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COMMITTEE REPORT

March 7, 2018

**H. 4421**

Introduced by Reps. J.E. Smith, McCoy, Ott, G.M. Smith, Ballentine, W. Newton, Bales, McEachern, Brown, Henegan, Clary, Arrington and Stavrinakis

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Read the first time January 9, 2018.

**THE COMMITTEE ON JUDICIARY**

To whom was referred a Bill (H. 4421) to amend the Code of Laws of South Carolina, 1976, by adding Article 25 to Chapter 27, Title 58 so as to enact the “South Carolina Electric Consumer Bill, 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 language and inserting:

/ SECTION 1. Article 7, Chapter 27, Title 58 of the 1976 Code is amended by adding:

“Section 58‑27‑1060. In order to address the challenges identified within current utility cost of service ratemaking methodologies, cost allocations, and rate designs in the report published pursuant to 58‑27‑1050, The Office of Regulatory Staff, with guidance and feedback from electrical utilities and other interested parties, shall investigate and recommend to the commission revised ratemaking methodologies, cost allocations, and rate designs for all retail customers by December 31, 2019. The recommendations should include a proposed timeline for implementation, including a pilot period of at least two years to study the impact of new rate designs on customer behaviors and on customer satisfaction. The commission shall issue an order adopting, modifying, or rejecting the Office of Regulatory Staff recommendations on revised ratemaking methodologies, cost allocations, and rate designs, in whole or in part, no later than December 31, 2022. The proposed revisions should seek to ensure a fair allocation of system costs and benefits between consumers, including customers who utilize distributed energy resources and consumers who do not utilize distributed energy resources, with a focus on achieving the following rate design goals:

(1) provide accurate pricing for electricity consumed and electricity generated by utility customers;

(2) use cost‑causation principles with the need to encourage customers to utilize privately‑funded distributed energy resources in a manner that furthers the long‑term goal of lowering overall utility costs;

(3) provide a structure that can accommodate a variety of utility customer choices while ensuring that utilities are adequately compensated for the services they provide;

(4) provide a meaningful opportunity for customers to achieve bill savings by altering behavior or making investments in technologies or products that reduce electricity consumption from the grid;

(5) provide that utility customers retain flexibility to use differing technologies as they become available;

(6) provide that the structure is durable enough to apply to all utility customers of a given class, including those customers within the class utilizing distributed energy resources to reduce their consumption of electricity from the grid;

(7) provide that the structure is sufficiently understandable by the utility customers to whom it will apply;

(8) provide that, using a long‑term view of quantifiable costs and benefits associated with customer‑utilized distributed energy resources, cost‑shifting between utility customers with distributed energy resources and utility customers without distributed energy resources is minimized to the extent possible;

(9) account for the impacts of distributed energy resources in utility load forecasting for purposes of distribution system and generation resource planning to ensure that allocated costs reflect the costs and benefits of customer‑sited distributed energy resources on the grid; and

(10) manage the introduction of new customer loads that are capable of automation, including electric vehicle charging, battery storage, and smart appliances, in a manner that helps reduce customer contribution to system peaks and improve customer load factors.

Section 58‑27‑1070. A party in interest may seek judicial review through Section 58‑27‑2310 of a commission order establishing mandatory ratemaking or rate design requirements for electrical utilities pursuant to Section 58‑27‑1060.”

SECTION 2. Title 58 of the 1976 Code is amended by adding:

“CHAPTER 42

Customer Installation and Utilization

of Distributed Energy Resources

Article 1

General Provisions

Section 58‑42‑10. (A) It is the intent of the General Assembly to build upon the successful deployment of solar generating capacity through the South Carolina Distributed Resource Act to continue enabling market‑driven, private investment in distributed energy resources across the State by reducing regulatory and administrative burdens to customer installation and utilization of onsite distributed energy resources. It is the further intent of the General Assembly to avoid disruption to the growing market for customer‑scale distributed energy resources.

(B) The General Assembly finds that:

(1) the South Carolina Distributed Energy Resource Act has resulted in the rapid deployment of solar generating capacity in the service territories of investor‑owned utilities and has proven the ability of these programs to support significant job creation and private investment in the State; and

(2) electrical utilities that are not subject to the South Carolina Distributed Energy Resource Act have not experienced the same rapid deployment of solar generating capacity since enactment of the South Carolina Distributed Energy Resource Act.

Section 58‑42‑20. As used in this chapter:

(1) ‘Customer‑generator’ means the user of an onsite distributed energy resource that is enrolled in net energy metering service.

(2) ‘Electrical utility’ means an electrical utility as defined in Section 58‑27‑10.

(3) ‘Net electrical energy measurement’ means the measurement occurring at the end of the monthly billing period where the electrical utility determines the volume of electricity to be charged or credited based on the net of the total imports from the grid to the customer‑generator and total exports to the grid from the customer‑generator during that billing period.

