

LAWS OF DELAWARE
VOLUME 84
CHAPTER 125
152nd GENERAL ASSEMBLY
FORMERLY
SENATE BILL NO. 111

AN ACT TO AMEND TITLE 26 OF THE DELAWARE CODE RELATING TO ELECTRIC UTILITY RESTRUCTURING.

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

Section 1. Amend § 1014, 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 ~~400 kW~~ 150 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 ~~400 kW~~ 150 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 ~~400 kW~~ 150 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. 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. However, any utility may enter into a power supply agreement with a farm customer described in § 902(3) of Title 3; provided that nothing in this subsection or subsection (e) shall prohibit electric distribution companies from entering into contracts with farm customers that allow or provide for the procurement, crediting, or carryover of Excess kWh Credits at the end of an annualized billing period.

Approved July 27, 2023