

SENATE CONSERVATION COMMITTEE SUBSTITUTE FOR
SENATE BILL 697

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

AN ACT

RELATING TO THE PUBLIC PEACE, HEALTH, SAFETY AND WELFARE;
PROVIDING FOR SHARED RENEWABLE ENERGY FACILITIES TO QUALIFY AS
DISTRIBUTED GENERATION FACILITIES; REQUIRING INVESTOR-OWNED
UTILITIES TO ALLOW CONSTRUCTION, CONNECTION AND OPERATION OF
SHARED RENEWABLE ENERGY FACILITIES WITHIN THEIR OPERATING
TERRITORIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. Section 62-13-13.1 NMSA 1978 (being Laws 2010,
Chapter 102, Section 1 and Laws 2010, Chapter 103, Section 1)
is amended to read:

"62-13-13.1. RENEWABLE ENERGY DISTRIBUTED GENERATION
FACILITIES--OWNERS AND OPERATORS NOT PUBLIC UTILITIES.--

A. Notwithstanding any other provision of the
Public Utility Act to the contrary, a person not otherwise a

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1 public utility shall not be deemed to be a public utility
2 subject to the jurisdiction, control or regulation of the
3 commission and the provisions of the Public Utility Act solely
4 because the person owns or controls all or any part of any
5 renewable energy distributed generation facility that:

6 (1) is located on the host's site or is a
7 shared renewable energy facility;

8 (2) produces electric energy used:

9 (a) at the host's site and sold to the
10 host or the host's tenants or employees located at the host's
11 site; or

12 (b) by customers who are shared
13 renewable energy subscribers; and

14 (3) shares a common point of connection with
15 the electric utility serving the area and the host or the
16 host's tenants and employees served by the renewable energy
17 distributed generation facility or, in the case of a shared
18 renewable energy facility, has a point of connection to the
19 electric utility serving the area, including the shared
20 renewable energy subscribers.

21 B. Nothing contained in this section shall be
22 interpreted to prohibit the sale of energy produced by the
23 renewable energy distributed generation facility to the
24 electric utility serving the area in which the renewable energy
25 distributed generation facility is located.

1 C. The shared renewable energy facility may be
 2 owned by a customer of a public utility or a third party. The
 3 public utility may acquire renewable energy certificates from
 4 the owner of the shared renewable energy facility or from a
 5 third party at rates established in the utility's renewable
 6 procurement plan.

7 ~~[G.]~~ D. As used in this section:

8 (1) "host" means the customer of a public
 9 utility who uses the electric energy produced by a renewable
 10 energy distributed generation facility and occupies the site
 11 upon which the renewable energy distributed generation facility
 12 is located;

13 (2) "renewable energy distributed generation
 14 facility" means a facility that produces electric energy by the
 15 use of renewable energy and that is sized to supply no more
 16 than one hundred twenty percent of the average annual
 17 consumption of electricity by the host at the site of the
 18 renewable energy distributed generation facility or a facility
 19 that is a shared renewable energy facility that is sized at no
 20 more than ten megawatts alternating current in accordance with
 21 applicable interconnection rules; ~~[and]~~

22 (3) "shared renewable energy facility" means a
 23 renewable energy distributed generation facility that provides
 24 for the purchase of one or more subscription shares in the
 25 facility, entitling the purchaser to a percentage of the energy

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1 generated by the facility;

2 (4) "shared renewable energy subscriber" means
3 a purchaser of a subscription share or shares who is a customer
4 of the public utility and receives net metering based on the
5 energy generated by that customer's subscription shares at one
6 or more physical locations to which the subscription is
7 attributed;

8 [~~3~~] (5) "site" means all the contiguous
9 property owned or leased by the host or the shared renewable
10 energy facility, without regard to interruptions in contiguity
11 caused by easements, public thoroughfares, transportation
12 rights of way or utility rights of way;

13 (6) "subscription" means a proportional
14 interest in a shared renewable energy facility. Each
15 subscription shall supply no more than one hundred twenty
16 percent of the average annual consumption of electricity by
17 each subscriber at the premises to which the subscription is
18 attributed; and

19 (7) "subscription share" means the unit of
20 purchase of interest in the energy generated by a shared
21 renewable energy facility."

22 SECTION 2. A new section of the Public Utility Act is
23 enacted to read:

24 "[NEW MATERIAL] INVESTOR-OWNED PUBLIC UTILITY--SHARED
25 RENEWABLE ENERGY FACILITIES.--

1 A. An investor-owned public utility shall allow the
2 construction, connection and operation of a shared renewable
3 energy facility within its operating territory if the shared
4 renewable energy facility is five megawatts or less of
5 alternating current electricity at the point of connection to
6 the utility's distribution lines. A utility may limit the
7 total production of shared renewable energy facilities in its
8 territory to ten percent of annual retail sales or five percent
9 of annual peak demand after June 30, 2015, ten percent starting
10 in fiscal year 2018, fifteen percent starting in fiscal year
11 2021 and twenty percent starting in fiscal year 2024. The
12 commission may increase these limits if it is demonstrated that
13 higher limits do not impose technical problems. Such a
14 demonstration may be done by the utility, the commission or a
15 third party and shall show to the commission's satisfaction
16 that the addition of more renewable energy facilities of
17 specific types will not destabilize the particular circuits to
18 which they are proposed to be connected nor destabilize the
19 utility's grid as a whole. A utility may limit the customers
20 of a shared renewable energy facility to those in the same
21 county as the facility and those in geographically adjacent
22 counties.

23 B. An application for a shared renewable energy
24 facility in an investor-owned public utility shall include a
25 proposed location for the facility. The investor-owned public

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1 utility shall accept the proposed site unless the site is
2 unsuitable. Suitability shall be based solely on the ability
3 of the utility's lines to carry the output of the proposed
4 facility. If the proposed site is unsuitable, then the
5 investor-owned public utility shall propose another site as
6 close as possible to the proposed site. The investor-owned
7 public utility shall:

8 (1) exercise good faith in selecting an
9 alternative site that is similar to the proposed site in cost
10 and access to a distribution line with adequate capacity; and

11 (2) submit a document with a suitable
12 location to the commission and to the applicant for a shared
13 renewable energy facility within sixty days of the date of an
14 application for a facility to the utility.

15 C. Rural electric cooperatives are exempt from the
16 provisions of this section."

17 SECTION 3. A new section of the Rural Electric
18 Cooperative Act is enacted to read:

19 "[NEW MATERIAL] RURAL ELECTRIC COOPERATIVES--SHARED
20 RENEWABLE ENERGY FACILITIES.--Cooperatives may allow the
21 construction, connection and operation of shared renewable
22 energy facilities within their operating territories."