

1 State of Arkansas  
2 94th General Assembly  
3 Regular Session, 2023  
4

# A Bill

HOUSE BILL 1370

5 By: Representative L. Fite  
6 By: Senator J. Dismang  
7

## For An Act To Be Entitled

9 AN ACT TO AMEND THE ARKANSAS RENEWABLE ENERGY  
10 DEVELOPMENT ACT OF 2001; TO PREVENT COST-SHIFTING AND  
11 ENSURE FAIRNESS TO ALL RATEPAYERS; TO DECLARE AN  
12 EMERGENCY; AND FOR OTHER PURPOSES.  
13  
14

## Subtitle

15 TO AMEND THE ARKANSAS RENEWABLE ENERGY  
16 DEVELOPMENT ACT OF 2001; TO PREVENT COST-  
17 SHIFTING AND ENSURE FAIRNESS TO ALL  
18 RATEPAYERS; AND TO DECLARE AN EMERGENCY.  
19  
20  
21

22 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:  
23

24 SECTION 1. Arkansas Code Title 23, Chapter 18, Subchapter 6 is amended  
25 to read as follows:

26 Subchapter 6 – Arkansas ~~Renewable Energy Development~~ Cost-Shifting Prevention  
27 Act of ~~2001~~2023  
28

29 23-18-601. Title.

30 This subchapter shall be known and cited as the “Arkansas ~~Renewable~~  
31 ~~Energy Development~~ Cost-Shifting Prevention Act of ~~2001~~ 2023”.  
32

33 23-18-602. Legislative findings and declarations.

34 ~~(a) Net energy metering encourages the use of renewable energy~~  
35 ~~resources and renewable energy technologies by reducing utility~~  
36 ~~interconnection and administrative costs for small consumers of electricity.~~



1 ~~More than thirty (30) other states have passed similar laws or regulations in~~  
 2 ~~support of net energy metering programs. Increasing the consumption of~~  
 3 ~~renewable resources promotes the wise use of Arkansas's natural energy~~  
 4 ~~resources to meet a growing energy demand, increases Arkansas's use of~~  
 5 ~~indigenous energy fuels while reducing dependence on imported fossil fuels,~~  
 6 ~~fosters investments in emerging renewable technologies to stimulate economic~~  
 7 ~~development and job creation in the state, including the agricultural~~  
 8 ~~sectors, reduces environmental stresses from energy production, and provides~~  
 9 ~~greater consumer choices. The General Assembly finds that:~~

10 (1) Arkansas has an established process for the billing option  
 11 that enables customer-owned net-metering facilities to offset part or all of  
 12 a net-metering customer's electric consumption;

13 (2) This billing option should continue subject to certain  
 14 modifications for the benefit and rate protection of all electric utility  
 15 customers in Arkansas; and

16 ~~(b)(3) Arkansas has actively encouraged the manufacture of new~~  
 17 ~~technologies in the state through promotion of the Arkansas Emerging~~  
 18 ~~Technology Development Act of 1999, § 15-4-2101 et seq. [repealed]. Net~~  
 19 ~~metering would help to further attract energy technology manufacturers, to~~  
 20 ~~provide a foothold for these technologies in the Arkansas economy, and to~~  
 21 ~~make it easier for customer access to these technologies.~~

22 ~~(c) Therefore, the General Assembly finds that it It is in Arkansas's~~  
 23 ~~long-term interest to adopt ~~this subchapter~~ the modifications set forth in~~  
 24 ~~this subchapter.~~

25  
 26 23-18-603. Definitions.

27 As used in this subchapter:

28 (1) "Avoided cost" means:

29 (A) For an electric utility other than a municipal  
 30 utility, ~~the costs to an electric utility of electric energy or capacity, or~~  
 31 ~~both, that, but for the generation from the net metering facility or~~  
 32 ~~facilities, the utility would generate itself or purchase from another~~  
 33 ~~source, as determined by a commission consistent with § 23-3-701 et seq.,~~  
 34 twelve-month average for the prior calendar year of the applicable Locational  
 35 Marginal Price associated with the electric utility's load zone in the  
 36 following applicable Independent System Operator market:

1 (i) The Midcontinent Independent System Operator; or

2 (ii) The Southwest Power Pool; or

3 (B) For a municipal utility, the definition provided by  
4 the governing body of the municipal utility;

5 (2) "Commission" means the Arkansas Public Service Commission or  
6 other appropriate governing body for an electric utility as defined in  
7 subdivision (3) of this section;

8 (3) "Electric utility" means a public or investor-owned utility,  
9 an electric cooperative, or any private power supplier or marketer that is  
10 engaged in the business of supplying electric energy to the ultimate consumer  
11 or any customer classes within the state;

12 (4) "Monthly grid charge" means a charge expressed in dollars  
13 per kilowatt applied to the nameplate direct current capacity of the net-  
14 metering facility;

15 ~~(4)(A)(5)(A)~~ "Municipal utility" means a utility system owned or  
16 operated by a municipality that provides electricity.

