

SB 108-FN - AS AMENDED BY THE SENATE

03/06/2025 0550s

2025 SESSION

25-0946

06/02

SENATE BILL **108-FN**

AN ACT relative to the department of energy.

SPONSORS: Sen. Pearl, Dist 17; Sen. Avard, Dist 12; Sen. Lang, Dist 2; Sen. Murphy, Dist 16; Sen. Sullivan, Dist 18; Sen. Gannon, Dist 23; Sen. McGough, Dist 11; Sen. Rosenwald, Dist 13; Sen. Watters, Dist 4; Sen. Perkins Kwoka, Dist 21; Rep. Spillane, Rock. 2; Rep. Cambrils, Merr. 4; Rep. Moffett, Merr. 4; Rep. See, Merr. 26

COMMITTEE: Energy and Natural Resources

ANALYSIS

This bill transfers specific regulatory and adjudicative responsibilities from the public utilities commission to the department of energy, including prohibiting unauthorized telecommunications service provision, protecting ratepayer communication preferences, and refining net energy metering, assessment, complaint, investigation, and aggregation procedures.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears ~~[in brackets and struckthrough.]~~
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Twenty Five

AN ACT relative to the department of energy.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 1 Ratepayer Protection. Amend RSA 374-F:4-b, I to read as follows:

2 I. Within 60 days of the effective date of this section, the ~~[commission]~~ **department of**
3 **energy** shall initiate a proceeding to develop rules to allow residential and small commercial
4 customers to choose how they receive communication from competitive electric suppliers and to
5 implement the provisions of this section. Where the ~~[commission]~~ **department** has adopted rules in
6 conformity with this section, complaints to and proceedings before the ~~[commission]~~ **department**
7 shall not be subject to RSA 541-A:29 or RSA 541-A:29-a.

8 2 Net Energy Metering. Amend RSA 362-A:9, I and I-a to read as follows:

9 I. Standard tariffs providing for net energy metering shall be made available to eligible
10 customer-generators by each electric distribution utility in conformance with net metering rules
11 adopted **by the department** and orders issued by the commission. ~~[Each net energy metering tariff~~
12 ~~shall be identical, with respect to rates, rate structure, and charges, to the tariff under which a~~
13 ~~customer-generator would otherwise take default generation supply service from the distribution~~
14 ~~utility. Such tariffs shall be available on a first come, first served basis within each electric utility~~
15 ~~service area under the jurisdiction of the commission until such time as the total rated generating~~
16 ~~capacity owned or operated by eligible customer-generators totals a number equal to 100 megawatts,~~
17 ~~with 50 megawatts of the 100 megawatts allocated to the 4 electric distribution utilities that were~~
18 ~~subject to the commission's jurisdiction in 2010 multiplied by each such utility's percentage share of~~
19 ~~the total 2010 annual coincident peak energy demand distributed by those 4 utilities, and 50~~
20 ~~megawatts of the 100 megawatts allocated to the state's 3 investor-owned electric distribution~~
21 ~~utilities, multiplied by each such utility's percentage share of the total 2010 annual coincident peak~~
22 ~~energy demand distributed by those 3 utilities, all to be determined by the commission and to be~~
23 ~~utilized by eligible customer-generators located within each such utilities' service territory. Eighty~~
24 ~~percent of each utility's share of the 50 megawatts shall be apportioned to facilities with a total~~
25 ~~generating capacity of not more than 100 kilowatts and 20 percent to facilities with a total~~
26 ~~generating capacity in excess of 100 kilowatts, but no greater than one megawatt. The 50 megawatts~~
27 ~~of capacity shall be made available to eligible customer-generators until such time as commission~~
28 ~~approved alternative net metering tariffs approved by the commission become available. No more~~
29 ~~than 4 megawatts of such total rated generating capacity shall be from a combined heat and power~~
30 ~~system as defined in RSA 362-A:1 a, I d.] **Each net energy metering tariff shall be identical,**~~
31 **with respect to rates, rate structure, and charges, to the tariff under which a customer-**

1 *generator would otherwise take default generation supply service from the distribution*
2 *utility. Standard tariffs shall be made available to eligible customer-generators until such*
3 *time as commission approved alternative net metering tariffs approved by the commission*
4 *become available.*

