Rep. Moffett, Merr. 9
February 12, 2020
2020-0616h
10/06

Amendment to HB 1218-FN

Amend the title of the bill by replacing it with the following:

AN ACT relative to net energy metering limits for customer generators and the purchase of output of limited electrical energy producers.

Amend the bill by replacing all after the enacting clause with the following:

1 Findings. The general court finds that:

I. New Hampshire's electricity consumers, including municipalities, manufacturers, commercial businesses, and other large users, strongly support more competitive retail options to lower their energy costs.

II. These same consumers deserve the freedom to invest their own capital to become more self-sufficient and energy independent and less reliant on out-of-state electricity companies that control our high electricity rates.

III. ISO-New England, Inc., the independent, nonprofit regional transmission organization that oversees the operation of New England's bulk electric power system and transmission lines, has stated that infrastructure constraints could pose a challenge to the reliable operation of the regional power grid, create price increases and volatility, and contribute to increased air emissions, all of which would adversely impact New Hampshire's citizens, businesses, and economy.

IV. Under its delegated general authority to set electric rates, and specific direction by the Legislature in HB 1116 (2016 NH Laws Chapter 31) to develop new alternative net metering tariffs for customer-generators up to one megawatt, the public utilities commission opened DE 16-576, conducted over a year of proceedings, and issued its Order No. 26,029 on June 23, 2017. In that order, the Commission approved settlement agreements from two coalitions of parties to the proceeding, a utility and consumer coalition (UCC) and a coalition of distributed generation (DG) advocates and environmental organizations (EFC), and approved 10 provisions common to both the UCC and EFC settlement agreements. Common element (f) provided: "Large customer-generators to receive export credits based only on the utility default service energy charge."

V. Mindful of concerns about potential cost-shifting, the commission said at pp. 68-69 of Order 26,029: "With respect to the avoidance of unjust and unreasonable cost-shifting, based on the evidence presented in this proceeding and the current, relatively low DG penetration levels in the state, we find that there is little to no evidence of any significant cost-shifting. Nevertheless, we agree with the parties and believe it is prudent to adopt new net metering tariff provisions to mitigate the potential for future cost-shifting….We will continue to monitor potential cost-shifting and other customer rate impacts of net metering over the next several years, and review the issue once again in conjunction with development of future net metering tariff and rate designs. The new net metering tariff makes no changes to the rates charged to customers without DG systems."

VI. The current size limit of one megawatt on customer-generators that may participate in net energy metering is an unnecessary barrier that denies larger electricity users the same rights that smaller users already have to produce and use local renewable power that reduces their energy costs, increases supply, and insulates all New Hampshire ratepayers from electric price volatility and higher transmission costs.

VII. The current size limit is also a barrier to significant investment in existing and new small renewable energy projects, which would help keep our energy dollars in-state, drive economic activity, support good-paying jobs, and increase state and local business and property tax revenues.

VIII. The federal Public Utility Regulatory Policies Act (PURPA) as amended by the Energy Policy Act of 2005 calls upon states to consider the adoption and implementation of net metering policies. PURPA as amended states that electricity generated by an eligible on-site generating facility may be used to offset electric energy provided by the electric utility and allows states to define an eligible facility. Furthermore, under ISO New England's rules, a generating facility of less than 5 megawatts that is connected to the distribution grid is not required to register with ISO New England as a generator or participate in the wholesale energy markets; rather, if the generating facility elects not to register as a wholesale market participant or retires from such status, the customer generator is to be treated by ISO New England as a retail load reducer.

IX. It is therefore also in the best interests of all citizens of New Hampshire that the size limit on customer-generators that may participate in net energy metering and serve as retail load reducers be increased from one megawatt to up to but not including 5 megawatts to increase customer supply choice, foster a more robust retail market for local renewable energy, help mitigate the cost of electric service in the state, reduce the price volatility of that service, and reduce the potential for disruptions in electricity supply due to inadequate wholesale generating capacity in the New England marketplace.

2 Definition; Customer-generator. Amend RSA 362-A:1-a, II-b to read as follows:

II-b. "Eligible customer-generator" or "customer-generator" means an electric utility customer who owns, operates, or purchases power from an electrical generating facility either powered by renewable energy or which employs a heat led combined heat and power system, with a [~~total peak generating~~] ***nameplate or maximum rated*** capacity of [~~up to and including one megawatt,~~]***: (a) up to and including 3 megawatts upon the effective date of this paragraph, and (b) less than 5 megawatts on and after January 1, 2022; and*** that is located behind a retail meter on the customer's premises, is interconnected and operates in parallel with the electric grid, and is used to offset the customer's own electricity requirements ***in the first instance, and except as provided for a municipal host***. Incremental generation added to an existing generation facility, that does not itself qualify for net metering, shall qualify if such incremental generation meets the qualifications of this paragraph and is metered separately from the nonqualifying facility.