17 (B) "Municipal utility" includes without limitation a:

18 (i) Utility system managed or operated by a  
19 nonprofit corporation under § 14-199-701 et seq.; and

20 (ii) Utility system owned or operated by a  
21 municipality or by a consolidated utility district under the General  
22 Consolidated Public Utility System Improvement District Law, § 14-217-101 et  
23 seq.;

24 ~~(5)(6)~~ "Net excess generation" means the amount of electricity  
25 as measured in kilowatt hours or kilowatt hours multiplied by the applicable  
26 rate that a net-metering customer has fed back to the electric utility that  
27 exceeds the amount of electricity as measured in kilowatt hours or kilowatt  
28 hours multiplied by the applicable rate used by that customer during the  
29 applicable period determined by a commission;

30 ~~(6)(7)~~ "Net metering" means ~~measuring a billing option that~~  
31 measures the ~~difference in~~ amount of electricity as measured in kilowatt  
32 hours ~~or kilowatt hours multiplied by the applicable rate~~ supplied by an  
33 electric utility to ~~a~~ an individual net-metering customer and separately  
34 measuring the electricity as measured in kilowatt hours generated by a ~~net-~~  
35 ~~metering customer and~~ an individual net-metering customer's net-metering  
36 facility and fed back to the electric utility ~~over the applicable period~~

determined by a commission;

(8) "Net-metering surplus" means the dollar value resulting from multiplying the avoided cost of the electric utility to all kilowatt hours supplied to the electric utility by a net-metering customer during the applicable billing period under § 23-18-604(c)(4);

~~(7)(9)(A)~~ "Net-metering customer" means a an individual customer of an electric utility that:

~~(A)(i)~~ Is an owner of a net-metering facility;

~~(B)(ii)~~ Leases a net-metering facility subject to the following limitations:

~~(i)(a)~~ A lease shall not permit the sale of electric energy measured in kilowatt hours or electric capacity measured in kilowatts between the lessor and lessee; and

~~(ii)(b)~~ A lease shall not include any charge per kilowatt hour or any charge per kilowatt; or

~~(C)(iii)(a)~~ Is a government entity or other entity that is exempt from state and federal income tax, and that, for the sole purpose of this subchapter, obtains electric energy from a net-metering facility under a service contract qualifying for safe-harbor protection as provided under 26 U.S.C. § 7701(e)(3)(A), as in effect on ~~July 24, 2019;~~ August 16, 2022.

(b) Revenues collected under contracts for obtaining electric energy from a net-metering facility under a service contract qualifying for safe-harbor protection as provided under 26 U.S.C. § 7701(e)(3)(A), as in effect on August 16, 2022, are exempt from state and local sales taxes.

(B) "Net-metering customer" does not mean a customer that is an interruptible customer of the electric utility and takes service under an electric utility's rate schedule for interruptible service;

~~(8)(10)~~ "Net-metering facility" means a facility for the production of electric energy to meet all or part of a net-metering customer's need for electric energy within a single utility's allocated service territory that:

(A) Uses solar, wind, hydroelectric, geothermal, or biomass resources to generate electricity, including, but not limited to, fuel cells and micro turbines that generate electricity if the fuel source is entirely derived from renewable resources;

1 (B)(i)(a) Has a nameplate generating capacity of not more  
 2 than:

3 ~~(i)(1) The greater of twenty five kilowatts (25 kW)~~  
 4 ~~or one~~ For a residential customer for residential use, the lesser of twenty-  
 5 five (25) kilowatts alternating current or one hundred percent (100%) of the  
 6 net-metering customer's highest monthly usage in the previous twelve (12)  
 7 months for residential use;

8 ~~(ii)(2) For customers of electric utilities, one~~  
 9 ~~thousand kilowatts (1,000 kW) for use other than residential use unless~~  
 10 ~~otherwise allowed by a commission under § 23-18-604~~ For nonresidential  
 11 customers of electric utilities for nonresidential use less than or equal to  
 12 the lesser of one thousand kilowatts (1,000 kW) alternative current or one  
 13 hundred percent (100%) of the net-metering customer's highest monthly usage  
 14 in the previous twelve (12) months within a single utility's allocated  
 15 service territory, when the net-metering facility is located on a separate  
 16 property from any other net-metering facility or only co-locates on a  
 17 property with one (1) other net-metering facility within a single utility's  
 18 allocated service territory; or

19 ~~(iii)(3) For customers of a municipal utility,~~  
 20 ~~the limits established by the governing body of the municipal utility under §~~  
 21 ~~23-18-605+.~~

22 (b) The total nameplate generating capacity of  
 23 all net-metering facilities owned by, leased by, or providing electric energy  
 24 under one (1) or more qualifying service contracts of an individual net-  
 25 metering customer, including without limitation any net-metering facilities  
 26 serving any net-metering customer, within a single utility's allocated  
 27 service territory, shall be less than or equal to the lesser of one thousand  
 28 kilowatts (1,000 kW) alternative current or one hundred percent (100%) of the  
 29 net-metering customer's highest monthly usage in the previous twelve (12)  
 30 months.