5 I-a. [~~No person, owner, developer, installer of an eligible customer-generator facility,~~
6 ~~business organization, or any subsidiary thereof, shall reserve capacity space in the net metering~~
7 ~~interconnection queue of more than 20 percent of the total net metering utility specific allocation~~
8 ~~pursuant to this section, and the creation of multiple business organizations, including a person, as~~
9 ~~defined in RSA 366:1, I, by the same shall not defeat this requirement. On a weekly basis each~~
10 ~~utility shall make public on its website its total net metering allocation, its reserved net metering~~
11 ~~capacity, and its installed and operating net metering capacity. For project applications of greater~~
12 ~~than 100 kilowatts, each utility net metering interconnection queue application shall include a~~
13 ~~certification of compliance with the 20 percent requirement, all persons involved in such an~~
14 ~~application shall sign the certification of compliance, and no application shall be processed where~~
15 ~~one or more persons involved in the application did not sign the certification of compliance.]~~

16 *Alternative tariffs providing for net energy metering shall be made available to eligible*
17 *customer-generators by each investor-owned electric distribution utility in conformance*
18 *with order 26,029 issued by the commission on June 23, 2017, and rules adopted by the*
19 *department. The alternative tariffs shall be made available to such customer-generators*
20 *until such time as the commission approves alternative net metering tariffs in accordance*
21 *with RSA 362-A:9, XVI (a).*

22 3 Certification of Assessment. Amend RSA 363-A:3 to read as follows:

23 363-A:3 Certification of Assessment. It shall be the duty of the department of energy to
24 calculate the amount to be assessed against each such public utility and each other entity subject to
25 assessment in accordance with RSA 363-A:1 and RSA 363-A:2. At the beginning of each fiscal year,
26 the department of energy shall estimate the total expenses for the fiscal year, and then, based on
27 such estimate, shall calculate the amount to be assessed quarterly on September 15, November 15,
28 February 15, and April 15 of that fiscal year. For entities with assessments less than \$10,000, the
29 department may bill those entities the entire amount on September 15 of that fiscal year. The
30 department of energy shall then make a list showing the amount assessed September 15, November
31 15, February 15, and April 15 of that fiscal year to each of the several public utilities and other
32 entities assessed under the provisions hereof, and, together with a statement of the full name and
33 mailing address of each such public utility and other assessed entity, shall certify the same. *Each*
34 *public utility and entity subject to assessment under RSA 363-A:1 and A:2 and registered*
35 *with the department on July 1 of the new fiscal year shall be liable for their entire amount*
36 *assessed for that fiscal year.* After the close of each fiscal year, the department of energy shall
37 ascertain the actual total expenses in accordance with RSA 363-A:1 and RSA 363-A:2, and then shall

1 adjust the assessment for the first or only payment of the new fiscal year for each such public utility
2 or other assessed entity for any underpayment or overpayment by each such public utility or other
3 assessed entity for the prior fiscal year.

4 4 Complaints. Amend RSA 365:1 to read as follows:

5 365:1 [~~Complaint Against Public Utilities~~] **Complaints.** Any person may make *a formal*
6 complaint to the department of energy by petition setting forth in writing any thing or act claimed to
7 have been done or to have been omitted by any [~~public utility~~] **entity subject to the department's**
8 **or commission's jurisdictions and** in violation of any provision of [~~law~~], **statute or rule**, or of the
9 terms and conditions of **registration, tariff, community aggregation plan**, franchises or charter,
10 or of any order of the **department or commission, provided such person has first made the**
11 **same or a substantially similar complaint to the department's consumer services division**
12 **and exhausted all available remedies available through that division. RSA 541-A:29 and**
13 **RSA 541-A:29-a shall not apply to informal or formal complaints filed with the department.**

14 5 Exceptions. Amend RSA 365:1-a to read as follows:

15 365:1-a Exceptions. Except for complaints about RSA 371:17 through RSA 371:24, RSA 374:2-a,
16 RSA 374:22-p, I(b), RSA 374:28-a, RSA 374:34-a, RSA 374:48 through RSA 374:56, RSA 374:59, and
17 RSA 378:44 through RSA 378:48, the provisions of this chapter shall not apply to any end user of an
18 excepted local exchange carrier, nor to any service provided to such end user. Such end users may
19 make complaints [~~to the commission~~] regarding basic service, as defined by RSA 374:22-p, I(b) by
20 excepted local exchange carriers. **Except for complaints about RSAs 371:17 through 371:24,**
21 **374:34-a, 374:48 though 374:56, and 374:59, the provisions of this chapter shall not apply to**
22 **any end user of a voice over Internet protocol (VoIP) provider, IP-enabled service provider,**
23 **or cellular mobile radio communication services carrier.**

24 6 Investigation and Voluntary Resolution. RSA 365:2 is repealed and reenacted to read as
25 follows:

26 365:2 Investigation and Voluntary Resolution. The department of energy may investigate and
27 resolve any complaint made to the department using non-adjudicative procedures. The department
28 may adopt rules for this purpose or may set out procedural requirements by order for the
29 investigation and resolution of complaints.

