kwoka, Dist 21; Rep. Cali-Pitts, Rock. 30; Rep. McWilliams, Merr. 27

COMMITTEE: Energy and Natural Resources

AMENDED ANALYSIS

This bill amends the definition of a limited electrical energy producer and permits the public utilities commission to approve certain pilot programs.

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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Two

AN ACT relative to the purchase of output of limited electrical energy producers in intrastate commerce and including qualifying storage systems.

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

1 218:1 Limited Electrical Energy Producers Act; Definitions. Amend RSA 362-A:1-a, III to read as
2 follows:

3 III. "Limited producer" or "limited electrical energy producer" means a qualifying small power
4 producer, ***a qualifying storage system***, or a qualifying cogenerator, with a [total] ***maximum rated***
5 ***generating or discharge*** capacity of [~~not more~~] ***less*** than 5 megawatts ***that:***

6 (a) ***Does not participate in net energy metering. Non-participation in net energy metering***
7 ***may be achieved by canceling participation in such upon assuming limited production.***

8 (b) ***Is not registered as a generator, asset, or network resource with ISO New England.***

9 (c) ***Does not otherwise participate in any FERC jurisdictional wholesale electricity markets,***
10 ***except as an alternative technology regulation resource (ATRR) to the extent ATRRs are deemed by ISO***
11 ***New England to function as retail or network load reducers for all other ISO New England purposes. Such***
12 ***non-participation in FERC jurisdictional interstate wholesale markets may be achieved by retirement from***
13 ***such markets.***

14 218:2 New Paragraph; Definition; Qualifying Storage System. Amend RSA 362-A:1-a by inserting
15 after paragraph IX the following new paragraph:

16 IX-a. "Qualifying storage system" means an electric energy storage system as defined in RSA
17 72:84.

18 218:3 New Section; Limited Electrical Energy Producers Act; Authorization of Pilots. Amend RSA
19 362-A by inserting after section 2-a the following new section:

20 362-A:2-b Authorization of Pilots.

21 I. In this section, the terms "capacity commitment period," "capacity supply obligation,"
22 "coincident peak demand," and "load-serving entity (LSE)" shall have the meanings as used by ISO New
23 England, Inc. (ISO-NE).

24 II. The public utilities commission is authorized to approve one or more proposed pilots of the
25 concepts expressed in this section through orders issued pursuant to adjudicated proceedings in which a
26 pilot is proposed, without the need to adopt any administrative rules of general application for such pilots.

27 III. Before approving any pilots authorized in paragraph II, the commission shall open a docket to
28 determine definitively whether any jurisdictional conflicts exist concerning the use of the distribution or
29 transmission system, including a determination about whether the activities allowed by this chapter would
30 require a utility to violate its transmission owners operators agreement or require a recalculation of any

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1 ISO-NE open access transmission tariffs, and whether such projects produce avoided transmission cost
2 savings. Upon successful resolution of these questions, the commission may approve pilot projects.

3 IV. Pilot projects shall be subject to the following limits:

4 (a) Projects shall be limited to 2 megawatts in size.

5 (b) No more than one pilot shall be permitted for any utility.

6 (c) Pilot projects shall end no later than 10 years from their initiation.

7 (d) Each pilot project shall deliver a study 3 years after project initiation to report to the
8 commission on the consumer benefits of the project.

9 V. The commission may waive any existing provisions of RSA 362-A:2-a, utility tariffs, or
10 administrative rules in its authorization of any pilots approved pursuant to this section.

11 VI. If any pilot approved under this section terminates prior to December 31, 2040, any limited
12 producer participating in such pilot may continue to be interconnected and take service as a customer-
13 generator under RSA 362-A:9 pursuant to any net metering or group net metering tariff to which they
14 would have otherwise been eligible at the start of the pilot absent participation in the pilot or any other
15 available option under law or applicable tariffs in effect at the time of termination of the pilot.

16 VII. Each electric distribution utility may propose and participate in a pilot, in conjunction with a
17 competitive electric power supplier or municipal or county aggregation, pursuant to RSA 53-E, operating
18 as or in conjunction with a load-serving entity. The commission may approve provisions to cover
19 incremental costs of the utility related to any such approved pilot.

20 VIII. If approved pursuant to this section, a limited producer of electrical energy may sell its
21 produced electrical energy to one or more purchasers other than the franchise electric utility. Such
22 purchasers may be any non-residential retail electricity customers located within the same New
23 Hampshire electric distribution utility franchise area where the limited producer is located, or any
24 electricity suppliers serving retail load within such area.

25 IX. Intrastate sales of electricity across the distribution grid under an approved pilot shall be
26 facilitated and accounted for by load-serving entities that are either competitive electricity suppliers
27 registered with the department under RSA 374-F:7, or municipal or county aggregations under RSA 53-E
28 operating as or in conjunction with load-serving entities. Electric distribution utility provided default energy
29 service shall not be required to facilitate, account for, or otherwise enable the participation of limited
30 producers in sales of electricity or purchases of power from limited producers.

