~~Indicates Matter Stricken~~

Indicates New Matter

COMMITTEE REPORT

March 6, 2018

**H. 5045**

Introduced by Reps. Sandifer, White and Forrester

S. Printed 3/6/18--H.

Read the first time March 1, 2018.

**THE COMMITTEE ON**

**LABOR, COMMERCE AND INDUSTRY**

To whom was referred a Bill (H. 5045) to amend the Code of Laws of South Carolina, 1976, by repealing Chapters 39 and 40 of Title 58 relating to the South Carolina distributed energy resource program, etc., respectfully

**REPORT:**

That they have duly and carefully considered the same and recommend that the same do pass with amendment:

Amend the bill, as and if amended, by striking all after the enacting clause and inserting:

/ SECTION 1. Whereas, the General Assembly passed Act 236 of 2014 to promote the establishment of a reliable, efficient, and diversified portfolio of distributed energy resources for the State; and

Whereas, the General Assembly finds that Act 236 of 2014 successfully resulted in the rapid development and expansion of the solar power marketplace in this State; and

Whereas, the General Assembly finds it necessary to preserve the important role of the emerging solar industry as it becomes sustainable, without subsidies, in our diversifying energy market; and

Whereas, the Public Service Commission approved in Order 2015‑194 a settlement agreement that provides for a 1:1 kilowatt hour (“kWh”) crediting rate (“1:1 Rate”) whereby each kWh of electricity produced by a customer‑generator is credited at the full retail rate; and,

Whereas, the General Assembly finds that Order 2015-194 contradicts Act 236 of 2014 by crediting electricity produced by a customer-generator at the retail rate as opposed to the utility’s avoided cost provided for in Act 236 of 2014; and

Whereas, the General Assembly finds that with the goal of Act 236 of 2014 being accomplished, it is necessary to move away from subsidies so that nonparticipants in net energy metering programs are not required to subsidize net energy metering program participants.

SECTION 2. Section 58‑40‑10 of the 1976 Code is amended by adding an appropriately lettered subsection at the end to read:

“(\_) ‘Avoided costs’ means payments for purchases of electricity made according to an electrical utility’s most recently approved or established avoided cost rates in this State or rates negotiated pursuant to PURPA in the year the costs are incurred, for purchases of electricity from qualifying facilities pursuant to Section 210 of the Public Utility Regulatory Policies Act, the costs are to be calculated as set forth in Section 58‑39‑140(A)(1).”

SECTION 3. Section 58‑40‑20 of the 1976 Code is amended to read:

“Section 58‑40‑20. (A) Net energy metering rates approved by the commission under the terms of this chapter ~~shall~~ must be the exclusive net energy metering rates available to customer‑generators. Upon commission approval, ~~such~~ the net energy metering rates shall supersede all prior net energy metering rates. Customer‑generators whose net energy metering facilities were energized prior to the availability of net energy metering rates approved by the commission under the terms of this chapter may remain in historic net energy metering programs through December 31, 2020. Customer‑generators whose net metering facilities were energized prior to the effective date of this act under net energy metering rates approved by the commission pursuant to the terms of this chapter and in Order 2015‑194 may remain in effect through December 31, 2025.

(B) An electrical utility shall make net energy metering available to customer‑generators on a first‑come, first‑served basis until the total nameplate generating capacity of net energy metering systems equals ~~two~~ four percent of the previous five‑year average of the electrical utility’s South Carolina retail peak demand. No electrical utility ~~shall~~ must be required to approve ~~any~~ an application for interconnection from net energy metering customer‑generators if the total rated generating capacity of all applications for interconnection from net energy metering customer‑generators already approved to date by the electrical utility equals or exceeds ~~two~~ four percent of the previous five‑year average of the electrical utility’s South Carolina retail peak demand.

(C) If determined to be prudent by the commission, the electrical utility may furnish, install, own, and maintain metering equipment needed to measure the kilowatt‑hours purchased by the customer‑generator from the utility, the kilowatt‑hours generated or delivered to the electrical utility, and, if applicable under the utility’s tariffs, to measure the kilowatt demand delivered by the electrical utility to the customer‑generator. The electrical utility ~~shall have~~ has the right to install special metering and load research devices on the customer‑generator’s equipment and the right to use the customer‑generator’s communication devices for communication with electrical utility’s and the customer‑generator’s equipment.

(D) The net electrical energy measurement ~~shall~~ must be calculated in the following manner:

(1) For a customer‑generator, an electrical utility shall measure the net electrical energy produced or consumed during the billing period in accordance with normal metering practices for customers in the same rate class, either by employing a single, bidirectional meter that measures the amount of electrical energy produced and consumed, or by employing multiple meters that separately measure the customer‑generator’s consumption and production of electricity~~;~~. Each kilowatt‑hour of electricity generated by the customer‑generator must be valued, accounted for, and credited at the utility’s avoided cost;

(2) If the electricity supplied by the electrical utility exceeds the electricity generated by the customer‑generator during a billing period, the customer‑generator ~~shall~~ must be billed for the net electricity supplied by the electrical utility in accordance with normal practices for customers in the same rate class;

(3) Any energy generated by the customer‑generator that exceeds the energy supplied by the electrical utility during a billing period ~~shall~~ must not be used to offset the nonvolumetric electricity charges for that billing period;

(4) The utility shall maintain an account of any net excess kWh credits accruing from the customer‑generator’s excess generation and allow those kWh credits to be used to offset the customer‑generator’s energy usage during future billing periods at the utility’s avoided cost. Annually, the utility shall pay the customer‑generator for any accrued net excess generation at the utility’s avoided cost for qualified facilities, zeroing out the customer‑generator’s account of net excess kWh credits.

