

AN ACT

IN THE COUNCIL OF THE DISTRICT OF COLUMBIA

To amend the Retail Electric Competition and Consumer Protection Act of 1999 to update the net metering provisions to ensure consistency across programs, to allow for the creation of community renewable energy facilities that are renewable energy facilities interconnected at the distribution system level and located in a community served by an electric company, to allow retail customers of an electric company whose meters or accounts are within the District of Columbia and within the same service territory as a community renewable energy facility to subscribe to a community renewable energy facility, to allow for the establishment of subscriber organizations to beneficially own or operate community renewable energy facilities for subscribers, to allow for third parties under contract with subscriber organizations to build, own, or operate community renewable energy facilities, to allow for the monetary value of electricity generated by a community renewable energy facility to be credited to its subscribers to offset subscribers' electricity bills, and to allow the SOS administrator to offset wholesale purchases via community net metering, and to provide appropriate public-private financing mechanisms for renewable energy and related investments; and to amend the Renewable Energy Portfolio Standard Act of 2004 to require that the District Department of the Environment report progress towards solar generation goals.

BE IT ENACTED BY THE COUNCIL OF THE DISTRICT OF COLUMBIA, That this act may be cited as the "Community Renewable Energy Amendment Act of 2013".

Sec. 2. The Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000 (D.C. Law 13-107; D.C. Official Code § 34-1501 *et seq.*), is amended as follows:

(a) Section 101 (D.C. Official Code § 34-1501) is amended as follows:

(1) New paragraphs (9A) and (9B) are added to read as follows:

"(9A) "Community net metering" means a billing arrangement under which the monetary value of electric energy generated by a community renewable energy facility and delivered to the electric company's local distribution facilities is used to offset electric energy charges accrued during a subscriber's applicable billing period.

"(9B) "Community renewable energy facility" or "CREF" means an energy facility using renewable resources defined as tier one renewable sources in section 3(15) of the Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340; D.C. Official Code § 34-1431(15)) that is located within the District of Columbia and where the

monetary value of electricity generated by the facility is credited to the subscribers of the facility.”.

(2) A new paragraph (12A) is added to read as follows:

“(12A) “CREF credit rate” means a credit rate applied to subscribers of community renewable energy facilities which shall be equal to the standard offer service rate for the General Service Low Voltage Non-Demand Customer class or its successor, as determined by the Commission, based upon section 118.”.

(3) New paragraphs (15A) and (15B) are added to read as follows:

“(15A) “Department” means the District Department of the Environment.

“(15B) “Director” means the Director of the District Department of the Environment or his or her designee.”.

(4) A new paragraph (16A) is added to read as follows:

“(16A) “Electric company” shall have the same meaning as provided in the fifteenth unnumbered paragraph in paragraph 1 of section 8 of An Act Making appropriations to provide for the expenses of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 976; D.C. Official Code § 34-207).”.

(5) A new paragraph (17B) is added to read as follows:

“(17B) “Individual billing meter” means an individual meter or a set of meters when meters are combined for billing purposes.”.

(6) A new paragraph (24A) is added to read as follows:

“(24A) “Renewable energy credit” shall have the same meaning as provided in section 3(10) of the Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340; D.C. Official Code § 34-1431(10)).”.

(7) A new paragraph (25A) is added to read as follows:

“(25A) “SOS administrator” means the provider of standard offer service mandated by section 109.”.

(8) New paragraphs (27), (27A), and (27B) are added to read as follows:

“(27) “Subscriber” means a retail customer of the electric company who owns a subscription and who has identified an individual billing meter within the District of Columbia to which the subscription shall be attributed.

“(27A) “Subscriber organization” means any for-profit or nonprofit entity permitted by District of Columbia law that owns or operates one or more community renewable energy facilities for the benefit of the subscribers.

“(27B) “Subscription” means a percentage interest in a community renewable energy facility’s electrical production.”.

(b) A new section 101a is added to read as follows:

“Sec. 101a. Policy findings.

