

A BILL

20-57

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 in order 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.

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; Official Code § 34-1501 *et seq.*), is amended as follows:

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

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

"(7a) "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;

1 D.C. Official Code § 34-1431(15)) that is located within the District of Columbia and where the
2 monetary value of electricity generated by the facility is credited to the subscribers of the facility.
3 A Community Energy Generating Facility may produce no greater than 5 megawatts and must
4 have at least 2 subscribers.”.

5 (2) A new paragraph (9a) is added to read as follows:

6 “(9a) “Community net metering” means a billing arrangement under which the
7 monetary value of electric energy generated by a community renewable energy facility and
8 delivered to the electric company’s local distribution facilities is used to offset electric energy
9 charges accrued during a subscriber’s applicable billing period.”.

10 (3) A new paragraph (13a) is added to read as follows:

11 “(13a) “CREF Credit Rate” shall be determined by the Commission based upon
12 section 118 of the Retail Electric Competition and Consumer Protection Act of 1999, effective
13 May 9, 2000 (D.C. Law 13-107; D.C. Official Code § 34-1518). The credit rate shall be equal to
14 the standard offer service rate for the General Service Low Voltage Non-Demand customer class
15 or its successor, as determined by the Commission.” and would replace the current definition for
16 the CREF.”.

17 (4) New paragraphs (15a) and (15b) are added to read as follows:

18 “(15a) “Department” means the District Department of the Environment.

19 “(15b) “Director” means the Director of the District Department of the
20 Environment or his or her designee.”.

21 (5) A new paragraph (16a) is added to read as follows:

1 “(16a) “Electric company” shall have the same meaning as in section 201(b)(5) of
2 the Retail Electric Competition and Consumer Protection Act of 1999, effective May 9, 2000
3 (D.C. Law 13-107; D.C. Official Code § 34-207).”.

4 (6) A new paragraph (17b) is added to read as follows:

5 “(17b) “Individual billing meter” means an individual meter or a set of meters
6 when meters are combined for billing purposes.”.

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

8 “(24a) “Renewable energy credit” shall have the same meaning as in section 3(10)
9 of the Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-
10 340; D.C. Official Code § 34-1431(10)).”.

11 (8) New paragraphs (27), (27a), (27b), and (27c) are added to read as follows:

12 “(27) “SOS administrator” means the provider of standard offer service mandated
13 by section 109.

14 “(27a) “Subscriber” means a retail customer of the electric company who owns a
15 subscription and who has identified an individual billing meter within the District of Columbia to
16 which the subscription shall be attributed.

17 “(27b) “Subscriber organization” means any for-profit or non-profit entity
18 permitted by District of Columbia law that owns or operates one or more community renewable
19 energy facilities for the benefit of the subscribers.

20 “(27c) “Subscription” means a percentage interest in a community renewable
21 energy facility’s electrical production.”.

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

“Section 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

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

3 (c) A new section is added to read as follows:

4 “Sec. xxx. Community Renewable Energy Facilities

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

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

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

12 “(d) A community renewable energy facility may be built, owned, or operated by a third
13 party under contract with a subscriber organization.

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

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

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

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

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

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

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

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

13 “(k) A community renewable energy facility may not sell subscriptions totaling more than
14 100% of its energy generation.”.

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

17 “(5) The Commission shall incorporate the following provisions into its rules and
18 shall establish additional rules as necessary for the electric company to implement the following
19 provisions:

20 “(A) A community renewable energy facility shall meet all applicable
21 safety and performance standards. The Commission may adopt by rulemaking additional control

1 and testing requirements for community renewable energy facilities that the Commission deems
2 necessary to protect public safety and system reliability.

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

7 “(C) Prices paid for subscriptions in a community renewable energy
8 facility shall not be subject to regulation by the Commission.

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

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

16 “(F) All electricity exported to the grid by the community renewable
17 energy facility shall become the property of the SOS Administrator, pursuant to section xxx(h),
18 but shall not be counted toward the Electric Company’s total retail sales for purposes of the
19 Renewable Energy Portfolio Standard Act of 2004, effective April 12, 2005 (D.C. Law 15-340;
20 D.C. Official Code § 34-1431 *et seq.*). The SOS administrator shall use subscribed energy to
21 offset purchases from wholesale suppliers for standard offer service.

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

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

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

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

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

19 “(L) If the value of the credit generated by the community renewable
20 energy facility allocated to the subscriber is less than the amount owed by the subscriber as
21 shown on their bill at the end of the applicable billing period, the subscriber shall be billed for

1 the difference between the amount shown on the bill and the value of the available credits.

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

6 (e) A new section 121 is added to read as follows

7 “Sec. 121. Consumer disclosure requirements.

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

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

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

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

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

20 “(b) The Mayor or his or her designee may require that any entity engaged in the sale or
21 resale of a subscription in a community renewable energy facility provide additional disclosure

1 to the buyer or lessee, the Mayor, or both.

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

5 “(d) The Mayor or his or her designee may, pursuant to Title 1 of the District of
6 Columbia Administrative Procedure Act, approved October 21, 1968 (82 Stat. 1204; D.C.
7 Official Code § 2-501 *et seq.*), establish rules and regulations to carry out the disclosure
8 requirements contained in this section.”.

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

12 “(f) The District Department of the Environment shall publish on its website at least
13 annually a report that describes progress towards the solar generation goals provided in the
14 renewable energy portfolio standard and a comparison with other sources of energy used in the
15 District. Each report shall detail the equitable distribution of resources consistent with the policy
16 findings of the Retail Electric Competition and Consumer Protection Act of 1999, effective May
17 9, 2000 (D.C. Law 13-107; Official Code § 34-1501 *et seq.*).”.

18 Sec. 4. Fiscal impact statement.

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

1 Sec. 5. Effective date.

2 This act shall take effect following approval by the Mayor (or in the event of veto by the
3 Mayor, action by the Council to override the veto), a 30-day period of Congressional review as
4 provided in section 602(c)(1) of the District of Columbia Home Rule Act, approved December
5 24, 1973 (87 Stat. 813; D.C. Official Code § 1-206.02(c)(1)), and publication in the District of
6 Columbia Register.