31 (ii) The nameplate generating capacity under  
 32 subdivisions (10)(B)(i)(a)(1) and (2) of this section includes the total  
 33 kilowatt nameplate generating capacity of all net-metering facilities within  
 34 a single electric utility's allocated service territory owned by, leased by,  
 35 or providing electric energy under one (1) or more qualifying service  
 36 contracts to a net-metering customer, including without limitation any net-

1 metering facilities serving multiple meter locations under common ownership;

2 (C) Is located in Arkansas;

3 (D) Is located physically behind a net-metering customer's  
 4 electric utility meter that represents at least fifty percent (50%) of the  
 5 net-metering customer's total annual energy usage for all of the net-metering  
 6 customer's accounts within a single utility service area served by the net-  
 7 metering facility;

8 ~~(D)~~(E) Can operate in parallel with an electric utility's  
 9 existing transmission and distribution facilities;

10 ~~(E)~~(F) Is intended ~~primarily~~ to offset part or all of ~~the~~  
 11 an individual net-metering customer customer's requirements for electricity;  
 12 and

13 ~~(F)(i)~~(G)(i) May include an energy storage device that is  
 14 configured to receive electric energy solely from a net-metering facility.

15 (ii) The capacity of an energy storage device shall  
 16 not be used to calculate the capacity limits listed in subdivision

17 ~~(8)(B)~~(10)(B) of this section if the energy storage device is configured to  
 18 receive electric energy solely from a net-metering facility;

19 ~~(9) "Quantifiable benefits" means the:~~

20 ~~(A) Reasonably demonstrated costs that:~~

21 ~~(i) Are related to the provision of electric service~~  
 22 ~~and based on the utility's most recent cost-of-service study filed with the~~  
 23 ~~commission; and~~

24 ~~(ii) Will be avoided by the utility by the use of~~  
 25 ~~net metering;~~

26 ~~(B) Monetary value provided to a utility by the use of net~~  
 27 ~~metering as specified by a market mechanism, if any, of the regional~~  
 28 ~~transmission organization of which the electric utility is a member; and~~

29 ~~(C) Monetary value provided to a utility by the use of net~~  
 30 ~~metering as specified by a market mechanism, if any, that measures utility~~  
 31 ~~distribution system benefits; and~~

32 ~~(10)~~(11) "Renewable energy credit" means the environmental,  
 33 economic, and social attributes of a unit of electricity, such as a megawatt  
 34 hour, generated from renewable fuels that can be sold or traded separately.

35  
 36 23-18-604. Commission authority - Definition.

1 (a)(1) An electric utility shall allow net-metering facilities to be  
 2 interconnected using, at a minimum, a standard two-channel digital meter  
 3 ~~eapable of registering the flow of electricity in two (2) directions that~~  
 4 separately measures the electric energy in kilowatt hours that is:

5 (A) Supplied by an electric utility to the net-metering  
 6 customer; and

7 (B) Generated by the net-metering customer's net-metering  
 8 facility and fed back to an electric utility.

9 (2) An electric utility may impose a charge to recover any cost  
 10 of the standard two-channel digital meter that is not otherwise included in  
 11 the rates paid by the net-metering customer.

12 (b)(1) Following notice, ~~and~~ opportunity for public comment, ~~and a~~  
 13 hearing, a commission shall+

14 (1) ~~Shall~~ establish appropriate rates, terms, and conditions for  
 15 net metering, including without limitation the adoption or revision of any  
 16 applicable rules on or before June 30, 2023+

17 (2) ~~For net-metering customers who receive service under a rate~~  
 18 ~~that does not include a demand component, may~~+

19 (A) ~~Require an electric utility to credit the net-metering~~  
 20 ~~customer with any accumulated net excess generation as measured in kilowatt~~  
 21 ~~hours or kilowatt hours multiplied by the applicable rate in the next~~  
 22 ~~applicable billing period and base the bill of the net-metering customer on~~  
 23 ~~the net amount of electricity as measured in kilowatt hours or kilowatt hours~~  
 24 ~~multiplied by the applicable rate that the net-metering customer has received~~  
 25 ~~from or fed back to the electric utility during the billing period~~+

26 (B) ~~Take the following actions if those actions are in the~~  
 27 ~~public interest and doing so will not result in an unreasonable allocation of~~  
 28 ~~or increase in costs to other utility customers~~+

29 (i) ~~Separately meter the electric energy, measured~~  
 30 ~~in kilowatt hours, supplied by the electric utility to the net-metering~~  
 31 ~~customer and the electric energy, measured in kilowatt hours, that is~~  
 32 ~~generated by the net-metering customer's net-metering facility that is fed~~  
 33 ~~back to the electric utility at any time during the applicable billing~~  
 34 ~~period~~+

