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DELAWARE STATE SENATE
145th GENERAL ASSEMBLY

SENATE BILL NO. 267

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

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

Section 1. Amend Chapter 10, §1001, Title 26 of the Delaware Code, by adding new paragraph (5) to read as follows and renumbering the remainder sections (5) through (25) as (6) through (26):

“(5) “Community-owned energy generating facility” means a renewable energy generating facility that has multiple owners or customers who share the output of the generator, which may be located either as a stand-alone facility or behind the meter of a participating owner or customer. The facility shall be interconnected to the distribution system and operated in parallel with an electric distribution company’s transmission and distribution facilities.”

Section 2. Amend Chapter 10, §1014(d), Title 26 of the Delaware Code, by adding new language after the word “operate” to read as follows: “, lease and operate, or contract with a third party that owns and operates”.

Section 3. Amend Chapter 10, §1014, Title 26 of the Delaware Code, by striking §1014(d)(1)d in its entirety.

Section 4. Amend §1014(d) by striking paragraph (5) in its entirety and replacing it with a new paragraph (5) to read as follows:

“(5) Is designed to produce no more than 120% of the host customer’s expected aggregate electrical consumption, calculated on the past 12 months of actual electrical usage at the time of installation of energy generating equipment. For new building construction, electrical consumption will be estimated at 120% of the consumption of units of similar size and characteristics at the time of installation of energy generating equipment.”

Section 5. Amend Chapter 10, §1014(e), Title 26 of the Delaware Code by adding new language after the words “electric energy produced” to read as follows: “unless the customer has relinquished such ownership by contractual agreement with a third party.”

Section 6. Amend Chapter 10, §1014(e), Title 26 of the Delaware Code by adding new paragraphs (2) and (3) to read as follows and renumbering the remainder sections (2) through (5) as (4) through (7):

22 “(2) Provide for customers participating in a community-owned energy generating facility to be credited in
23 kilowatt-hours (kWh), valued at an amount per kilowatt-hour equal to supply service charges according to each account’s
24 rate schedule for any excess production of the community-owned energy generating facility. For customers that host a
25 community-owned energy generating facility or where all participating customers are located on the same distribution
26 feeder as a community-owned energy generating facility, credit in kilowatt-hours (kWh) shall be valued according to each
27 account’s rate schedule and the rules and regulations promulgated for net energy metering under §1014(e)(1) or (3) of this
28 title. Excess kWh credits shall be credited to subsequent billing periods to offset customers’ consumption in those billing
29 periods. At the end of the annualized billing period, a community may request a payment from the electric supplier for any
30 excess kWh credits. The payment shall be calculated by multiplying the excess kWh credits by the supply service rate of
31 the account hosting the community-owned energy generating facility. Such payment shall be made to the account hosting
32 the community-owned energy generating facility, and may be credited to the account through monthly billing if less than
33 \$25. Any excess kWh credits shall not reduce any fixed monthly customer charges imposed by the electric supplier. The
34 customers participating in a community-owned energy generating facility retain ownership of all RECs associated with
35 electric energy produced unless the customer has relinquished such ownership by contractual agreement with a third party.

36 (3) As an alternative to subparagraph (2) above, electric suppliers, DEC, DP&L, and municipal electric companies
37 may elect to make payment to the account hosting the community-owned energy generating facility for the value of the
38 generated electricity as established by the Public Service Commission.”

39 Section 7. Amend §1014(e) of Title 26 of the Delaware Code by adding new subparagraphs (7) and (8) as
40 follows:

41 “(7) In instances where one customer has multiple meters under the same account or different accounts, regardless
42 of the physical location and rate class, the customer may aggregate meters for the purpose of net energy metering regardless
43 of which individual meter receives energy from the energy generating facility, provided that:

44 (a) Electric suppliers, DEC, DP&L, and municipal electric companies shall only allow meter aggregation
45 for customer accounts of which they provide electric supply service; and

46 (b) The customer’s energy generating facility is designed to produce no more than 120% of the
47 customer’s aggregate electrical consumption of the individual meters or accounts that the customer wishes to aggregate
48 under this subparagraph (7), calculated on the past 12 months of actual electrical usage at the time of installation of energy
49 generating equipment. For new building construction, electrical consumption will be estimated at 120% of the
50 consumption of units of similar size and characteristics at the time of installation of energy generating equipment; and

(c) The customer's energy generating facility shall not exceed a capacity as defined under §1014(d)(1) of this title; and

(d) At least ninety days before a customer's energy generating facility becomes operational or a customer desires to aggregate multiple meters, the customer shall file with the electric supplier, DP&L, DEC, or the appropriate municipal electric company the following information:

(i) a list of individual meters the customer desires to aggregate, identified by name, address, and account number, and ranked according to the order in which the customer desires to apply credit; and

(ii) a description of the energy generating facility, including the facility's location, capacity, and fuel type or generating technology.