“The Council of the District of Columbia adopts the following policy findings in support of community renewable energy:

“(1) Local communities benefit from the deployment of tier one renewable energy in the District, and the Council hereby encourages the Department to establish programs that support development of such projects;

“(2) It is in the public interest that the Department encourages broad participation in District-based tier one renewable electric generation by District residents, not-for-profit entities, and for-profit entities through outreach efforts and programs in all 8 wards;

“(3) It is in the public interest that the Department enables the development and deployment of community renewable energy facilities for the following purposes:

“(A) To allow renters and low- to moderate-income retail electric customers to own interests in tier one renewable energy generating facilities;

“(B) To allow interests in tier one renewable energy generation facilities to be portable and transferrable;

“(C) To facilitate market entry for all potential subscribers, while prioritizing those persons most sensitive to market barriers; and

“(D) To encourage developers to promote participation by renters and low- to moderate-income retail electric customers; and

“(4) It is in the public interest for developers to encourage participation by renters and low- to moderate-income retail electric customers.”.

(c) Section 118(b) (D.C. Official Code § 34-1518(b)) is amended by adding a new paragraph (5) to read as follows:

“(5) The Commission shall establish additional rules as necessary for the electric company to implement the following provisions:

“(A) A community renewable energy facility shall meet all applicable safety and performance standards. The Commission may adopt by rulemaking additional control and testing requirements for community renewable energy facilities that the Commission considers necessary to protect public safety and system reliability.

“(B) The owners of, subscribers to, and any subscriber organization controlling a community renewable energy facility shall not be considered public utilities or electricity suppliers solely as a result of their interest or participation in the community renewable energy facility.

“(C) Prices paid for subscriptions and contractual matters in a community renewable energy facility shall not be subject to the jurisdiction of the Commission.

“(D) The subscriber organization or the third-party owner shall own the renewable energy credits associated with the electricity generated by the community renewable energy facility, unless the credits were explicitly contracted for through a separate transaction independent of any net metering or interconnection agreement or contract.

“(E) The owner or operator of each community renewable energy facility shall follow all procedures for interconnection specified in Chapter 40 of Title 15 of the District of Columbia Municipal Regulations.

“(F) All electricity exported to the grid by the community renewable energy facility shall become the property of the SOS administrator, pursuant to section 118a(h), but shall not be counted toward the electric company’s total retail sales for purposes of the

Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340; D.C. Official Code § 34-1431 *et seq.*). The SOS administrator shall use subscribed energy to offset purchases from wholesale suppliers for standard offer service.

“(G) The monetary value of subscribed energy produced by a community renewable energy facility shall be determined as established in this section, as implemented by the Commission.

“(H) The amount of electricity generated each month available for allocation as subscribed or unsubscribed energy shall be determined by a revenue quality production meter installed and paid for by the owner of the community renewable energy facility. It shall be the electric company’s responsibility to read the production meter.

“(I) The determination of the monetary value of credits allocated to each subscriber to a particular community renewable energy facility shall be based on each subscriber’s percentage interest of the total production of the community renewable energy facility.

“(J) Each billing month, the value of the credits allocated to each subscriber shall be calculated by multiplying the quantity of kilowatt hours allocated to each subscriber by the subscriber’s CREF credit rate.

“(K) If the value of the credits generated by the community renewable energy facility allocated to the subscriber exceeds the amount owed by the subscriber as shown on the subscriber’s bill at the end of the billing period, the remaining value of the credit shall carry over from month to month until the value of any remaining credits are used.

“(L) If the value of the credit generated by the community renewable energy facility allocated to the subscriber is less than the amount owed by the subscriber as shown on the subscriber’s bill at the end of the applicable billing period, the subscriber shall be billed for the difference between the amount shown on the bill and the value of the available credits.

“(M) If the subscriber is served by an energy supplier other than the SOS administrator, the subscriber shall be billed by the energy supplier for the full kilowatt-hours consumed by the subscriber during the billing period, and will receive the value of the credits generated by the CREF from the SOS administrator at the subscriber’s CREF credit rate.”.

(d) A new section 118a is added to read as follows:

“Sec. 118a. Community renewable energy facilities.

“(a) A community renewable energy facility may produce no greater than 5 megawatts of electricity and must have at least 2 subscribers.

“(b) A subscriber to an eligible community renewable energy facility may offset no more than 120% of the subscriber’s electricity consumption over the previous 12 months.

“(c) Each subscription shall represent a percentage of the community renewable energy facility’s generating capacity; provided, that the subscription is intended primarily to offset part or all of the subscriber’s own electrical requirements.

“(d) All individual billing meters for subscriptions to community renewable energy facilities shall be within the District of Columbia.

