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HOUSE BILL 111

52ND LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2015

INTRODUCED BY

Roberto "Bobby" J. Gonzales

AN ACT

RELATING TO UTILITIES; PROVIDING FOR SHARED RENEWABLE ENERGY FACILITIES TO QUALIFY AS DISTRIBUTED GENERATION FACILITIES; REQUIRING INVESTOR-OWNED UTILITIES TO ALLOW CONSTRUCTION, CONNECTION AND OPERATION OF SHARED RENEWABLE ENERGY FACILITIES WITHIN THEIR OPERATING TERRITORIES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. [NEW MATERIAL] FINDINGS AND PURPOSE.--

A. The legislature finds that:

(1) individuals should be able to obtain electricity from local, renewable energy distributed generation facilities, regardless of differences in income, owner or renter status or specific locale;

(2) local communities benefit from the deployment of renewable energy, including shared distributed

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1 generation facilities; and

2 (3) it is in the public interest to allow
3 broad participation in renewable energy distributed generation
4 facilities, including shared renewable energy facilities, by
5 New Mexico residents.

6 B. It is the purpose of this 2015 act that the
7 legislature enable the development and deployment of shared
8 renewable energy facilities for the following purposes:

9 (1) to allow renters and low- to
10 moderate-income retail electric customers to own interests in
11 shared renewable energy facilities;

12 (2) to allow interests in shared renewable
13 energy facilities to be portable and transferable;

14 (3) to facilitate market entry for all
15 potential subscribers, while prioritizing those persons most
16 sensitive to market barriers; and

17 (4) to encourage developers to allow
18 participation by renters and low- to moderate-income retail
19 electric customers.

20 SECTION 2. Section 62-13-13.1 NMSA 1978 (being Laws 2010,
21 Chapter 102, Section 1 and Laws 2010, Chapter 103, Section 1)
22 is amended to read:

23 "62-13-13.1. RENEWABLE ENERGY DISTRIBUTED GENERATION
24 FACILITIES--OWNERS AND OPERATORS NOT PUBLIC UTILITIES.--

25 A. Notwithstanding any other provision of the
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1 Public Utility Act to the contrary, a person not otherwise a
2 public utility shall not be deemed to be a public utility
3 subject to the jurisdiction, control or regulation of the
4 commission and the provisions of the Public Utility Act solely
5 because the person owns or controls all or any part of any
6 renewable energy distributed generation facility that:

7 (1) is located on the host's site or is a
8 shared renewable energy facility;

9 (2) produces electric energy used:

10 (a) at the host's site and sold to the
11 host or the host's tenants or employees located at the host's
12 site; or

13 (b) by customers who are shared
14 renewable energy subscribers; and

15 (3) shares a common point of connection with
16 the electric utility serving the area and the host or the
17 host's tenants and employees served by the renewable energy
18 distributed generation facility or, in the case of a shared
19 renewable energy facility, has a point of connection to the
20 electric utility serving the area, including the shared
21 renewable energy subscribers.

22 B. Nothing contained in this section shall be
23 interpreted to prohibit the sale of energy produced by the
24 renewable energy distributed generation facility to the
25 electric utility serving the area in which the renewable energy

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1 distributed generation facility is located.

2 C. The shared renewable energy facility may be
3 owned by a customer of a public utility or a third party. The
4 public utility may acquire renewable energy certificates from
5 the owner of the shared renewable energy facility or from a
6 third party at rates established in the utility's renewable
7 procurement plan.