(4) ‘Net metering’ means using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer‑generator by an electrical utility and the electrical energy exported by the customer‑generator to the electricity provider over the applicable billing period.

(5) ‘Net excess generation credit’ means a bill credit representing the value of net excess generation determined in the net electrical energy measurement according to the valuation methodology approved by the commission in Docket No. 2014-246-E.

(6) ‘Onsite distributed energy resource’ means a facility that is a ‘distributed energy resource’, as defined in Section 58‑39‑120(C), that:

(a) generates electricity from a renewable energy resource, as defined in Section 58‑40‑10(F);

(b) has an electric generating system with a capacity of:

(i) not more than the lesser of one thousand kilowatts (1,000 kW AC) or one hundred percent of contract demand if a nonresidential customer, provided the electric generating capacity of an onsite distributed energy resource that includes an energy storage device paired with a renewable energy resource will be determined as the lesser of the total inverter capacity or the sum of the direct current power components that comprise the onsite distributed energy resource facility; or

(ii) not more than twenty kilowatts (20 kW AC) if a residential customer, provided the electric generating capacity of an onsite distributed energy resource that includes an energy storage device paired with a renewable energy resource will be determined as the lesser of the total inverter capacity or the sum of the direct current power components that comprise the onsite distributed energy resource facility;

(c) is located on a single premises owned, operated, leased, or otherwise controlled by the customer;

(d) is configured to serve load on the customer’s side of the electrical utility’s revenue meter;

(e) is interconnected and operates in parallel phase and synchronization with an electrical utility and complies with the applicable interconnection standards;

(f) is intended primarily to offset part or all of the customer‑generator’s own electrical energy requirements; and

(g) meets all applicable safety, performance, interconnection, and reliability standards established by the commission, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the federal Energy Regulatory Commission, and any local governing authorities.

Section 58‑42‑30. This chapter applies to all electrical utilities providing retail service to electric customers in the State.

Article 2

Interconnection

Section 58‑42‑210. (A) Each electrical utility shall adopt the interconnection standards approved by the commission for interconnection of electric generation facilities and onsite distributed energy resources to the distribution grid.

(B) An electrical utility may set cost‑based interconnection application fees, but may not establish a charge of more than two‑hundred fifty dollars per interconnection request for electric generation facilities with a nameplate capacity of twenty kilowatts (20 kW AC) or less.

Section 58‑42‑220. (A) Within one hundred eighty calendar days of enactment of this act, the commission shall modify the interconnection standards for generator interconnections to the distribution system to provide an expedited procedure for interconnection of onsite distributed energy resources, including configurations that utilize battery storage as a component of the distributed energy resource facility.

(B) If an electrical utility fails to deny or approve an application for interconnection of an onsite distributed energy resource within thirty calendar days of receipt of a completed application, the application is deemed approved and the electrical utility will provide notice of permission to operate to the applicant within five calendar days.

Section 58‑42‑230. An electrical utility shall not require a customer‑generator to purchase additional liability insurance as a condition of interconnection for an inverter‑based onsite distributed energy resource facility.

Section 58‑42‑240. Each electrical utility shall maintain a list of distribution circuits where the nameplate capacity of interconnected aggregate electric generation exceeds fifteen percent of circuit peak demand. Each electrical utility with over one‑hundred thousand customers shall publish a map or maps reflecting available circuit capacity under the fifteen percent threshold on the electrical utility’s website and shall update these maps at least on a quarterly basis.

Section 58‑42‑250. The owner or user of an onsite distributed energy resource may proceed with construction and installation of the facility after receiving approval from the local or county authority with appropriate permitting jurisdiction. An electrical utility shall not delay or prohibit commencement of construction or installation beyond the date of permitting approval.

Article 3

Rates and Charges

Section 58‑42‑310. (A) As soon as practicable, and not to exceed thirty days after the enactment of this act, each electrical utility shall file with the commission a net metering tariff consistent with this section and begin offering net metering service to customers with onsite distributed energy resources.

(B) For net metering service, the net electrical energy measurement 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 export of electricity.

(2) If the electricity supplied by the electrical utility exceeds the electricity generated and exported to the electrical utility by the customer‑generator during a billing period, the customer‑generator 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 and exported to the electrical utility’s grid that exceeds the energy supplied by the electrical utility during a monthly billing period must be recorded as a net excess generation credit.

(4) Net excess generation credits may not be used to offset the nonvolumetric electricity charges.

(5) The utility shall maintain an account of any net excess generation credits accruing from the customer‑generator’s excess generation and allow those credits to be used to offset the customer‑generator’s volumetric energy charges during future billing periods.

(C) Customer‑generators utilizing an energy storage device as part of the onsite distributed energy resource may participate in net metering so long as the storage device is configured to charge solely from a renewable energy resource, as that term is defined in Section 58‑40‑10(F).