35 (ii) ~~Apply the commission approved retail rate to~~  
 36 ~~all kilowatt hours that are supplied by the electric utility to a net-~~

metering customer by the electric utility during the applicable period determined by a commission;

(iii) ~~Apply the avoided cost of the electric utility plus any additional sum determined under subdivision (b)(2)(B)(iv) of this section to all kilowatt hours supplied to the electric utility by a net-metering customer, during the period determined by a commission, which shall be credited to the total bill of the net-metering customer in a dollar value; and~~

(iv) ~~The additional sum added to the avoided cost of the electric utility may be applied after the demonstration of quantifiable benefits by the net-metering customer and shall not exceed forty percent (40%) of the avoided cost of the electric utility;~~

(C) ~~Authorize an electric utility to assess a net-metering customer that is being charged a rate that does not include a demand component a per-kilowatt-hour fee or charge to recover the quantifiable direct demand-related distribution cost of the electric utility for providing electricity to the net-metering customer that is not;~~

(i) ~~Avoided as a result of the generation of electricity by the net-metering facility; and~~

(ii) ~~Offset by quantifiable benefits; or~~

(D) ~~Take other actions that are in the public interest and do not result in an unreasonable allocation of costs to other utility customers; The right to a hearing under this subsection may be waived by the parties.~~

(c) Through its actions under subdivision (b)(1) of this section, a commission shall:

(1)(A) Ensure that each net-metering customer pays the costs of an electric utility's facilities and associated expenses required to:

(i) Provide service to the net-metering customer;  
and

(ii) Enable the net-metering customer's use of the electric utility's facilities.

(B) The costs described under subdivision (c)(1)(A) of this section include without limitation any costs that are:

(i) Recovered through rates using the cost-of-service study underlying the rates approved by a commission in the electric



1 utility's most recent application for a general change or modification of the  
2 electric utility's rates under § 23-4-401 et seq.;

3 (ii) Recovered through riders or surcharges; and

4 (iii) Adjusted for any commission-approved:

5 (a) Formula rate plan adjustments under the  
6 Formula Rate Review Act, § 23-4-1201 et seq.; or

7 (b) Adjustments under § 23-4-901 et seq.

8 (C) By June 30, 2023, a commission shall approve  
9 modifications to each electric utility's rate schedules applicable to net-  
10 metering customers to ensure that all existing and prospective net-metering  
11 customers pay all applicable riders and surcharges;

12 (2) Allow an electric utility to modify the rates, terms, and  
13 conditions, including without limitation the rate structure and any  
14 individual rate components for net-metering customers, subject to approval by  
15 the commission, without filing an application for a general change or  
16 modification of the electric utility's rates under § 23-4-401 et seq.;

17 (3) Not adjust the costs of an electric utility's facilities and  
18 associated expenses required to provide service to a net-metering customer  
19 and to enable the net-metering customer's use of the electric utility's  
20 facilities as specified in subdivision (c)(1)(A) of this section with any  
21 amounts that are not quantified in the cost-of-service study underlying the  
22 retail rates approved by a commission in the electric utility's most recent  
23 application for a general change or modification in rates under § 23-4-401 et  
24 seq., including without limitation any commission-approved:

25 (A) Formula rate plan adjustments under the Formula Rate  
26 Review Act, § 23-4-1201 et seq.; or

27 (B) Adjustments under § 23-4-901 et seq.;

28 (4) Establish rates for a net-metering customer using one (1) of  
29 the rate structures under § 23-18-606;

30 (5) Separately meter the electric energy, measured in kilowatt  
31 hours, supplied by the electric utility to the net-metering customer and the  
32 electric energy, measured in kilowatt hours, that is fed back to the electric  
33 utility from the net-metering customer's net-metering facility at any time  
34 during the applicable billing period;

35 (6) Apply the commission-approved customer charge, demand  
36 charge, or minimum bill provision and other applicable commission-approved

1 charges addressed in subdivision (c)(1)(A) of this section;

2 (7) Apply the commission-approved charges addressed in  
 3 subdivision (c)(1)(A) of this section to the applicable net-metering  
 4 customers, including without limitation any rates, riders, and surcharges  
 5 that are applied based on the volume of kilowatt hours of electricity  
 6 supplied by an electric utility, to all kilowatt hours that are supplied by  
 7 the electric utility to a net-metering customer by the electric utility  
 8 during the applicable billing period;

9 (8) Authorize an electric utility to recover any net-metering  
 10 surplus or the dollar value of any net excess generation applied to the bills  
 11 of net-metering customers in the same manner that the electric utility  
 12 recovers the cost of fuel and purchased energy;

13 ~~(3) Shall require that net-metering equipment be installed to~~  
 14 ~~accurately measure the electricity;~~

15 ~~(A) Supplied by the electric utility to each net-metering~~  
 16 ~~customer; and~~

17 ~~(B) Generated by each net-metering customer that is fed~~  
 18 ~~back to the electric utility over the applicable billing period;~~

