

LAWS OF DELAWARE  
VOLUME 83  
CHAPTER 355  
151st GENERAL ASSEMBLY  
FORMERLY  
SENATE BILL NO. 298

AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO NET-METERING.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF DELAWARE:

Section 1. Amend subsection (d) of § 1014, Title 26, Delaware Code, by making deletions as shown by strikethrough, and insertions as show by underline as follows:

(d) The Commission, municipal electric companies, and electric cooperatives during any period of exemption under § 223 of this title shall each promulgate rules and regulations that provide for net energy metering for customers who own and operate, lease and operate, or contract with a third party that owns and operates an electric generation facility that:

(1) Has a capacity that:

a. For residential customers of DP&L, DEC, and municipal electric companies, has a capacity of not more than 25 kW;

b. For farm customers as described in § 902(3) of Title 3 who are customers of DP&L, DEC, or municipal electric companies that receive distribution service under a residential tariff or service offering, does not exceed more than 100 kW. On a case by case basis the Delaware ~~Energy Office~~ Department of Natural Resources and Environmental Control shall review a farm's application for a system above 100 kW by comparing the output of the system to the energy requirements of the farm and may grant a waiver to increase the size of the system above the 100 kW limit. The Delaware ~~Energy Office~~ Department of Natural Resources and Environmental Control shall promulgate rules and regulations for such waivers in consultation with ~~DP&L and municipal electric companies~~. any commission-regulated electric utilities. Such waivers for DEC or municipal electric company customers shall be approved by DEC or the municipal electric company serving said customer;

c. For nonresidential customers, is not more than 2 megawatts per DP&L meter, and 500 kW per DEC or municipal electric company meter. DEC and municipal electric companies are encouraged to provide for net-metering up to a capacity of not more than 2 megawatts for nonresidential customers.

(2) Uses as its primary source of fuel solar, wind, hydro, a fuel cell, or gas from the anaerobic digestion of organic material;

(3) Is located on the customer's premises;

(4) Is interconnected and operated in parallel with an electric distribution company's transmission and distribution facilities; and

(5) Is designed to produce no more than 110% of the host customer's expected aggregate electrical consumption, calculated on the average of the 2 previous 12-month periods of actual electrical usage at the time of installation of energy generating equipment. For new building construction, electrical consumption will be estimated at 110% of the consumption of units of similar size and characteristics at the time of installation of energy generating equipment. Any provision of § 1014(e) notwithstanding, commission-regulated electric utilities, municipal electric companies, and electric cooperatives during any period of exemption under § 223 of this title, shall not, at the end of the annualized billing period, reimburse, credit, or otherwise remunerate the net energy metering customer for any Excess kWh Credits.

Section 2. Amend subsection (e) of § 1014, Title 26, Delaware Code, by making deletions as shown by strike through and insertions as shown by underline as follows:

(e) The rules and regulations promulgated for net energy metering by the Commission, municipal electric companies, and electric cooperatives during any period of exemption under § 223 of this title must consider the reliability, safety, and capacity of the electric distribution system and: ~~shall:~~

(1) a. Provide for customers to be credited in kilowatt-hours (kWh), valued at an amount per kilowatt-hour equal to the sum of delivery service charges and supply service charges for residential customers and the sum of the volumetric energy (kWh) components of the delivery service charges and supply service charges for nonresidential customers for any excess production of their generating facility that exceeds the customer's on-site consumption of kWh in a billing period (an "Excess kWh Credit"). ~~Excess kWh credits~~ Credits shall be credited to subsequent monthly billing periods to offset a customer's consumption in those billing periods. Excess kWh Credits at the end of the annualized billing period shall revert to the electric distribution company providing electric distribution to the customer.

b. For commission-regulated utilities for existing and future net energy metering customers, both residential and nonresidential, the monthly Excess kWh Credit shall be valued at the sum of the volumetric (kWh) components of the supply service charges and distribution service charges, not including the charges for societal benefits programs, according to each participating customer account's rate schedule. At the end of the annualized billing period, a customer may request a payment from the electric supplier or any excess kWh credits. The payment shall be calculated by multiplying the excess kWh credits by the customer's supply service rate. Such payment if less than \$25 may be credited to the customer's account through monthly billing. ~~Any excess~~ Excess kWh credits ~~Credits~~ shall not reduce any fixed monthly customer charges imposed by the electric ~~supplier~~ distribution company. The customer-generator retains ownership of all renewable energy credits (RECs) associated with electric energy produced unless the customer has relinquished such ownership by contractual agreement with a third ~~party~~ party or by other means. This paragraph (e)(1) does not apply to customers participating in a community-owned energy generating facility, as the provisions regarding community-owned energy generating facilities are addressed elsewhere in the Delaware Code. "Societal benefits program" means a program required by law in which a benefit to the public at large accrues as a result of its implementation. Societal benefits programs include:

1. Green Energy Fund under § 1014(a) of this title.
2. Low Income Fund under § 1014(b) of this title.
3. Charges incurred by the utility in complying with the state mandated renewable energy portfolio standard under § 358(f)(1) of this title.
4. The charge imposed under § 364 of this title for qualified fuel cells.
5. Energy efficiency programs under § 8059(h)(1)(e) of Title 29.

(2) Excess kWh Credits for supply service are the responsibility of the entity providing supply to the customer rather than solely the responsibility of the electric distribution company.

(3) In the event that a net-metering customer abandons the property where the energy generating equipment is located, the equipment may remain connected to the electric distribution system, unless the equipment presents a risk to the safety and reliability of the electric distribution system.

(6) Net energy metering shall be accomplished using a single meter capable of registering the flow of electricity in 2 directions. To maintain system safety and reliability, An an additional meter or meters to monitor the flow of electricity in each direction may be installed with the consent of the net-metering customer, which consent may be waived by the customer. at the expense of the electric supplier, and the The additional metering shall be used only to provide the information necessary to accurately bill or credit the customer pursuant to paragraph (e)(1) of this section, or to collect system performance information information on the eligible technology for research purposes. If the existing electrical meter of an eligible net-metering customer is incapable of measuring the flow of electricity in 2 directions through no fault of the customer, the electric supplier shall be responsible for all expenses involved in purchasing and installing a meter that is able to measure the flow of electricity in 2 directions. However, where a larger capacity meter is required to serve the customer, or a larger capacity meter is requested by the customer, the customer shall pay the electric supplier the difference between the larger capacity meter investment and the metering investment normally provided under the customer's service classification. If an additional meter or meters are installed, the net energy metering calculation shall yield a result identical to that of a single meter. Non-residential customers shall be responsible for paying the reasonable cost of any new, replacement, or modified meter or meters installed or caused to be installed for net-metering purposes. Residential customers shall not be responsible for paying more than \$200 toward the reasonable cost of any new, replacement, or modified meter or meters installed or caused to be installed for net-metering purposes. Non-residential customers and residential customers shall not own the meter or meters, which shall remain the property of the electric supplier.

(7) If the total generating capacity, measured in megawatts (MW) of alternating current (AC), of all customer-generation using net metering systems served by an electric utility exceeds 5% 8% of the capacity necessary to meet the electric utility's aggregated customer monthly peak demand for a particular calendar year, average Delaware transmission peak demand for the preceding 3 years, the electric utility may elect not to provide net metering services to any additional customer-generators.

Approved July 22, 2022