

1 State of Arkansas  
2 90th General Assembly  
3 Regular Session, 2015  
4

# A Bill

HOUSE BILL 1885

5 By: Representative Sabin  
6 By: Senator Burnett  
7

## For An Act To Be Entitled

9 AN ACT TO CREATE THE ARKANSAS DISTRIBUTED GENERATION  
10 ACT OF 2015; TO INCREASE THE USE OF RENEWABLE ENERGY  
11 RESOURCES IN THE STATE; TO REGULATE THE USE OF  
12 DISTRIBUTED GENERATION CONTRACTS; AND FOR OTHER  
13 PURPOSES.  
14

## Subtitle

15  
16 THE ARKANSAS DISTRIBUTED GENERATION ACT  
17 OF 2015.  
18  
19  
20

21 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
22

23 SECTION 1. Arkansas Code Title 23, Chapter 18, is amended to add an  
24 additional subchapter to read as follows:

25 Subchapter 11 – Arkansas Clean Energy Act of 2015

26  
27 23-18-1101. Title.

28 This subchapter shall be known and may be cited as the "Arkansas  
29 Distributed Generation Act of 2015".  
30

31 23-18-1102. Findings – Purpose.

32 (a) The General Assembly finds that it is in the public interest to:

33 (1) Promote and encourage the development and use of this  
34 state's renewable energy resources;

35 (2) Foster investment in emerging renewable energy technologies  
36 using the renewable energy resources found within this state; and



1           (3) Require electric utilities to include renewable energy  
2 resources as an integral part of their energy portfolios.

3           (b) The purpose of this subchapter is to:

4           (1) Ensure that each electric utility includes renewable energy  
5 resources as an integral part of its energy resource plan;

6           (2) Provide for an orderly transition to increased use of  
7 renewable energy resources;

8           (3) Provide for increased consumer choice in obtaining  
9 electrical energy;

10           (4) Encourage additional competition within the energy sector;  
11 and

12           (5) Reduce the impact of emerging environmental regulations on  
13 electricity derived from fossil fuel resources.

14  
15           23-18-1103. Definitions.

16           As used in this subchapter:

17           (1) "Distributed generation contract" means a contract,  
18 including rules and procedures, approved by a regulatory authority, that  
19 governs the purchase of electric energy by an electric utility from a  
20 renewable electric generation facility;

21           (2) "Electric utility" means a public utility as defined in §  
22 23-1-101 or a municipal utility that is engaged in the business of supplying  
23 electricity to an end user in this state;

24           (3) "Nameplate value" means the maximum alternating current  
25 capacity of a renewable electric generation facility;

26           (4) "Regulatory authority" means the Arkansas Public Service  
27 Commission or the appropriate regulatory governing body for an electric  
28 utility that is not regulated by the commission;

29           (5) "Renewable electric generation facility" means a facility  
30 for the generation of electric energy that:

31           (A) Is connected to an electric utility grid;

32           (B) Is fueled by a renewable energy resource; and

33           (C) Has an effective alternating current capacity of not  
34 more than twenty megawatts (20 MW) nameplate value;

35           (6) "Renewable energy generation credit" means the monetary,  
36 statutory or regulatory value per kilowatt hour of the added value and

1 environmental benefits; and

2 (7) "Renewable energy resource" means a solar, wind, water, or  
3 geothermal resource, including without limitation biomass, agricultural  
4 waste, and landfill waste that is converted into electrical energy and is  
5 located in the state.

6  
7 23-18-1104. Distributed generation contracts – Requirements –  
8 Approval.

9 (a)(1)(A) Each regulatory authority shall direct each electric utility  
10 in its jurisdiction to develop and maintain a standardized distributed  
11 generation contract for the generation of each renewable energy resource.

12 (B) However, a regulatory authority may approve a  
13 nonstandard contract between an electric utility and a renewable electric  
14 generation facility that meets the requirements of this subchapter.

15 (2) A distributed generation contract required under subdivision  
16 (a)(1)(A) of this section shall:

17 (A)(i) Require an electric utility to purchase renewable  
18 energy produced by a renewable electric generation facility at the rate,  
19 terms, and other conditions approved by the regulatory authority for a period  
20 of not less than twenty (20) years.

21 (ii) However, a renewable electric generation  
22 facility may request the execution of a distributed generation contract for a  
23 period of less than twenty (20) years;

24 (B) Contain terms and conditions that:

25 (i) Attract investment in and encourage the  
26 development and use of renewable energy resources to generate electricity  
27 within the state;

28 (ii) Protect the integrity and reliability of each  
29 electric utility's electric system; and

30 (iii) Protect the health, safety, and welfare of the  
31 public;

32 (C) Incorporate the rates, terms, and other conditions  
33 determined by the regulatory authority for renewable electric generation  
34 facilities that consider and may be differentiated by:

35 (i) The renewable energy generation technology being  
36 used, including without limitation the system, public policy, and

1 environmental attributes of the renewable electric generation facility;

2 (ii) The location, size, and capacity of the  
3 renewable electric generation facility;

4 (iii) The electric utility's ability to schedule and  
5 control the delivery of electric energy from the renewable energy generated  
6 by a renewable electric generation facility; and

7 (iv) The applicable electric utility's avoided cost  
8 and renewable energy generation credit as determined by the regulatory  
9 authority;

10 (D) Be in the public interest; and

11 (E) Not include an indemnity and liability provision  
12 applicable to the state, an entity of the state, a local government, an  
13 entity of a local government, or a federal agency.