31 X. To participate in such intrastate sales of electricity over the distribution grid a limited producer
32 must be equipped with a revenue grade interval meter that can accurately measure hourly imports from
33 and exports to the distribution grid and report such meter data to the distribution utility for daily load
34 settlement purposes. Exports to the distribution grid by a limited producer shall be accounted for as
35 reductions or offsets to the load obligation of the load serving entity serving the limited producer for load
36 settlement in the ISO New England wholesale electricity market.

37 XI.(a) The sponsors of a pilot, including the participating electric distribution utility, may petition
38 the commission to determine, through an adjudicated proceeding, how credits for actual avoided
39 transmission charges are to be made for exports to the distribution grid by limited producers during hours

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1 of coincident peak on which transmission costs are allocated to reduce the retail load measured at the
2 point of interconnection between the distribution system under state jurisdiction and transmission facilities
3 under federal jurisdiction. Said costs shall be allocated to the distribution utility as transmission network
4 customer are reduced from what they otherwise would be absent the electricity exported to the distribution
5 grid by the limited producer. Such credit shall be made pursuant to either subparagraph (b) or (c) as
6 proposed and determined by the commission to be for the public good.

7 (b) Monthly transmission charges incurred by the distribution utility as the transmission
8 network customer may be allocated to the load serving entity for payment by the LSE for all or part of the
9 retail meters within its retail metering subdomain, under terms and conditions approved by the
10 commission. Such allocation shall be made based on the share of the LSE's network load, or the share of
11 its network load by participating meters, at the monthly hour of coincident peak demand on which the
12 applicable monthly transmission charges are incurred in proportion to the utility's applicable total network
13 load. In such an event, the customers within such LSE's metering subdomain shall no longer be subject
14 to the distribution utility's transmission charges, after accounting for any prior period over or under
15 collection of transmission costs, such that there is an equitable allocation of transmission costs
16 accounting for applicable leads and lags in how such costs are incurred and paid for as determined by the
17 commission.

18 (c) The limited producer or their load serving entity may receive credit or payment for actual
19 avoided transmission charges based on measurement of exports to the distribution grid at the retail meter
20 point without additional credit for avoided line and transformation losses in the distribution and
21 transmission grids to provide some sharing of the benefit of reduced transmission charges with other
22 ratepayers who do not participate in such intrastate electricity sales by limited producers. In such an
23 event, the customers within such LSE's metering subdomain shall continue to pay the utility's regular
24 transmission charges from which such credits or payments shall be made.

25 XII. Purchasers of power from limited producers participating in the pilot shall pay for the delivery
26 of such power through tariffs, charges, and rates that are generally applicable to the customer's rate
27 class, except for default energy service charges if not applicable and transmission charges as they may
28 be adjusted pursuant to this section.

29 XIII. To the extent that limited producers participating in the pilot are exporting power to
30 distribution grid at the annual hour of coincident peak demand on which capacity supply obligations are
31 incurred for any given capacity commitment period and such exports reduce overall capacity supply
32 obligations from what they would otherwise be absent such exports to the grid, such reduced capacity
33 supply obligations shall be assigned to the LSE serving such limited producers as approved by the
34 commission. To the extent such exports to the grid are purchased by the LSE as an intrastate wholesale
35 transaction the LSE may in turn prorate its reduced capacity supply obligation attributable to such exports
36 to reduce the capacity tags for all meters served by it within its applicable meter subdomain at the time of
37 the annual coincident peak demand for the applicable capacity commitment period. To the extent such
38 exports to the grid are sold by the Limited Producer at retail to individual customers such reduced capacity
39 supply obligations attributable to such exports may be assigned to reduce the capacity tags assigned to

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1 the meters of such customers, as determined by the LSE serving such customers at the time of the
2 applicable annual hour of coincident peak demand for the applicable capacity commitment period.
3 However, in no case shall the capacity tag assigned to any one retail meter, including that of the limited
4 producer, be reduced below zero.

5 218:4 New Section; Electric Renewable Portfolio Standard; Exclusion to Amount of Electricity
6 Supplied. Amend RSA 362-F by inserting after section 3 the following new section:

7 362-F:3-a Exclusions to the Amount of Electricity Supplied. If a provider of electricity has revenue
8 grade meter data on the quantity of exports to the grid from a qualifying storage system as defined in RSA
9 362-A:1-a to the extent that it is charged from the grid, such amounts may be deducted from the
10 calculation of electricity supplied by the provider to its end-use customers for the applicable year for
11 purposes of compliance with RSA 362-F:3 as determined and provided for by the commission.

218:5 Effective Date. This act shall take effect upon its passage.

Approved: June 17, 2022
Effective Date: June 17, 2022