



SPONSOR: Sen. McDowell & Simpson & Rep. D.E. Williams & Rep. Mulrooney  
Sens. Katz, Henry & Reprs. Brady, Keeley, Gilligan, B. Short, Kovach, Oberle, Hocker

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.

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

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

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

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

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

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

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

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

20 Section 6. Amend Chapter 10, §1014(e), Title 26 of the Delaware Code by adding new paragraphs (2) and (3) to  
21 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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

108 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.

Author: Senator McDowell