14 (b)(1) After providing notice and a hearing and determining that a  
15 distributed generation contract satisfies the requirements of this  
16 subchapter, the regulatory authority shall approve the distributed generation  
17 contracts developed under subsection (a) of this section.

18 (2)(A) Each electric utility in operation on the effective date  
19 of this act shall make its distributed generation contract available on or  
20 before July 1, 2016.

21 (B) Each electric utility that begins operation after the  
22 effective date of this act shall make its distributed generation contract  
23 available within ninety (90) days after the distributed generation contract  
24 is executed.

25 (c)(1) After an electric utility makes the approved distributed  
26 generation contracts available under subsection (b) of this section, the  
27 electric utility shall begin accepting offers to enter into individual  
28 distributed generation contracts on a first-come, first-served basis to  
29 renewable electric generation facilities that are located within the  
30 allocated service territory of the electric utility.

31 (2)(A) An electric utility shall offer to enter into distributed  
32 generation contracts until the electric utility meets its proportionate share  
33 of one thousand two hundred megawatts (1,200 MW) nameplate value, which  
34 represents the combined cumulatively rated alternating current generation  
35 capacity of the renewable electric generation facilities in this state.

36 (B) In any calendar year, an electric utility shall offer

1 to enter into distributed generation contracts until the electric utility  
2 meets its proportionate share of two hundred fifty megawatts (250 MW)  
3 nameplate value.

4 (3)(A) The determination of each electric utility's  
5 proportionate-share requirement under subdivision (c)(2) of this section  
6 shall be based on a comparison of the electric utility's peak Arkansas demand  
7 to the total statewide peak Arkansas demand of all the electric utilities in  
8 the state.

9 (B) An electric utility shall offer at least thirty  
10 percent (30%) of the electric utility's proportionate-share requirement under  
11 subdivision (c)(2) of this section to one (1) or more residential or  
12 commercial renewable electric generation facilities.

13  
14 23-18-1105. Net-metering facilities.

15 A net-metering facility installed or interconnected under the Arkansas  
16 Renewable Energy Development Act of 2001, § 23-18-601 et seq., qualifies as a  
17 renewable electric generation facility under this subchapter and may apply  
18 for a distributed generation contract.

19  
20 23-18-1106. Renewable energy generation credits.

21 A renewable energy generation credit shall:

22 (1) Be conveyed to the electric utility under the distributed  
23 generation contract; and

24 (2) Qualify in helping an electric utility meet statewide clean  
25 or renewable energy standards adopted by the state or federal government.

26  
27 23-18-1107. Cost of interconnection facilities.

28 (a) The cost of an addition or modification to an electric utility's  
29 system that is made at or beyond the point at which a renewable electric  
30 generation facility interconnects with an electric utility's system for the  
31 sole purpose of receiving electricity from a renewable electric generation  
32 facility is the exclusive responsibility of the renewable electric generation  
33 facility unless the regulatory authority determines that it is in the public  
34 interest for the electric utility to bear a portion of that cost under § 23-  
35 18-1108.

36 (b) A necessary metering upgrade for a renewable electric generation

1 facility that has executed a distributed generation contract under this  
 2 subchapter is the exclusive responsibility of the renewable electric  
 3 generation facility unless the regulatory authority determines that it is in  
 4 the public interest for the electric utility to bear a portion of the cost  
 5 under § 23-18-1108.

6  
 7 23-18-1108. Cost recovery.

8 A regulatory authority shall allow an electric utility to recover the  
 9 reasonable and prudent costs associated with distributed generation contracts  
 10 and renewable electric generation facilities, including:

11 (1) The cost of electric energy purchased under a distributed  
 12 generation contract approved by the regulatory authority under § 23-18-1104;

13 (2) The investment costs incurred by the electric utility for  
 14 the construction of an electric system upgrade that is:

15 (A) Reasonably necessary to receive the electric energy  
 16 purchased under a distributed generation contract; and

17 (B) Not paid by the renewable electric generation facility  
 18 under § 23-18-1107; and

19 (3) The costs incurred by the electric utility to administer and  
 20 manage a distributed generation contract.

21  
 22 23-18-1109. Rules.

23 Each regulatory authority under this subchapter shall adopt rules  
 24 necessary to implement and administer this subchapter.