3 Definition; Municipal Host. Amend RSA 362-A:1-a, II-c and II-d to read as follows:

II-c. ***"Municipal host" means a customer generator with a total peak generating capacity of greater than one megawatt used to offset the electricity requirements of a group consisting of one or more customers who are political subdivisions, provided that all customers are located within the same utility franchise service territory. A municipal host shall be located in the same municipality as all group members if the facility began operation after January 1, 2020. A municipal host may be owned by either a public or private entity. For this definition, "political subdivision" means any city, town, county, school district, chartered public school, village district, school administrative unit, or any district or entity created for a special purpose administered or funded by any of the above-named governmental units.***

II-d. "Eligible fuel" means natural gas, propane, wood pellets, hydrogen, or heating oil when combusted with a burner, including air emission standards for the device using the approved fuel.

[~~II-d~~] ***II-e***. "Heat led" means that the combined heat and power system is operated in a manner to satisfy the heat usage needs of the customer-generator.

4 Net Energy Metering; Net Effects. Amend RSA 362-A:9, VII to read as follows:

VII.***(a)*** A distribution utility may perform an annual calculation to determine the net effect this section had on its default service and distribution revenues and expenses in the prior calendar year. The method of performing the calculation and applying the results, as well as a reconciliation mechanism to collect or credit any such net effects with appropriate carrying charges and credits applied, shall be determined by the commission.

(b) For the purposes of accounting for any exports to the distribution grid by customer-generators, such exports shall be treated as reductions to the customer-generator's electricity supplier's wholesale load obligation for energy supply as a load serving entity, net of any applicable line loss adjustments as approved by the commission.

(c) A generator that first becomes operational on or after July 1, 2020 shall only be eligible to participate in net metering as a customer-generator if it does not register as a generator with ISO New England, is not considered a "Network Resource" or "Asset" by ISO New England, and does not participate in any other sale of electricity in interstate commerce.

(d) A generator that first became operational before July 1, 2020 and that has outstanding capacity commitments in the forward capacity market administered by ISO

New England, is registered as a generator with ISO New England, or is considered a "Network Resource" or "Asset" by ISO New England, may elect to become a customer-generator and participate in net metering upon retirement from all wholesale electric markets administered by ISO New England. A generator in the process of retiring from FERC regulated electric markets may prospectively register as a group host pursuant to paragraph XIV provided that net metering tariffs under this section shall not be effective until such retirement is effective.

(e) Any provisions of settlement agreements or orders that have been approved or issued by the commission that relate to a distribution utility's treatment of the output from qualifying facilities or independent power producers shall not apply to the output from an eligible customer-generator participating in net metering.

5 New Paragraph; Net Energy Metering; Hydroelectric Generation; Exception. Amend RSA 362-A:9 by inserting after paragraph XI the following new paragraph:

XI-a. A hydroelectric generator with a nameplate or maximum rated capacity of less than 5 megawatts that first became operational before July 1, 2020 and shares equipment or facilities with another generator or electric utility customer for interconnection to the electric grid shall be eligible to participate in net metering as a customer-generator even if the aggregate capacity of the generators sharing equipment or facilities for interconnection to the electric grid exceeds 5 megawatts. Such customer generator shall be eligible to participate in net metering as a customer-generator in a manner consistent with all other customer-generators of the same nameplate or maximum rated capacity.

6 Net Energy Metering; Transition of Tariffs. Amend RSA 362-A:9, XV to read as follows:

XV. Standard tariffs that are available to eligible customer-generators under this section shall terminate on December 31, 2040 and such customer-generators shall transition to tariffs that are in effect at that time. ***Alternative tariffs shall be applicable and have such grandfathering provisions as may be approved or adopted by the commission under this section. Customer-generators with a nameplate or maximum rated capacity of more than one megawatt and less than 5 megawatts that are eligible for net metering before the commission adopts tariffs specifically for customer-generators with a generating capacity of more than one megawatt shall:***

(a) Be eligible to receive the export credit rate approved by the commission in Order No. 26,029 (DE 16-576) for one megawatt sized customer-generators on default service, namely, the applicable default energy service rate.

(b) Be grandfathered by the terms of currently applicable tariffs for customer-generators with a total peak generating capacity of one megawatt if the customer-generator's electrical generating facility first becomes operational on or after July 1, 2020.

(c) Transition to such new tariffs as are specifically approved by the commission for customer-generators with a nameplate or maximum rated capacity of more than one megawatt if the customer-generator's electrical generating facility first became operational before July 1, 2020.