(D) Any renewable or environmental attributes associated with a customer‑generator’s onsite distributed energy resource are the sole property of the customer‑generator or the customer‑generator’s assignee and may not be claimed by the interconnected electrical utility except through a written agreement with the customer‑generator or the customer‑generator’s assignee that is supported by appropriate consideration for the transfer of those attributes.

(E) Each electrical utility shall develop a standardized net metering agreement, substantially similar to the agreement approved by the commission pursuant to this section. The standardized net metering agreement shall:

(1) guarantee the right of the customer‑generator to continue to receive net metering service for the associated onsite distributed energy resource facility under the terms of this section in effect on the date of execution for a period of thirty years;

(2) allow for the assignment of the net metering agreement by the customer‑generator to subsequent owners or users of the onsite distributed energy resource facility at the premises where it was originally installed;

(3) allow for reasonable capacity increases or modifications to the distributed energy resource, including the addition of an energy storage device, routine component complacent, and addition of generation capacity that does not exceed one-quarter of one percent of the original capacity;

(4) provide that the customer‑generator will have access to the same electrical rate options that the customer would have had if they had not installed and utilized onsite distributed energy resources; and

(5) allow the electrical utility to terminate the agreement if the onsite distributed energy resource is inactive for a consecutive period of twelve months or if the customer‑generator is operating the facility in violation of laws or regulations related to safety and reliability of the grid.

(F) Within thirty days of the enactment of this act, the commission shall issue a notice to request comments and proposals for a standardized net metering agreement from all interested persons. Within one‑hundred fifty days of the enactment of this act, the commission shall issue an order approving a standardized net metering agreement.

(G) Customers engaged in a prior net metering program may opt out and apply for net metering service as soon as the net metering tariff and standardized net metering agreement is available. Customers enrolling in net metering under this chapter prior to the availability of the net metering agreement may begin receiving net metering service under the terms of this section and may subsequently execute the commission‑approved net metering agreement. For customer‑generators opting out of a legacy net metering service that is included in a commission‑approved distributed energy resource program, nothing in this section prohibits an electrical utility from continuing to recover distributed energy resource program costs for the duration and in the manner approved by the commission prior to the enactment of this act.

(H) Electrical utilities may charge a one‑time, cost‑based interconnection application fee for a net metering facility. The one‑time interconnection application fee shall not exceed two‑hundred fifty dollars for customers applying to interconnect a distributed energy resource with a total nameplate generating capacity of twenty kilowatts or less.

(I) An electrical utility that has customer‑generators taking net metering service under a legacy net metering program pursuant to Section 58‑40‑10, et seq. shall provide these customer‑generators the opportunity to transition to new net metering service under this chapter and shall automatically transition these customer‑generators to new net metering service upon the termination of the customer‑generator’s rights to receive net metering service pursuant to a commission‑approved distributed energy resource program.

Section 58‑42‑320. (A) Electrical utilities shall provide service to customers that install and utilize onsite distributed energy resources at nondiscriminatory rates that are identical, with respect to rate structure, retail rate components, and any monthly charges to the rates that the customer would be charged for electricity supplied by the electrical utility if they did not utilize onsite distributed energy resources and shall not require a separately allocated class of service for these customers.

(B) Nothing in this section prohibits a customer utilizing onsite distributed energy resources from taking optional service under an alternate structure that is specifically developed for and available to customers using onsite distributed energy resources.

Section 58‑42‑330. An industrial account utilizing an onsite distributed energy resource facility with a nameplate capacity of at least one‑hundred kilowatts is exempt from paying the incremental distributed energy resource program costs that are subject to the cost cap in Section 58‑39‑150.

Section 58‑42‑340. Notwithstanding any other provision of this chapter, no electrical utility shall seek to recover through a general rate case or another proceeding the lost revenues associated with customer energy‑saving measures. For purposes of this section, ‘consumer energy‑saving measure’ means any equipment, technology, or practice employed by a customer to reduce the customer’s consumption of grid‑delivered electricity. Nothing in this section prevents an electrical utility from recovering the reasonable and prudent costs, as determined by the commission or the electrical utility’s governing board or authority, of any direct incentive or rebate program that encourages customers of the electrical utility to invest in or employ customer energy‑saving measures.

Article 4

Regulation of Owners of Onsite Distributed Energy Resources

Section 58‑42‑410. (A) The owner of an onsite distributed energy resource facility contracting with the customer‑generator using that facility through a power purchase agreement or other agreement providing for the ongoing operation and maintenance of the facility is not considered an electrical utility pursuant to Section 58‑27‑10(7).

(B) Prior to offering a power purchase or other agreement for the operation and maintenance of an onsite distributed energy resource facility to a prospective customer‑generator, the owner of the facility must obtain and maintain a certificate pursuant to Section 58‑27‑2620 that permits the owner to market and lease renewable electric generation facilities to customer‑generator lessees.