19 ~~(4) May authorize (9)(A) Authorize an electric utility to~~  
 20 ~~assess a net-metering customer a greater fee or charge of any type, if the~~  
 21 ~~electric utility's direct costs of interconnection and administration of net~~  
 22 ~~metering outweigh the distribution system, environmental, and public policy~~  
 23 ~~benefits of allocating the costs among the electric utility's entire customer~~  
 24 ~~base standard one-time fee, to be approved by the commission, to recover~~  
 25 ~~administrative and related interconnection review costs.~~

26 (B) Any costs incurred by the electric utility for an  
 27 interconnection study are the sole responsibility of the net-metering  
 28 customer and shall be paid in advance of any work's being undertaken by the  
 29 electric utility to:

30 (i) Enable the interconnection; and

31 (ii) Recover the electric utility's direct costs of  
 32 interconnection and any grid upgrades required to connect the net-metering  
 33 customer's net-metering facility;

34 (10) Require that a net-metering customer retains any renewable  
 35 energy credit created as a result of the electricity supplied by a net-  
 36 metering customer that generated the renewable energy credit as long as the

1 net-metering customer continues to be a net-metering customer; and

2 ~~(5) For net metering customers who receive service under a rate~~  
 3 ~~that does not include a demand component, shall require an electric utility~~  
 4 ~~to credit a net metering customer with the amount of any accumulated net~~  
 5 ~~excess generation as measured in kilowatt hours or kilowatt hours multiplied~~  
 6 ~~by the applicable rate in the next applicable billing period;~~

7 ~~(6) Except as provided in subdivision (b)(9) of this section,~~  
 8 ~~for net metering customers who receive service under a rate that includes a~~  
 9 ~~demand component, shall require an electric utility to credit the net-~~  
 10 ~~metering customer with any accumulated net excess generation in the next~~  
 11 ~~applicable billing period and base the bill of the net-metering customer on~~  
 12 ~~the net amount of electricity that the net-metering customer has received~~  
 13 ~~from or fed back to the electric utility during the billing period;~~

14 ~~(7) May expand the scope of net metering to include additional~~  
 15 ~~facilities that do not use a renewable energy resource for a fuel if so doing~~  
 16 ~~results in distribution system, environmental, or public policy benefits;~~

17 ~~(8) Shall provide that:~~

18 ~~(A)(i) The amount of the net excess generation credit as~~  
 19 ~~measured in kilowatt hours or kilowatt hours multiplied by the applicable~~  
 20 ~~rate remaining in a net metering customer's account at the close of a billing~~  
 21 ~~cycle shall not expire and shall be carried forward to subsequent billing~~  
 22 ~~cycles indefinitely.~~

23 ~~(ii) However, for net excess generation credits~~  
 24 ~~older than twenty four (24) months, a net metering customer may elect to have~~  
 25 ~~the electric utility purchase the net excess generation credits in the net-~~  
 26 ~~metering customer's account at the electric utility's avoided cost, plus any~~  
 27 ~~additional sum determined under this section, if the sum to be paid to the~~  
 28 ~~net metering customer is at least one hundred dollars (\$100).~~

29 ~~(iii) An electric utility shall purchase at the~~  
 30 ~~electric utility's avoided cost, plus any additional sum determined under~~  
 31 ~~this section, any net excess generation credit remaining in a net metering~~  
 32 ~~customer's account when the net metering customer:~~

33 ~~(a) Ceases to be a customer of the electric~~  
 34 ~~utility;~~

35 ~~(b) Ceases to operate the net metering~~  
 36 ~~facility; or~~

1 ~~(c) Transfers the net metering facility to~~  
 2 ~~another person; and~~

3 ~~(B) A renewable energy credit created as the result of~~  
 4 ~~electricity supplied by a net metering customer is the property of the net-~~  
 5 ~~metering customer that generated the renewable energy credit; and~~

6 ~~(9) May allow a net metering facility with a generating capacity~~  
 7 ~~that exceeds the limits provided under § 23-18-603(8)(B)(ii) or § 23-18-~~  
 8 ~~603(8)(B)(iii) of up to twenty thousand kilowatts (20,000 kW) if:~~

9 ~~(A) For any net metering facility with a generating~~  
 10 ~~capacity of less than five thousand kilowatts (5,000 kW):~~

11 ~~(i) The net metering facility is not for residential~~  
 12 ~~use;~~

13 ~~(ii) Increasing the generating capacity limits for~~  
 14 ~~individual net metering facilities results in distribution system,~~  
 15 ~~environmental, or public policy benefits or allowing an increased generating~~  
 16 ~~capacity for the net metering facility would increase the state's ability to~~  
 17 ~~attract businesses to Arkansas; and~~

18 ~~(iii) Allowing an increased generating capacity for~~  
 19 ~~the net metering facility is in the public interest; or~~

20 ~~(B) For any net metering facility with a generating~~  
 21 ~~capacity of greater than five thousand kilowatts (5,000 kW):~~

