

LAWS OF DELAWARE
VOLUME 84
CHAPTER 7
152nd GENERAL ASSEMBLY
FORMERLY
SENATE BILL NO. 54

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 subsections (d) and (e)(1) of § 1014 of Title 26 of the Delaware Code by making deletions as shown by strike through and insertions as shown 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 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 Department of Natural Resources and Environmental Control shall promulgate rules and regulations for such waivers in consultation with 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. Subject to the effective dates in ~~Any provision of~~ subsection (e) of this section ~~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.

(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:

(1) a. Provide for customers to be credited in kilowatt-hours (kWh) 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 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~~ customer; for commission-regulated utilities, this section shall take effect on May 31, 2023. A commission-regulated utility may continue to make payments for Annual Excess kWh until May 31, 2023.

b. Effective January 1, 2024, ~~For~~ 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. Any Excess kWh Credits shall not reduce any fixed monthly customer charges imposed by the electric 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 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 subsection (a) of this section.
2. Low Income Fund under subsection (b) of this section.
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.

Approved March 30, 2023