Article 5

Utilization of Onsite Distributed Energy Resources

to Enhance Disaster Readiness

Section 58‑42‑510. As used in this article:

(1) ‘First responder’ means a law enforcement officer, a fire department worker, or a paramedic with a primary place of residence in this State who is employed by or volunteers for a state, county, or municipal agency that ordinarily provides emergency services to citizens of this State during a natural disaster or state of emergency as declared by state or federal authorities.

(2) ‘Designated emergency shelter’ means a building owned by a state, county, or municipal government agency which has been designated by appropriate authorities as a place of community refuge made available to provide temporary shelter and housing to citizens during a natural disaster or state of emergency as declared by the governor or other authorized official.

(3) ‘Onsite solar‑storage facility’ means an onsite distributed energy resource facility paired with a battery storage device which:

(a) utilizes solar energy to generate electricity sufficient to meet at least fifty percent of the host customer’s annual electrical requirements;

(b) is capable of isolating from the electric grid and operating independently during periods of electrical outages; and

(c) has sufficient battery storage capacity to supply a minimum of twenty‑four hours of back‑up power to the customer’s critical loads or a minimum of five hours of the customer’s average daily usage.

Section 58‑42‑520. (A) Each electrical utility shall develop and implement an incentive program to encourage the installation of an onsite solar‑storage facility to serve the critical loads of:

(1) the primary residence of a first responder; and

(2) designated emergency shelters within the service territory of the electrical utility.

(B) Each electrical utility’s disaster readiness incentive program shall provide ratepayer‑funded incentives, including rebates, grants, or other forms of incentives that support the purchase and installation of an onsite solar‑storage facility, on a first‑come, first served basis to encourage the installation of onsite solar‑storage facilities with an aggregate nameplate capacity equal to or greater than one-quarter of one percent of the electrical utility’s 2016 peak demand. Not less than twenty‑five percent of the available incentive capacity must be reserved for solar‑storage facilities installed on the primary residences of first responders.

(C) The commission shall allow an electrical utility subject to its jurisdiction to recover the prudently incurred costs of implementing and administering the disaster readiness incentive program.”

SECTION 3. Section 58‑40‑10(C) of the 1976 Code is amended to read:

“(C) ‘Customer‑generator’ means the ~~owner, operator, lessee, or customer‑generator lessee~~ user of an electric energy generation unit ~~which~~ that:

(1) generates electricity from a renewable energy resource;

(2) has an electric generating system with a capacity of:

(a) not more than the lesser of one thousand kilowatts (1,000 kW AC) or one hundred percent of contract demand if a nonresidential customer; or

(b) not more than twenty kilowatts (20 kW AC) if a residential customer;

(3) is located on a single premises owned, operated, leased, or otherwise controlled by the customer;

(4) is interconnected and operates in parallel phase and synchronization with an electrical utility and complies with the applicable interconnection standards;

(5) is intended primarily to offset part or all of the customer‑generator’s own electrical energy requirements; and

(6) meets all applicable safety, performance, interconnection, and reliability standards established by the commission, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the federal Energy Regulatory Commission, and any local governing authorities.”

SECTION 4. Section 58‑40‑20(A) and (B) of the 1976 Code is amended to read:

“(A) ~~Net energy metering rates approved by the commission under the terms of this chapter shall be the exclusive net energy metering rates available to customer‑generators. Upon commission approval, such 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.

(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 percent of the previous five‑year average of the electrical utility’s South Carolina retail peak demand. ~~No electrical utility shall be required to approve any 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 percent of the previous five‑year average of the electrical utility’s South Carolina retail peak demand.~~ Applications for interconnection from net energy metering customer‑generators received after December 31, 2020, or after the two percent cap is met, will proceed under the statewide net metering program established in Section 58‑42‑310. If an electrical utility’s cap is met prior to the approval of a successor tariff pursuant to Section 58‑42‑310, the electrical utility shall continue to make the currently approved net metering rider or tariff available to new applicants for net metering service for the interim period and will provide these interim customer‑generators a new standardized net metering agreement pursuant to Section 58‑42‑310(E) within thirty days of commission approval.”

SECTION 5. Section 58‑27‑2610 of the 1976 Code is amended to read:

“Section 58‑27‑2610. (A) An entity that owns a renewable electric generation facility, located on a premises or residence owned or leased by an eligible customer‑generator lessee to serve the electric energy requirements of that particular premises or residence or to enable the customer‑generator lessee to obtain a credit for or engage in the sale of energy from the renewable electric generation facility to that customer‑generator lessee’s retail electric provider or its designee, ~~shall~~ must be permitted to lease ~~such~~ the facility exclusively to a customer‑generator lessee under a lease, provided that the entity complies with the terms, conditions, and restrictions set forth within this article and holds a valid certificate issued by the Office of Regulatory Staff. An entity owning renewable electric generation facilities in compliance with the terms of this article ~~shall~~ is not ~~be~~ considered an ‘electrical utility’ ~~under~~ pursuant to Section 58‑27‑10 if the renewable electric generation facilities are ~~only~~ made available only to a customer‑generator lessee for the customer‑generator lessee’s use on the customer‑generator lessee’s premises or the residence where the renewable electric generation facilities are located, or for the sale of energy to that customer‑generator lessee’s retail electric provider or its designee, and pursuant to a lease.