(e) The customer may change its list of aggregated meters no more than once annually by providing ninety days' written notice; and

(f) Credit shall be applied first to the meter through which the energy generating facility supplies electricity, then through the remaining meters for the customer's accounts according to the rank order as specified in accordance with subparagraph 7(d); and

(g) Credit in kilowatt-hours (kWh) shall be valued according to each account's rate schedule and the rules and regulations promulgated for net energy metering under §1014(e)(1) of this title; and

(h) An electric supplier, DP&L, DEC, or the appropriate municipal electric company may require that a customer's aggregated meters be read on the same billing cycle; and

(i) The rules and regulations promulgated for net energy metering under this section shall also apply to net energy metering aggregation.

(8) Absent the promulgation of rules and regulations pursuant to subparagraph (e)(3) of this section, individual customers may aggregate their individual meters in conjunction with a community-owned energy generating facility, provided that:

(a) A community includes customers sharing a unique set of interests; and

(b) Electric suppliers, DEC, DP&L, and municipal electric companies shall only allow meter aggregation for customer accounts of which they provide electric supply service; and

(c) A community-owned energy generating facility is designed to produce no more than 120% of the community's aggregate electrical consumption of its individual customers, calculated on the past 12 months of actual electrical usage at the time of installation of energy generating equipment. For new building construction, electrical

consumption will be estimated at 120% of the consumption of units of similar size and characteristics at the time of installation of energy generating equipment; and

(d) A community-owned energy generating facility shall not exceed a capacity of the sum total of the individual unit allowances as defined under §1014(d)(1) among the participants of a community-owned energy generating facility; and

(e) Community-owned energy generating facilities may include technologies defined under §352(6)(a-h) of Title 26 of the Delaware Code; and

(f) Before a community-owned net energy metering system may be formed and served by an electric supplier, DP&L, DEC, or municipal electric company, the community proposing a community-owned energy generating facility shall file with the Delaware Energy Office and the electric supplier, DP&L, DEC, or the appropriate municipal electric company the following information:

(i) a list of individual meters the community desires to aggregate identified by name, address, and account number; and

(ii) a description of the energy generating facility, including the facility's host location, capacity, and fuel type or generating technology; and

(iii) the quantity of kWh credits attributed to each customer, which the electric supplier, DP&L, DEC, or the appropriate municipal electric company shall true-up at the end of the annualized billing period.

(g) A community may change its list of aggregated meters no more than quarterly by providing ninety days' written notice to the electric supplier, DP&L, DEC, or the appropriate municipal electric company; and

(h) If the community removes individual customers from the aggregate, the community shall either replace the removed customers, reduce the generating capacity of the community-owned energy generating facility to remain compliant with the provisions provided under subparagraph (8)(c-d), or negotiate with the electric supplier, DP&L, DEC, or the appropriate municipal electric company to establish a mutually acceptable agreement for any excess kWh credit; and

(i) An electric supplier, DP&L, DEC, or municipal electric companies may require that customers participating in a community-owned energy generating facility have their meters read on the same billing cycle; and

(j) Neither customers nor owners of community-owned energy generating facilities shall be subject to regulation as either public utilities or an electric supplier.”

Section 8. Amend §1014 of Title 26 of the Delaware Code by adding new paragraph (i) as follows:

109 “(i) Nothing in this section is intended in any way to limit eligibility for net energy metering services based upon
110 direct ownership, joint ownership, or third-party ownership or financing agreement related to an electric generation facility,
111 where net energy metering would otherwise be available.”

SYNOPSIS

This bill will further strengthen net energy metering provisions by providing customers the opportunity to aggregate individual meters for the purpose of allocating net metering credits to electricity accounts other than the account that hosts an energy generating facility. The bill also provides community choice aggregation provisions for community-owned energy generating facilities that are established by a group of customers. Recognizing that not all customers own properties that are favorable for energy generating facilities, the community-owned net metering provisions of this bill will allow a group of customers to invest and participate in distributed renewable energy facilities.

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