7 New Paragraphs; Net Energy Metering; Limitation; Annual Report. Amend RSA 362-A:9 by inserting after paragraph XIX the following new paragraphs:

XX. For the purpose of this section, a customer-generator with a nameplate or maximum rated capacity in excess of 100 kilowatts, and which first becomes operational on or after July 1, 2020 shall be eligible for net energy metering only if at least 50 percent of the actual or estimated annual electricity generation from its facility is consumed behind-the-meter, unless it has registered as a group host under paragraph XIV.

XXI. The commission shall continuously monitor the effect on retail electric rates of an increase in the capacity limit for large eligible customer-generators above one megawatt, based on increases in the penetration level of distributed energy resources, the results of ongoing studies of the impact of distributed energy resources, and any other factors deemed relevant by the commission. The commission shall annually report to the legislature, on or before October 1 of each year, on whether it finds any evidence of cost increases in the energy component of retail rates or any significant cost-shifting resulting from an increase in said capacity limit. If the commission finds evidence of any such cost increases or significant cost-shifting, it shall promptly conduct such further proceedings under DE 16-576, or such new docket as it may deem appropriate, to consider whether any adjustment in the credit given to large eligible customer-generators above one megawatt may be warranted.

8 Utility Property Tax; Exclusion From Definition of Utility Property. Amend RSA 83-F:1, V(d) to read as follows:

(d) The electrical generation, production, ***storage,*** and supply equipment of an "eligible customer-generator" as defined in RSA 362-A:1-a, II-b***, and of a "limited producer" as defined in RSA 362-A:1-a, III if selling under RSA 362-A:2-a, for facilities with a rated electricity production capacity of up to and including one megawatt***;

9 Definition; Limited Electrical Energy Producers; Limited Producer. Amend RSA 362-A:1-a, III to read as follows:

III. "Limited producer" or "limited electrical energy producer" means a qualifying small power producer***, a qualifying storage system,*** or a qualifying cogenerator, with a total ***generating or discharge maximum rated*** capacity of [~~not more~~] ***less*** than 5 megawatts***, that does not participate in net metering and that is not registered as a generator, asset, or network resource with ISO New England and thus does not participate in any Federal Energy Regulatory Commission (FERC) jurisdictional wholesale electricity markets, including by retirement from such markets***.

10 New Paragraph; Definition; Qualifying Storage System. Amend RSA 362-A:1-a by inserting after paragraph IX the following new paragraph:

IX-a. "Qualifying storage system" means an electric energy storage system as defined in RSA 72:84.

11 Limited Electrical Energy Producers Act; Purchase of Output by Private Sector. RSA 362-A:2-a is repealed and reenacted to read as follows:

362-A:2-a Purchase of Output by Private Sector.

I. A limited producer of electrical energy may sell its produced electrical energy to one or more purchasers other than the franchise electric utility. Such purchaser may be any electricity supplier or retail electricity consumer located in New Hampshire. The commission shall establish procedures to authorize limited producers to sell electricity at retail, either directly or indirectly through an electricity supplier, within a single electric distribution utility franchise area. The limited producer shall receive credit for actual avoided transmission charges based on measurement of exports to the distribution grid at the retail meter point without additional credit for avoided line and transformation losses between the wholesale and retail meter points to provide a sharing of the benefits of reduced transmission charges from such retail sales with other ratepayers who do not participate in such sales. The limited producer shall be equipped with a revenue grade interval meter that can accurately measure exports to the distribution grid at hours of coincident peak.

II. Direct retail sales of electricity across the distribution grid shall be facilitated and accounted for by competitive electricity suppliers registered with the commission under RSA 374-F:7 or by load serving municipal or county aggregators under RSA 53-E. The commission shall establish such procedures, requirements, and conditions concerning retail sales of electricity pursuant to this section as it deems necessary to avoid substantial risk or uncompensated costs to the electric utility in whose franchise area the sales take place.

III. Purchases of power from limited producers shall pay for the delivery of such power through tariffs, charges, and rates that are generally applicable to the customer's rate class, with the exception of default energy service if not applicable.

IV. Public utilities that distribute electricity under the jurisdiction of the commission shall not report the production of electricity from behind or across retail electricity meters by limited producers to transmission utilities subject to Federal Energy Regulatory Commission (FERC) jurisdiction for load reconstitution purposes. Instead, such electricity production on the distribution grid shall be treated as load reduction behind the wholesale meter point for purposes of ISO New England wholesale energy markets and transmission services.

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

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AMENDED ANALYSIS

This bill increases the electric generating capacity of customer generators who may participate in net energy metering and modifies the transition of tariffs applicable to certain customer-generators. The bill clarifies the definition of eligible customer-generator for purposes of the utility property tax. The bill also expands the authority of limited producers of electrical energy to sell its output in the private sector.