22 ~~(i) The net metering facility is not for residential~~  
 23 ~~use;~~

24 ~~(ii) Increasing the generating capacity limits for~~  
 25 ~~individual net metering facilities results in distribution system,~~  
 26 ~~environmental, or public policy benefits or allowing an increased generating~~  
 27 ~~capacity for the net metering facility would increase the ability of the~~  
 28 ~~state to attract business to Arkansas;~~

29 ~~(iii) Allowing an increased generating capacity for~~  
 30 ~~the net metering facility does not result in an unreasonable allocation of~~  
 31 ~~costs to other utility customers; and~~

32 ~~(iv) Allowing an increased generating capacity for~~  
 33 ~~the net metering facility is in the public interest; and~~

34 ~~(10)(A) Shall allow the net metering facility of a net metering~~  
 35 ~~customer who has submitted a standard interconnection agreement, as referred~~  
 36 ~~to in the rules of the Arkansas Public Service Commission, to the electric~~

1 utility after July 24, 2019, but before December 31, 2022, to remain under  
 2 the rate structure in effect when the net metering contract was signed, for a  
 3 period not to exceed twenty (20) years, subject to approval by a commission.

4 ~~(B)~~ A net metering facility under subdivision (b)(10)(A)  
 5 of this section remains subject to any other change or modification in rates,  
 6 terms, and conditions (11)(A) Allow only a net-metering customer that  
 7 submitted a standard interconnection agreement to the electric utility before  
 8 December 31, 2022, to remain under the rate structure in effect before  
 9 December 31, 2022, until June 1, 2040.

10 (B) A net-metering customer that installs a net-metering  
 11 facility after December 31, 2022, and that submits a standard interconnection  
 12 agreement shall be billed using one (1) of the rate structures established in  
 13 § 23-18-606.

14 (C) A net-metering facility billed using the rate  
 15 structures described in subdivisions (c)(11)(A) and (B) of this section  
 16 remains subject to any other change or modification in rates, terms, and  
 17 conditions.

18 ~~(e)(1)(d)(1)~~ Except as provided in subdivision ~~(e)(2)(d)(2)~~ of this  
 19 section, an electric utility shall separately meter, bill, and credit each  
 20 net-metering facility even if one (1) or more net-metering facilities are  
 21 under common ownership.

22 (2)(A)(i) At ~~the~~ an individual net-metering customer's  
 23 discretion, an electric utility ~~may~~ shall apply ~~net-metering credits~~ the net-  
 24 metering surplus from a an individual net-metering customer's net-metering  
 25 facility to the bill for another meter location of the individual net-  
 26 metering customer if the net-metering facility and the separate meter  
 27 location are under common ownership of the same individual net-metering  
 28 customer within a single electric ~~utility's~~ allocated service area territory  
 29 and are on contiguous property to the net-metering customer.

30 (ii) ~~Subdivision (e)(2)(A)(i) of this section does~~  
 31 ~~not apply if more than two (2) customers that are governmental entities or~~  
 32 ~~other entities that are exempt from state and federal income tax defined~~  
 33 ~~under § 23-18-603(7)(C) co-locate at a site hosting the net-metering facility~~  
 34 A separate meter location under subdivision (d)(2)(A)(i) of this section  
 35 shall be credited only with net-metering surplus from one (1) net-metering  
 36 facility owned by the same net-metering customer, with all accounts being

1 under common ownership for the same individual net-metering customer.

2 (B) ~~Net-excess-generation~~ Net-metering surplus shall be  
3 credited first to ~~the~~ an individual net-metering customer's bill for the  
4 meter to which the net-metering facility is physically attached.

5 (C) After applying ~~net-excess-generation~~ net-metering  
6 surplus under subdivision ~~(e)(2)(B)~~(d)(2)(B) of this section and upon request  
7 of the net-metering customer under subdivision ~~(e)(2)(A)~~(d)(2)(A) of this  
8 section, any remaining ~~net-excess-generation~~ net-metering surplus shall be  
9 credited to one (1) or more of the individual net-metering customer's bills  
10 for the individual net-metering customer's meters in the rank order provided  
11 by the individual net-metering customer.

12 ~~(d)(e)~~ A person ~~who~~ that acts as a lessor or service provider as  
13 described in ~~§ 23-18-603(7)(B)~~ § 23-18-603(9)(B) or ~~§ 23-18-603(7)(C)~~ § 23-  
14 18-603(9)(C) shall not be considered a public utility as defined in § 23-1-  
15 101.

16 (f) An electric utility shall not be obligated to:

17 (1) Accept or release any portion of its or another electric  
18 utility's allocated service territory to accommodate the development,  
19 construction, or operation of a net-metering facility; or

20 (2) Publish, provide, or release any information regarding its  
21 electric utility facilities or system to aid in the location of the net-  
22 metering facilities beyond its established site review process.

23  
24 23-18-605. Municipal utilities.

