

SB 108-FN - AS INTRODUCED

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

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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.

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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Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.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 Slamming Prohibited. Amend RSA 374:28-a, III and IV to read as follows:

2 III. The ~~[commission]~~ **department**, upon its own motion or upon petition of any interested  
3 party, may withdraw the person's authorization to ~~[engage in business in all or any part of the~~  
4 ~~territory in which it is authorized to operate]~~ **provide telecommunications service in the state**  
5 whenever it shall find, after notice and public hearing, that said person has engaged in slamming.

6 IV. The ~~[commission]~~ **department** shall adopt rules, pursuant to RSA 541-A, and consistent  
7 with rules adopted by the Federal Communications Commission regarding telecommunications  
8 slamming, to enforce the provisions of this section.

9 2 Ratepayer Protection. Amend RSA 374-F:4-b, I to read as follows:

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

16 3 Net Energy Metering. Amend RSA 362-A:9, I-II to read as follows:

17 I. Standard tariffs providing for net energy metering shall be made available to eligible  
18 customer-generators by each electric distribution utility in conformance with net metering rules  
19 adopted **by the department** and orders issued by the commission, ~~[- Each net energy metering tariff~~  
20 ~~shall be identical, with respect to rates, rate structure, and charges, to the tariff under which a~~  
21 ~~customer generator would otherwise take default generation supply service from the distribution~~  
22 ~~utility. Such tariffs shall be available on a first come, first served basis within each electric utility~~  
23 ~~service area under the jurisdiction of the commission until such time as the total rated generating~~  
24 ~~capacity owned or operated by eligible customer generators totals a number equal to 100 megawatts,~~  
25 ~~with 50 megawatts of the 100 megawatts allocated to the 4 electric distribution utilities that were~~  
26 ~~subject to the commission's jurisdiction in 2010 multiplied by each such utility's percentage share of~~  
27 ~~the total 2010 annual coincident peak energy demand distributed by those 4 utilities, and 50~~  
28 ~~megawatts of the 100 megawatts allocated to the state's 3 investor-owned electric distribution~~  
29 ~~utilities, multiplied by each such utility's percentage share of the total 2010 annual coincident peak~~  
30 ~~energy demand distributed by those 3 utilities, all to be determined by the commission and to be~~  
31 ~~utilized by eligible customer generators located within each such utilities' service territory. Eighty~~

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1 ~~percent of each utility's share of the 50 megawatts shall be apportioned to facilities with a total~~  
2 ~~generating capacity of not more than 100 kilowatts and 20 percent to facilities with a total~~  
3 ~~generating capacity in excess of 100 kilowatts, but no greater than one megawatt. The 50 megawatts~~  
4 ~~of capacity shall be made available to eligible customer-generators] until such time as [commission~~  
5 ~~approved] **commission-approved** alternative net metering tariffs approved by the commission~~  
6 ~~become available. [No more than 4 megawatts of such total rated generating capacity shall be from~~  
7 ~~a combined heat and power system as defined in RSA 362-A:1-a, I d.]~~

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

19 II. Competitive electricity suppliers registered under RSA 374-F:7 and municipal or county  
20 aggregators under RSA 53-E may determine the terms, conditions, and prices under which they  
21 agree to provide generation supply to and credit, as an offset to supply, or purchase the generation  
22 output exported to the distribution grid from eligible customer-generators. The ~~[commission]~~  
23 **department** may require appropriate disclosure of such terms, conditions, and prices or credits.  
24 Such output shall be accounted for as a reduction to the customer-generators' electricity supplier's  
25 wholesale load obligation for energy supply as a load service entity, net of any applicable line loss  
26 adjustments, as approved by the commission. Nothing in this paragraph shall be construed as  
27 limiting or otherwise interfering with the provisions or authority for municipal or county aggregators  
28 under RSA 53-E, including, but not limited to, the terms and conditions for net metering.