(B) ~~All customer‑generator lessees that interconnect renewable electric generation facilities to a retail electric provider’s transmission or distribution system must enroll in the applicable rate schedules made available by that retail electric provider, subject to the participation limitations set forth therein or in the policy adopted by the retail electric provider not subject to Section 58‑40‑20(B), and the customer‑generator lessee shall otherwise comply with all requirements of Section 58‑40‑10, et seq., or the policy adopted by the retail electric provider not subject to Section 58‑40‑10, et seq.~~ A lessor of a renewable electric generation facility may provide additional warranty service to guarantee that the facility’s electrical output will fall within an expected range based on the age and expected degradation of system components, any site‑specific factors impacting facility production present at the time of installation, and meteorological conditions. Payments or credits provided to customer‑generator lessees pursuant to these warranties or agreements must not be construed as implicating a retail sale of electricity.

(C) To comply with the terms of this article, each customer‑generator lessee renewable electric generation facility shall serve only one premises or residence, and shall not serve multiple customer‑generator lessees or multiple premises or residences.

(D) Any lease of a renewable electric generation facility not entered into pursuant to this article is prohibited. The owner of a renewable electric generation facility subject to ~~any~~ a lease entered into outside of this program ~~shall be~~ is considered an ‘electrical utility’ ~~under~~ pursuant to Section 58‑27‑10.

(E) ~~This section shall not be construed as allowing any sales of electricity from renewable electric generation facilities directly to any customer of any retail electric provider by the owner.~~ This article ~~shall~~ must not be construed as abridging or impairing any existing rights or obligations, established by contract or statute, of retail electric providers to serve South Carolina customers. The electrical output from ~~any~~ a renewable electric generation unit leased pursuant to this program ~~shall be~~ is the sole and exclusive property of the customer‑generator lessee.

(F) An entity and its affiliates that lawfully provide retail electric service to the public may offer leases of renewable generation facilities in those areas or territories where it provides retail electric service. ~~No such~~ A provider or affiliate shall not offer or enter into leases of renewable generation facilities in areas served by another retail electric provider.

(G) The costs an electrical utility incurs in marketing, installing, owning, or maintaining solar leases through its own leasing programs as a lessor ~~shall~~ must not be recovered from other nonparticipating electrical utility customers through rates, ~~provided, however,~~ except that an electrical utility and the customer‑generator lessees ~~which~~ who lease facilities from it may participate on an equal basis with other lessors and lessees in any applicable programs provided pursuant to Chapter 39, ~~of this title, 1976 Code Sections 58‑39‑110, et seq.~~ Title 58, and nothing in this section shall prevent the reasonable and prudent costs of a utility’s distributed energy resource programs, including the provision of incentives to its own lessees and other allowable costs, from being reflected in a utility’s rates ~~as provided for in~~ pursuant to Chapter 39, or as otherwise permitted under generally applicable regulatory principles.

(H) ~~The total installed capacity of all renewable electric generation facilities on a retail electric provider’s system that are leased pursuant to this article shall not exceed two percent of the previous five‑year average of the retail electric provider’s South Carolina residential and commercial contribution to coincident retail peak demand and two percent of the previous five‑year average of the retail electric provider’s South Carolina industrial contribution to coincident retail peak demand. A provider may refuse to interconnect with customers where to do so would result in this limitation being exceeded. Every retail electric provider must establish a program for new installations of leased equipment to permit the reservation of capacity on its system including provisions to prevent or discourage abuse of such programs. Such programs must provide that only prospective individual customer‑generator lessees may apply for, receive, and hold reservations. Each reservation shall be for a single customer premises only and may not be sold, exchanged, traded, or assigned except as part of the sale of the underlying premises. Requests for reservations to electrical utilities as defined in Section 58‑27‑10 shall accompany applications for interconnection of the leased facilities pursuant to Chapter 40, Title 58 and the reservation shall remain in force only so long as the application or permit for interconnection remains active. Electrical utilities as defined in Section 58‑27‑10 shall submit programs establishing the terms of such reservations to the commission for approval.~~