(E) Each electrical utility shall submit an annual net metering report to the Public Service Commission, with a copy to the Office of Regulatory Staff, including the following information for the previous calendar year:

(1) the total number of customer‑generator facilities;

(2) the estimated gross generating capacity of its net‑metered customer‑generators;

(3) the estimated net kilowatt hours received from customer‑generators.

(F) Any and all costs prudently incurred pursuant to the provisions of this chapter by an electrical utility as approved by the commission and any and all commission approved benefits conferred by a customer‑generator ~~shall~~ must be recoverable by each entity respectively in the electrical utility’s rates in accordance with these provisions:

(1) The electrical utility’s general rates, tariffs, and any additional monthly charges or credits, in addition to any other charges or credits authorized by law, to recover the costs and confer the benefits of net energy metering shall include ~~such~~ the measures necessary to ensure that the electrical utility recovers its cost of providing electrical service to customer‑generators and customers who are not customer‑generators.

(2) Any charges or credits prescribed in item (1), and the terms and conditions under which they may be assessed ~~shall~~ must be in accordance with a methodology established through the proceeding described in item (4). The methodology ~~shall~~ must be supported by an analysis and calculation of the relative benefits and costs of customer generation to the electrical utility, the customer‑generators, and those customers of the electrical utility ~~that~~ who are not customer‑generators.

(3) Upon approval of the methodology provided for in item (4), each electrical utility shall file its analysis of the net cost to serve customer‑generators using the approved methodology and shall propose new net energy metering rates.

(4) No later than thirty days after the enactment of this act, the commission shall initiate a generic proceeding for purposes of implementing the requirements of this chapter with respect to the net energy metering rates, tariffs, charges, and credits of electrical utilities, specifically to establish the methodology to set any necessary charges and credits as required under items (1) and (2). All interested parties ~~shall~~ must be allowed to participate. In its notice initiating ~~such~~ the proceeding, the commission must require the electrical utilities to propose methodologies required by item (1) and shall allow intervening parties to propose methodologies required by item (2). The Office of Regulatory Staff, pursuant to the requirements of Section 58‑4‑50, shall represent the public interest in this proceeding and shall serve as a facilitator to resolve disputes and issues between the parties to this proceeding.

(5) In evaluating the benefits and costs of customer generation as required by item (2), and the methodology for calculating ~~such~~ the benefits and costs, the Office of Regulatory Staff may engage third parties with relevant prior experience conducting distributed generation cost‑benefit studies. The cost of any experts and consultants engaged by the Office of Regulatory Staff for purposes of this proceeding ~~shall~~ must be assessed to the electrical utilities pro rata based on their five‑year average of retail peak demand and ~~shall be~~ are recoverable by those electrical utilities through the base rate for fuel costs established pursuant to Section 58‑27‑865.

(6) In the event ~~that~~ the commission determines that future benefits from net energy metering are properly reflected in net metering rates because they provide quantifiable benefits to the utility system, its customers, or both, and to the degree ~~such~~ these benefits then are not ~~then~~ being recovered by the electrical utility in its base rates, then ~~such~~ the future benefits ~~shall~~ must be deemed an avoided cost and ~~shall be~~ are recoverable pursuant to Section 58‑27‑865 by the electrical utility as an incremental cost of the distributed energy resource program.

(7) Notwithstanding another provision of law, customers of the utility who are not customer‑generators are not required to subsidize the costs of customer‑generators.

(G) In no event shall the net energy metering provisions of this chapter be construed as allowing customer‑generators to engage in meter aggregation, group/joint billing projects, and/or virtual net metering.

(H) The commission shall approve an electrical utility’s proposed net energy metering rates that meet the requirements of this chapter, provided ~~that~~ the commission has previously approved that electrical utility’s application to participate in a distributed energy resource program pursuant to Chapter 39, Title 58.”

SECTION 4. Chapter 40, Title 58 of the 1976 Code is amended by adding:

“Section 58-40-30. The Public Service Commission is prohibited from approving a settlement agreement, or otherwise issuing an order, that would require or authorize the value of electricity produced by customer‑generators to be calculated at anything other than the utility’s avoided cost.”

SECTION 5. This act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

WILLIAM E. SANDIFER III for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY REPEALING CHAPTERS 39 AND 40 OF TITLE 58 RELATING TO THE SOUTH CAROLINA DISTRIBUTED ENERGY RESOURCE PROGRAM AND NET ENERGY METERING, RESPECTIVELY.

Be it enacted by the General Assembly of the State of South Carolina:

SECTION 1. Chapters 39 and 40 of Title 58 of the 1976 Code are repealed.

SECTION 2. This act takes effect upon approval by the Governor.

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