29 4 Certification of Assessment. Amend RSA 363-A:3 to read as follows:

30 363-A:3 Certification of Assessment. It shall be the duty of the department of energy to  
31 calculate the amount to be assessed against each such public utility and each other entity subject to  
32 assessment in accordance with RSA 363-A:1 and RSA 363-A:2. At the beginning of each fiscal year,  
33 the department of energy shall estimate the total expenses for the fiscal year, and then, based on  
34 such estimate, shall calculate the amount to be assessed quarterly on September 15, November 15,  
35 February 15, and April 15 of that fiscal year. For entities with assessments less than \$10,000, the  
36 department may bill those entities the entire amount on September 15 of that fiscal year. The  
37 department of energy shall then make a list showing the amount assessed September 15, November

1 15, February 15, and April 15 of that fiscal year to each of the several public utilities and other  
 2 entities assessed under the provisions hereof, and, together with a statement of the full name and  
 3 mailing address of each such public utility and other assessed entity, shall certify the same.  
 4 ***Entities that conduct business in New Hampshire, are registered to conduct business with***  
 5 ***the New Hampshire secretary of state, or are registered with the department on July 1 of***  
 6 ***the new fiscal year shall be liable for their entire flat fee or all 4 quarterly payments, as***  
 7 ***applicable.*** After the close of each fiscal year, the department of energy shall ascertain the actual  
 8 total expenses in accordance with RSA 363-A:1 and RSA 363-A:2, and then shall adjust the  
 9 assessment for the first or only payment of the new fiscal year for each such public utility or other  
 10 assessed entity for any underpayment or overpayment by each such public utility or other assessed  
 11 entity for the prior fiscal year.

12 5 Complaints. Amend RSA 365:1 to read as follows:

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

22 6 Exceptions. Amend RSA 365:1-a to read as follows:

23 365:1-a Exceptions. Except for complaints about RSA 371:17 through RSA 371:24, RSA 374:2-a,  
 24 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  
 25 RSA 378:44 through RSA 378:48, the provisions of this chapter shall not apply to any end user of an  
 26 excepted local exchange carrier, nor to any service provided to such end user. Such end users may  
 27 make complaints [~~to the commission~~] regarding basic service, as defined by RSA 374:22-p, I(b) by  
 28 excepted local exchange carriers.

29 7 Investigation and Voluntary Resolution. RSA 365:2 is repealed and reenacted to read as  
 30 follows:

31 365:2 Investigation and Voluntary Resolution. The department of energy may investigate and  
 32 resolve any complaint made to the department using non-adjudicative procedures. The department  
 33 may adopt rules for this purpose or may set out procedural requirements by order for the  
 34 investigation and resolution of complaints.

35 8 Reparation. Amend RSA 365:3 to read as follows:

36 365:3 Reparation. If the [~~public utility~~] ***jurisdictional entity*** complained of shall make  
 37 reparation for any injury alleged and shall cease to commit or to permit the violation of law,

1 franchise, or order charged in the complaint, and shall notify the department of energy of that fact[  
2 ~~before the time allowed for answer~~], the department shall not be required to take any further action  
3 upon the [~~charges~~] *matters complained of*.

4 9 Department and Commission Adjudications. RSA 365:4 is repealed and reenacted to read as  
5 follows:

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

14 10 Aggregation Program. Amend RSA 53-E:7, X to read as follows:

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

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1 and county aggregators shall be subject to the jurisdiction of the department for purposes of this  
2 paragraph. For non-residential ratepayers, the department shall docket and make public any  
3 received complaint. Complaints to the department and proceedings before the commission shall not  
4 be subject to RSA 541-A:29 or RSA 541-A:29-a.

5 11 Repeal. RSA 362-A:9, VIII, relative to establishing time-based net energy metering tariffs  
6 and related methodologies, is repealed.

7 12 Effective Date. This act shall take effect 60 days after its passage.

**SB 108-FN- FISCAL NOTE  
AS INTRODUCED**

AN ACT                    relative to the department of energy.

**FISCAL IMPACT:**

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

**AGENCIES CONTACTED:**

Department of Energy and Public Utilities Commission