8 [~~G.~~] D. As used in this section:

9 (1) "host" means the customer of a public
10 utility who uses the electric energy produced by a renewable
11 energy distributed generation facility and occupies the site
12 upon which the renewable energy distributed generation facility
13 is located;

14 (2) "renewable energy distributed generation
15 facility" means a facility that produces electric energy by the
16 use of renewable energy and that is sized to supply no more
17 than one hundred twenty percent of the average annual
18 consumption of electricity by the host at the site of the
19 renewable energy distributed generation facility or a facility
20 that is a shared renewable energy facility that is sized at no
21 more than ten megawatts alternating current in accordance with
22 applicable interconnection rules; [~~and~~]

23 (3) "shared renewable energy facility" means a
24 renewable energy distributed generation facility that provides
25 for the purchase of one or more subscription shares in the

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1 facility, entitling the purchaser to a percentage of the energy
2 generated by the facility;

3 (4) "shared renewable energy subscriber" means
4 a purchaser of a subscription share or shares who is a customer
5 of the public utility and receives net metering based on the
6 energy generated by that customer's subscription shares at one
7 or more physical locations to which the subscription is
8 attributed;

9 [~~3~~] (5) "site" means all the contiguous
10 property owned or leased by the host or the shared renewable
11 energy facility, without regard to interruptions in contiguity
12 caused by easements, public thoroughfares, transportation
13 rights of way or utility rights of way;

14 (6) "subscription" means a proportional
15 interest in a shared renewable energy facility. Each
16 subscription shall supply no more than one hundred twenty
17 percent of the average annual consumption of electricity by
18 each subscriber at the premises to which the subscription is
19 attributed; and

20 (7) "subscription share" means the unit of
21 purchase of interest in the energy generated by a shared
22 renewable energy facility."

23 SECTION 3. A new section of the Public Utility Act is
24 enacted to read:

25 "[NEW MATERIAL] INVESTOR-OWNED PUBLIC UTILITY--SHARED

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1 RENEWABLE ENERGY FACILITIES.--

2 A. An investor-owned public utility shall allow the
3 construction, connection and operation of a shared renewable
4 energy facility within its operating territory if the shared
5 renewable energy facility is five megawatts or less of
6 alternating current electricity at the point of connection to
7 the utility's distribution lines. A utility may limit the
8 total production of shared renewable energy facilities in its
9 territory to ten percent of annual retail sales or five percent
10 of annual peak demand after June 30, 2015, ten percent starting
11 in fiscal year 2018, fifteen percent starting in fiscal year
12 2021 and twenty percent starting in fiscal year 2024. The
13 commission may increase these limits if it is demonstrated that
14 higher limits do not impose technical problems. Such a
15 demonstration may be done by the utility, the commission or a
16 third party and shall show to the commission's satisfaction
17 that the addition of more renewable energy facilities of
18 specific types will not destabilize the particular circuits to
19 which they are proposed to be connected nor destabilize the
20 utility's grid as a whole. A utility may limit the customers
21 of a shared renewable energy facility to those in the same
22 county as the facility and those in geographically adjacent
23 counties.

24 B. An application for a shared renewable energy
25 facility in an investor-owned public utility shall include a

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1 proposed location for the facility. The investor-owned public
2 utility shall accept the proposed site unless the site is
3 unsuitable. Suitability shall be based solely on the ability
4 of the utility's lines to carry the output of the proposed
5 facility. If the proposed site is unsuitable, then the
6 investor-owned public utility shall propose another site as
7 close as possible to the proposed site. The investor-owned
8 public utility shall:

9 (1) exercise good faith in selecting an
10 alternative site that is similar to the proposed site in cost
11 and access to a distribution line with adequate capacity; and

12 (2) submit a document with a suitable
13 location to the commission and to the applicant for a shared
14 renewable energy facility within sixty days of the date of an
15 application for a facility to the utility.

16 C. Rural electric cooperatives are exempt from the
17 provisions of this section."

18 SECTION 4. A new section of the Rural Electric
19 Cooperative Act is enacted to read:

20 "[NEW MATERIAL] RURAL ELECTRIC COOPERATIVES--SHARED
21 RENEWABLE ENERGY FACILITIES.--Cooperatives may allow the
22 construction, connection and operation of shared renewable
23 energy facilities within their operating territories."