25 (a) A municipal utility shall allow net-metering facilities to be  
26 interconnected according to the ordinances, rules, or regulations established  
27 by the governing body of the municipal utility.

28 (b) The governing body of a municipal utility may elect to follow  
29 procedures under § 23-18-604, § 23-18-606, or § 23-18-607 or may adopt  
30 ordinances, rules, or regulations establishing the rates, terms, and  
31 conditions allowing the interconnection of net-metering facilities, including  
32 generation facilities and energy storage devices, whether owned or leased by  
33 a customer or operated by a third party on behalf of a customer.

34 (c) The governing body of a municipal utility may limit the generating  
35 capacity of a net-metering facility to less than twenty-five kilowatts (25  
36 kW) for residential customers or three hundred kilowatts (300 kW) for

1 nonresidential customers only after the governing body finds that the  
 2 capacity limit is necessary for reliable utility operations or the public  
 3 health, safety, or welfare.

4 (d) The governing body of a municipal utility shall not establish a  
 5 rate or fee that reduces the value of electric energy from a net-metering  
 6 facility to below the avoided cost of the municipal utility.

7 (e) For customers who receive service under a rate that includes a  
 8 demand component, the governing body of the municipal utility shall require a  
 9 municipal utility to credit a net-metering customer with any accumulated net  
 10 excess generation in the next applicable billing period and base the bill of  
 11 the customer on the net amount of electricity that the net-metering customer  
 12 has received from or fed back to the municipal utility during the billing  
 13 period.

14  
 15 23-18-606. Rate structure determination.

16 (a) At its discretion, an electric utility may elect to use one (1) of  
 17 the following rate structures to develop rates for net-metering customers:

18 (1) A rate structure in which the electric utility:

19 (A) Separately meters the electric energy, measured in  
 20 kilowatt hours:

21 (i) Supplied by the electric utility to the net-  
 22 metering customer; and

23 (ii) Fed back to the electric utility from the net-  
 24 metering customer's net-metering facility at any time during the applicable  
 25 billing period;

26 (B) Applies the:

27 (i) Commission-approved customer charge, demand  
 28 charge, minimum bill provision, and other applicable commission-approved  
 29 charges under § 23-18-604(c)(1)(A);

30 (ii) Commission-approved charges under § 23-18-  
 31 604(c)(1)(A) to the applicable net-metering customers, including without  
 32 limitation any rates, riders, and surcharges applied based on the volume of  
 33 kilowatt hours of electricity supplied by an electric utility, to all  
 34 kilowatt hours that are supplied by the electric utility to a net-metering  
 35 customer by the electric utility during the applicable billing period; and

36 (iii) Avoided cost of the electric utility to all

1 kilowatt hours supplied to the electric utility by a net-metering customer  
2 during the applicable billing period to be credited to the total bill of the  
3 net-metering customer in a dollar value, excluding the customer charge and  
4 any applicable demand charge or minimum bill provision that the net-metering  
5 customer shall pay each month;

6 (C) Credits the net-metering customer with any accumulated  
7 net-metering surplus as measured in dollars during the next applicable  
8 billing period; and

9 (D) Credits the bills of the net-metering customer's other  
10 meters with the net-metering surplus measured in dollars under § 23-18-  
11 604(d)(2); or

12 (2) A rate structure in which the electric utility:

13 (A) Separately meters the electric energy, measured in  
14 kilowatt hours:

15 (i) Supplied by the electric utility to the net-  
16 metering customer; and

17 (ii) Fed back to the electric utility from the net-  
18 metering customer's net-metering facility at any time during the applicable  
19 billing period;

20 (B) Applies the:

21 (i) Commission-approved customer charge, demand  
22 charge, minimum bill provision, and other applicable commission-approved  
23 charges under § 23-18-604(c)(1)(A); and

24 (ii) Commission-approved riders or surcharges under  
25 § 23-18-604(c)(1)(A), including without limitation any rates, riders, and  
26 surcharges applied based on the volume of kilowatt hours of electricity  
27 supplied by an electric utility, to all kilowatt hours that are supplied by  
28 the electric utility to a net-metering customer by the electric utility  
29 during the applicable billing period prior to crediting any net excess  
30 generation under subdivision (a)(2)(C) of this section;

31 (C) Credits the net-metering customer with any accumulated  
32 net excess generation during the next applicable billing period;

33 (D) Calculates the net kilowatt hours of the electric  
34 energy supplied by the electric utility to the net-metering customer, less  
35 the net excess generation and any net excess generation carried forward from  
36 prior billing periods;



1           (E) Applies the commission-approved retail rate, except as  
2 provided in subdivision (a)(2)(B) of this section, not to exceed the kilowatt  
3 hours supplied to the net-metering customer by the electric utility during  
4 the applicable billing period;

5           (F) Carries forward any net excess generation that exceeds  
6 the kilowatt hours supplied by the electric utility during the applicable  
7 billing period to the next billing period;

8           (G) Excludes any net excess generation applied to another  
9 meter location of the net-metering customer under § 23-18-604(d); and

10           (H) Applies the monthly grid charge under § 23-18-607.