“(e) A community renewable energy facility may be built, owned, or operated by a third

party under contract with a subscriber organization.

“(f) A community renewable energy facility may add capacity and subscribers to its facility if the added capacity and subscribers do not reduce the electrical production benefit to existing subscribers.

“(g) A community renewable energy facility may update its subscribers no more frequently than once per quarter. Each quarter the owner of a CREF or its designated agent shall provide the following information about its subscribers to the electric company as required to facilitate net metering for subscribers:

“(1) Name, address, and account number of each subscriber; and

“(2) The percentage interest of each subscriber in the capacity of the CREF;

“(h) The electric company may require that a CREF and its subscribers have their meters read on the same billing cycle.

“(i) If the electrical capacity of a community renewable energy facility is not fully subscribed, the SOS administrator shall purchase the energy associated with the unsubscribed capacity at the PJM Locational Marginal Price for the PEPCO zone, adjusted for ancillary service charges.

“(j) Subscribers shall be eligible to receive electricity credits so long as the CREF continues to generate and provide power to the distribution grid, regardless of the bankruptcy or contractual default of any subscriber or of the subscriber organization.

“(k) A community renewable energy facility shall not add subscribers without adhering to the consumer protection provisions contained in section 107.

“(l) A community renewable energy facility may not sell subscriptions totaling more than 100% of its energy generation.”.

(e) New sections 121 and 122 are added to read as follows

“Sec. 121. Consumer disclosure requirements.

“(a) An entity selling or reselling an interest in a community renewable energy facility shall provide a disclosure to the potential subscriber that includes the following, prior to the sale or resale of that subscription:

“(1) A good faith estimate of the annual kilowatt hours to be delivered by the community renewable energy facility based on the size of the subscriber’s interest;

“(2) A plain language explanation of the terms under which the bill credits will be calculated;

“(3) A plain language explanation of the contract provisions regulating the disposition or transfer of the subscription; and

“(4) A plain language explanation of the costs and benefits to the potential subscriber based on the subscriber’s current usage and applicable tariff, for the term of the proposed contract.

“(b) The Mayor or his or her designee may require that any entity engaged in the sale or resale of a subscription in a community renewable energy facility provide additional disclosure to the buyer or lessee, the Mayor, or both.

“(c) All contracts for the sale or resale of a subscription in a community renewable energy facility for use in a residential dwelling may be reviewed by the Mayor or his or her designee

upon request.

“(d) The Mayor pursuant to Title 1 of the District of Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C. Official Code § 2-501 *et seq.*), may issue rules to carry out the disclosure requirements contained in this section.

“Sec. 122. Recovery of CREF implementation costs.

“Pursuant to paragraphs 2 and 94 of section 8 of An Act Making appropriations to provide for the expenses of the District of Columbia for the fiscal year ending June thirtieth, nineteen hundred and fourteen, and for other purposes, approved March 4, 1913 (37 Stat. 977, 994; D.C. Official Code §§ 34-1101 and 34-901), the electric company may seek recovery of any costs associated with the implementation of this act in a base rate case. In a base rate case filing that includes recovery of such costs, the electric company shall include in its filing with the Commission any benefits and costs to the electric company. Any recovery of the net costs by the electric company approved by the Commission shall occur solely through a rate assessment of the subscribers.”.

Sec. 3. Section 6 of the Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340; D.C. Official Code § 34-1434), is amended by adding a new subsection (f) to read as follows:

“(f) The District Department of the Environment shall publish on its website at least annually a report that describes progress towards the solar generation goals provided in the renewable energy portfolio standard and a comparison with other sources of energy used in the District. Each report shall detail the equitable distribution of resources consistent with the policy findings in section 101a of the Retail Electric Competition and Consumer Protection Act of 1999, passed on 2nd reading on October 1, 2013 (Enrolled version of Bill 20-57).”.

Sec. 4. Fiscal impact statement.

The Council adopts the fiscal impact statement in the committee report as the fiscal impact statement required by section 602(c)(3) of the District of Columbia Home Rule Act, approved December 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(3)).

Sec. 5. Effective date.

This act shall take effect following approval by the Mayor (or in the event of veto by the Mayor, action by the Council to override the veto), a 30-day period of Congressional review as provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December

24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of Columbia Register.

Chairman
Council of the District of Columbia

Mayor
District of Columbia