~~(I)~~ ~~Notwithstanding the provisions of subsection (H), for an electrical utility for which more than fifty percent of the electricity that it generates in South Carolina comes from renewable resources, the total installed capacity of all renewable electric generation facilities on its system that are leased pursuant to this article shall not exceed one‑tenth of one percent of the previous five‑year average of the electrical utility’s South Carolina residential and commercial contribution to coincident retail peak demand and one‑tenth of one percent of the previous five‑year average of the electrical utility’s South Carolina industrial contribution to coincident retail peak demand. Electrical utilities meeting the requirements of this subsection shall not be required to establish a capacity reservation program as required by subsection (H).~~

~~(J)~~(1) The provisions of ~~this~~ Article 23 related to leased generation facilities ~~shall~~ do not apply to facilities:

(a) ~~facilities~~ serving a single premises ~~that~~ which are not interconnected with a retail electric provider;

(b) ~~facilities~~ owned by customer generators but financed by a third party; or

(c) ~~facilities~~ used exclusively for standby emergency service or participation in an approved standby generation program operated by a retail electric provider.

(2) The commission may promulgate regulations consistent with this section interpreting the scope of these exemptions as to electrical utilities.”

SECTION 6. Section 58‑27‑2630(A)(9) of the 1976 Code is amended to read:

“(9) ~~an affidavit~~ a signed declaration from the customer‑generator lessee that it will not sell, resell, or attempt to sell or resell the electrical output of the facility to ~~any~~ a person, corporation, or entity, other than the customer‑generator lessee’s retail electric provider or its designee, that the primary purpose for the operation of the renewable electric generation facility is to generate electricity for the benefit of the premises where it is located, and that the facility has been or will be operated in substantial compliance with all federal and state laws, rules, and regulations and all local codes and ordinances.”

SECTION 7. A. Section 12‑37‑220(B) of the 1976 Code is amended by adding an appropriately numbered item at the end to read:

“( )(a) Effective for property tax years beginning after 2017, a renewable energy resource property having a nameplate capacity of and generating no greater than twenty kilowatts, as measured in alternating current, is exempt.

(b) For purposes of this item, ‘renewable energy resource’ means property defined in Section 58‑40‑10. This definition includes, but is not limited to, all components that enhance the operational characteristics of the generating equipment, such as an advanced inverter or battery storage device, and equipment required to meet all applicable safety, performance, interconnection, and reliability standards established by the commission, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities.”

B. This SECTION takes effect in property tax years beginning after 2017 and shall apply and terminate in the same manner as provided in Section 1.B. of Act 134 of 2016.

SECTION 8. A. Section 12‑6‑3770(A) of the 1976 Code is amended to read:

“(A) A taxpayer who constructs, purchases, or leases solar energy property located on the Environmental Protection Agency’s National Priority List, National Priority List Equivalent Sites, or on a list of related removal actions, as certified by the Department of Health and Environmental Control, or on property owned by the Pinewood Site Custodial Trust, located in the State of South Carolina, and places it in service in this State during the taxable year, is allowed an income tax credit equal to twenty‑five percent of the cost, including the cost of installation of the property. The credit is earned in the year in which the solar energy property is placed in service, but must be taken in five equal annual installments, beginning in the year in which the solar energy property is placed in service. Unused credit may be carried forward for five taxable years from the year in which the credit was able to be taken. A lessor shall give a taxpayer who leases solar energy property from him a statement that describes the solar energy property and states the cost of the property upon request. A credit is not allowed pursuant to this section to the extent the cost of the solar energy property is provided by public funds. For purposes of this section, ‘public funds’ does not include federal grants or tax credits.”

B. This SECTION takes effect in income tax years beginning after 2017 and shall apply and terminate in the same manner as provided in Section 1.B. of Act 134 of 2016.

SECTION 9. Except as otherwise provided, this act takes effect upon approval by the Governor. /

Renumber sections to conform.

Amend title to conform.