30 7 Reparation. Amend RSA 365:3 to read as follows:

31 365:3 Reparation. If the [~~public utility~~] **jurisdictional entity** complained of shall make
32 reparation for any injury alleged and shall cease to commit or to permit the violation [~~of law,~~
33 ~~franchise, or order~~] charged in the complaint, and shall notify the department of energy of that fact[
34 ~~before the time allowed for answer~~], the department shall not be required to take any further action
35 upon the [~~charges~~] **matters complained of.**

36 8 Department and Commission Adjudications. RSA 365:4 is repealed and reenacted to read as
37 follows:

1 365:4 Department and Commission Adjudications. If the charges are not resolved voluntarily as
2 provided in RSA 365:2 or satisfied as provided in RSA 365:3, then, for complaints over which only
3 the department has jurisdiction, the department of energy may either issue an order dismissing the
4 complaint or commence an adjudicative proceeding. For complaints over which the commission has
5 jurisdiction, if requested by the person filing the complaint, the department shall transfer the
6 complaint petition to the commission, along with a report of its investigation and attempts to resolve
7 the complaint, whereupon the commission shall issue an order of notice opening an adjudicative
8 proceeding.

9 9 Aggregation Program. Amend RSA 53-E:7, X to read as follows:

10 X. The commission shall adopt rules, under RSA 541-A, to implement this chapter and, to
11 the extent authorities granted to municipalities and counties by this chapter materially affect the
12 interests of electric distribution utilities and their customers, to reasonably balance such interests
13 with those of municipalities and counties for the public good, which may also be done through
14 adjudicative proceedings to the extent specified or not addressed in rules. Such rules shall include
15 but not be limited to rules governing the relationship between municipal and county aggregators and
16 distribution utilities, metering, billing, access to customer data for planning and operation of
17 aggregations, notice of the commencement or termination of aggregation services and products, and
18 the reestablishment of a municipal or county aggregation that has substantially ceased to provide
19 services. Where the commission has adopted rules or issued orders in conformity with this chapter,
20 complaints pertaining to actions undertaken or omitted by any municipal or county aggregator or
21 electric distribution utility arising under this chapter, applicable rules, or orders of the commission,
22 shall be made to the department. ~~[Thereupon, the department shall cause a copy of said complaint to
23 be forwarded to the municipal or county aggregator or electric distribution utility complained of,
24 which may be accompanied by an order, requiring that the matters complained of be satisfied, or
25 that the charges be answered in writing within a time to be specified by the department. If the
26 charges are not satisfied and it shall appear to the department that there are reasonable grounds
27 therefor, it shall investigate the same in such manner and by such means as it shall deem proper.
28 After investigation, the department may bring proceedings on its own motion before the commission,
29 with respect to any complaint or violation arising under this chapter, applicable rules, or orders of
30 the commission. If the party bringing the complaint is unsatisfied with the disposition of the
31 complaint by the department, then they may petition the commission to resolve the matter through
32 an adjudicative proceeding.]~~ Notwithstanding any other provision of law to the contrary, municipal
33 and county aggregators shall be subject to the jurisdiction of the department for purposes of this
34 paragraph. For non-residential ratepayers, the department shall docket and make public any
35 received complaint. Complaints to the department and proceedings before the commission shall not
36 be subject to RSA 541-A:29 or RSA 541-A:29-a.

37 10 Repeal. RSA 362-A:9, XVIII, relative to net metering caps, is repealed.

SB 108-FN - AS AMENDED BY THE SENATE

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1 11 Effective Date. This act shall take effect 60 days after its passage.

LBA
25-0946
3/17/25

**SB 108-FN- FISCAL NOTE
AS AMENDED BY THE SENATE (AMENDMENT #2025-0550s)**

AN ACT relative to the department of energy.

FISCAL IMPACT:

The Office of Legislative Budget Assistant states this bill, as amended by the Senate, has no fiscal impact on state, county and local expenditures or revenue.

AGENCIES CONTACTED:

Department of Energy and Public Utilities Commission