11           (b) A commission shall approve the rates established by a rate  
12 structure used by an electric utility under subsection (a) of this section.

13  
14           23-18-607. Monthly grid charge.

15           (a)(1) If an electric utility follows the rate structure in § 23-18-  
16 606(2), the electric utility shall apply a monthly grid charge to:

17           (A) Collect any of the fixed charges that are collected  
18 through volumetric charges, including without limitation any riders and  
19 surcharges; and

20           (B) Exclude the cost of fuel and purchased energy.

21           (2) The monthly grid charge shall be calculated based upon the:

22           (A) Currently approved rates; and

23           (B) Cost-of-service study underlying the electric  
24 utility's currently approved rates adjusted for any commission-approved:

25           (i) Formula rate plan adjustments under the Formula  
26 Rate Review Act, § 23-4-1201 et seq.; or

27           (ii) Adjustments under § 23-4-901 et seq.

28           (b) The monthly grid charge under this section shall be calculated for  
29 each customer class as follows:

30           (1)(A) Calculate the sum of all fixed costs collected through  
31 volumetric rates.

32           (B) The fixed costs collected through volumetric rates  
33 shall be any demand-related or customer-related costs collected in rates  
34 stated in dollars per kilowatt hour; and

35           (2)(A) Convert the fixed costs calculated in subdivision (b)(1)  
36 of this section into a rate, expressed in dollars per kilowatt hour, by

1 dividing the total of the fixed costs under subdivision (b)(1) of this  
2 section for each customer class by the electric utility's sales during the  
3 test-year used to develop the retail rates approved by the commission in the  
4 electric utility's most recent application for a general change or  
5 modification in rates under § 23-4-401 et seq.

6 (B) The monthly grid charge for each customer class shall  
7 be determined by multiplying the fixed costs expressed under subdivision  
8 (b)(2)(A) of this section by the expected monthly output of a one-kilowatt  
9 direct current solar photovoltaic solar system determined under subsection  
10 (c) of this section.

11 (c)(1) The expected monthly output of a one-kilowatt direct current  
12 solar photovoltaic solar system shall be:

13 (A) Expressed in kilowatt hours; and

14 (B) Calculated by dividing the expected average annual  
15 output for a one-kilowatt direct current solar photovoltaic solar system  
16 using the process described in subdivisions (c)(2) and (3) of this section by  
17 twelve (12).

18 (2) For a fixed-tilt solar photovoltaic system, the average  
19 annual output for a one-kilowatt direct current solar photovoltaic solar  
20 system shall be:

21 (A) Expressed in kilowatt hours; and

22 (B) Determined using the National Renewable Energy  
23 Laboratory PVWatts Calculator using a direct current to alternating current  
24 (DC/AC) ratio of one and one-tenth (1.1) using a single location central to  
25 the electric utility's service territory.

26 (3) For a single-axis tracking solar photovoltaic system, the  
27 average annual output for a one-kilowatt direct current solar photovoltaic  
28 solar system shall be:

29 (A) Expressed in kilowatt hours; and

30 (B) Determined using the National Renewable Energy  
31 Laboratory PVWatts Calculator using a direct current to alternating current  
32 (DC/AC) ratio of one and three-tenths (1.3) using a single location central  
33 to the electric utility's service territory.

34 (d) The monthly grid charge shall not be less than the amount of any  
35 electric utility fixed costs that are collected through volumetric charges,  
36 including without limitation any riders, and excluding the cost of fuel and

1 purchased energy that the net-metering customer avoids.

2  
3 SECTION 2. DO NOT CODIFY. TEMPORARY LANGUAGE. Rules.

4 (a) The Arkansas Public Service Commission, after notice and hearing,  
5 shall:

6 (1) Modify the commission rules to conform to this act; and

7 (2) Submit the commission rules to the Legislative Council by  
8 June 30, 2023.

9 (b) The commission shall approve modifications to the electric  
10 utilities' rate schedules applicable to net-metering to conform to this act  
11 by June 30, 2023.

12  
13 SECTION 3. EMERGENCY CLAUSE. It is found and determined by the  
14 General Assembly of the State of Arkansas that delay in the enactment of this  
15 act may result in unjust, unreasonable, and unduly discriminatory rates; and  
16 that this act is immediately necessary for the protection of Arkansas  
17 ratepayers. Therefore, an emergency is declared to exist, and this act being  
18 immediately necessary for the preservation of the public peace, health, and  
19 safety shall become effective on:

20 (1) The date of its approval by the Governor;

21 (2) If the bill is neither approved nor vetoed by the Governor,  
22 the expiration of the period of time during which the Governor may veto the  
23 bill; or

24 (3) If the bill is vetoed by the Governor and the veto is  
25 overridden, the date the last house overrides the veto.