SENATE BILL 159

AN ACT relative to net energy metering limits for customer-generators.


COMMITTEE: Energy and Natural Resources

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 requires that for net energy metering 50 percent of a customer generator's electricity generation be consumed behind the meter. The bill also clarifies the definition of eligible customer-generator for purposes of the utility property tax.

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 Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.
AN ACT relative to net energy metering limits for customer-generators.

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

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. 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.

V. 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.

VI. 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.
VII. 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
(nameplate or maximum rated capacity of [up to and including one
megawatt, less than 5 megawatts 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. 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 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.

4 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.

5 New Paragraph; Net Energy Metering; Limitation. Amend RSA 362-A:9 by inserting after
paragraph XIX the following new paragraph:

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.

6 Utility Property Tax; Eligible Customer-Generator; Exclusion Clarified. 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, *up to and including one megawatt*;

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

VETOED February 10, 2020