F. GREGORY DELLENEY, JR. for Committee.

**A** **BILL**

TO AMEND THE CODE OF LAWS OF SOUTH CAROLINA, 1976, BY ADDING ARTICLE 25 TO CHAPTER 27, TITLE 58 SO AS TO ENACT THE “SOUTH CAROLINA ELECTRIC CONSUMER BILL OF RIGHTS ACT” TO DEFINE CATEGORIES OF COSTS TO BE COLLECTED THROUGH RESIDENTIAL CUSTOMER CHARGES, TO LIMIT RESIDENTIAL CUSTOMER CHARGES TO CAPTURE ONLY CUSTOMER‑RELATED COSTS, AND TO REQUIRE EACH ELECTRICAL UTILITY TO INCLUDE A LINE ITEM ON CUSTOMER BILL STATEMENTS TO SHOW THE PERCENTAGE OF RETAIL RATES ATTRIBUTABLE TO DEFERRED RECOVERY OF THE COST OF THE NUCLEAR GENERATING STATION ABANDONED DURING CONSTRUCTION PURSUANT TO SECTION 58‑33‑225; BY ADDING CHAPTER 42 TO TITLE 58 SO AS TO ESTABLISH STATEWIDE STANDARDS PROVIDING CUSTOMERS WITH THE ABILITY TO INSTALL AND UTILIZE ONSITE DISTRIBUTED ENERGY SOURCES, TO DEFINE RELEVANT TERMS, TO ESTABLISH STATEWIDE INTERCONNECTION STANDARDS, TO PROHIBIT UTILITIES FROM PREVENTING CONSTRUCTION UNDER CERTAIN CONDITIONS, TO PROVIDE THE STATEWIDE NET METERING STANDARDS, TO ALLOW SETTLEMENT‑BASED COST RECOVERY FOR INVESTOR‑OWNED UTILITIES FOR CUSTOMER‑GENERATORS BUT TO PROHIBIT COST RECOVERY OF LOST REVENUES WITHIN THE STATEWIDE NET METERING PROGRAM, TO EXEMPT INDUSTRIAL CUSTOMERS WHO ADOPT ONSITE DISTRIBUTED ENERGY RESOURCES FROM INCREMENTAL DISTRIBUTED ENERGY RESOURCE PROGRAM COSTS, TO PROVIDE THAT THE OWNER OF AN ONSITE DISTRIBUTED ENERGY RESOURCE WHO HAS REGISTERED WITH THE OFFICE OF REGULATORY STAFF AS A LESSOR OF THESE FACILITIES MAY NOT BE REGULATED AS A PUBLIC UTILITY FOR OFFERING A SERVICE THAT PROVIDES ONSITE GENERATION TO CUSTOMER‑GENERATORS THROUGH A POWER PURCHASE AGREEMENT, TO REQUIRE EACH ELECTRICAL UTILITY TO PROVIDE A DISASTER READINESS INCENTIVE TO ENCOURAGE THE INSTALLATION OF SOLAR AND STORAGE COMBINATION ONSITE DISTRIBUTED ENERGY RESOURCES FACILITIES ON THE RESIDENCES OF FIRST RESPONDERS AND DESIGNATED PUBLIC SHELTERS; BY ADDING SECTION 27‑1‑80 SO AS TO PROHIBIT DISCRIMINATION AGAINST USE OF ONSITE DISTRIBUTED ENERGY RESOURCES THROUGH RESTRICTIVE COVENANTS, DEED RESTRICTIONS, OR HOMEOWNERS’ ASSOCIATION DOCUMENTS; TO AMEND SECTION 58‑40‑10, RELATING TO TERMS APPLICABLE TO NET ENERGY METERING, SO AS TO REVISE THE DEFINITION OF “CUSTOMER‑GENERATOR”; TO AMEND SECTION 58‑40‑20, RELATING TO NET ENERGY METERING RATES, SO AS TO, AMONG OTHER THINGS, REMOVE LANGUAGE PROVIDING THAT NET METERING RATES APPROVED BY THE COMMISSION PURSUANT TO CHAPTER 40, TITLE 58 ARE THE EXCLUSIVE NET METERING RATES AVAILABLE TO CUSTOMER‑GENERATORS; TO AMEND SECTION 58‑27‑2600, RELATING TO TERMS APPLICABLE TO THE LEASE OF RENEWABLE ELECTRIC GENERATION FACILITIES PROGRAMS, SO AS TO REVISE THE DEFINITION OF “RETAIL ELECTRIC PROVIDER”; TO AMEND SECTION 58‑27‑2610, RELATING TO THE LEASE OF A RENEWABLE ELECTRIC GENERATION FACILITY, SO AS TO, AMONG OTHER THINGS, PROVIDE THAT LESSORS OF RENEWABLE ELECTRIC GENERATION FACILITIES MAY OFFER WARRANTY SERVICES, AND TO REMOVE THE CURRENT TWO PERCENT CAP ON LEASED RENEWABLE ELECTRIC GENERATION FACILITIES; TO AMEND SECTION 58‑27‑2630, RELATING TO THE REGISTRATION OF A RENEWABLE ELECTRIC GENERATION FACILITY LEASED TO A CUSTOMER‑GENERATOR LESSEE, SO AS TO REPLACE THE CURRENT CUSTOMER‑GENERATOR NOTARIZED AFFIDAVIT WITH A SIGNED DECLARATION FROM THE CUSTOMER‑GENERATOR THAT IT WILL NOT ATTEMPT TO RESELL OR SELL ELECTRIC OUTPUT TO A THIRD PARTY THAT IS NOT THE ELECTRIC RETAIL SUPPLIER; AND TO AMEND SECTION 12‑37‑220, AS AMENDED, RELATING TO EXEMPTIONS FROM PROPERTY TAX, SO AS TO EXEMPT RENEWABLE ENERGY RESOURCE PROPERTY HAVING A NAMEPLATE CAPACITY OF NO GREATER THAN TWENTY KILOWATTS, AS MEASURED IN ALTERNATING CURRENT.

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

SECTION 1. Chapter 27, Title 58 of the 1976 Code is amended by adding:

“Article 25

South Carolina Electric Consumer Bill of Rights Act

Section 58-27-2800. This act may be cited as the ‘South Carolina Electric Consumer Bill of Rights Act’.

Section 58‑27‑2810. (A) It is the intent of the General Assembly to maximize transparency of utility costs in the rates charged by electrical utilities in this State, to ensure that rate structures for residential and small commercial customers remain simple and understandable, and to protect the opportunity of all electricity consumers in South Carolina to reduce or manage electrical consumption by utilizing measures such as energy efficiency or the installation and utilization of onsite distributed energy resources. It is the further intent of the General Assembly to remove economic and regulatory barriers to technological innovation and increase customer choice in the consumption of electricity from electrical utilities in the State.

(B) The General Assembly finds that:

(1) there is a critical need to protect customers from rising utility costs and to put a priority on programs that leverage private investment in customer measures to reduce or manage electrical consumption from electrical utilities in a manner that contributes to reductions in utility peak electrical demand and other utility costs;

(2) customers depend on reasonable investment expectations when investing in measures to reduce or manage electrical consumption from electrical utilities and expect that these measures will result in net bill savings that exceed the cost of taking the measure over a reasonable period of time;

(3) volumetric rates for electric service to residential and small commercial customers are simple and understandable and are the appropriate mechanism for recovering most utility costs from these customers. Rates for residential and small commercial customers must be designed to account for the fact that these customers understand that reducing overall kilowatt‑hour usage in a billing period will reduce the amount paid for electricity and result in overall bill savings; and

(4) increased reliance on fixed charges to recover a greater portion of electrical utility costs in residential and small commercial customers’ rates reduces the ability of these customers to achieve bill savings and creates a barrier to adoption of customer‑financed measures that can reduce electrical utility peak demand and other utility costs.

Section 58‑27‑2820. (A) An electrical utility, including the Public Service Authority, shall not require residential customers taking service on a default residential rate schedule to be charged a monthly fixed charge that exceeds a reasonable estimate of customer‑related costs.

(B) Nothing in this section prohibits a utility from offering optional residential rate schedules that include a fixed monthly charge in excess of customer‑related costs.

(C) For purposes of this section, ‘customer‑related costs’ are costs that are affected by the number of customers served that do not vary with the amount of electrical consumption and primarily consist of the cost of metering, billing, customer service, and service drop.

Section 58‑27‑2830. Each electrical utility shall include a line item on customer bill statements to provide the percentage of customer rates that is attributable to deferred recovery of the cost of the generating plant abandoned during construction pursuant to Section 58‑33‑225(G).”

SECTION 2. Title 58 of the 1976 Code is amended by adding:

“CHAPTER 42

Customer Installation and Utilization

of Distributed Energy Resources

Article 1

General Provisions

Section 58‑42‑10. (A) It is the intent of the General Assembly to build upon the successful deployment of solar generating capacity through the South Carolina Distributed Resource Act to continue enabling market‑driven, private investment in distributed energy resources across the State by reducing regulatory and administrative burdens to customer installation and utilization of onsite distributed energy resources. It is the further intent of the General Assembly to avoid disruption to the growing market for customer‑scale distributed energy resources.

(B) The General Assembly finds that:

(1) the South Carolina Distributed Energy Resource Act has resulted in the rapid deployment of solar generating capacity in the service territories of investor‑owned utilities and has proven the ability of these programs to support significant job creation and private investment in the State; and

(2) electrical utilities that are not subject to the South Carolina Distributed Energy Resource Act have not experienced the same rapid deployment of solar generating capacity since enactment of the South Carolina Distributed Energy Resource Act.

Section 58‑42‑20. As used in this chapter:

(1) ‘Customer‑generator’ means the user of an onsite distributed energy resource that is enrolled in net energy metering service.

(2) ‘Electrical utility’ means an electrical utility as defined in Section 58‑27‑10, and also other entities owning distribution facilities in this State for the purpose of providing retail electric service to the public for compensation, including municipalities, electric cooperatives, and the Public Service Authority.

(3) ‘Net electrical energy measurement’ means the measurement occurring at the end of the monthly billing period where the electrical utility determines the volume of electricity to be charged or credited based on the net of the total imports from the grid to the customer‑generator and total exports to the grid from the customer‑generator during that billing period.

(4) ‘Net metering’ means using metering equipment sufficient to measure the difference between the electrical energy supplied to a customer‑generator by an electrical utility and the electrical energy exported by the customer‑generator to the electricity provider over the applicable billing period.

(5) ‘Net excess kWh credit’ means a kWh credit representing monthly net excess generation determined in the net electrical energy measurement.

(6) ‘Onsite distributed energy resource’ means a facility that is a ‘distributed energy resource’, as defined in Section 58‑39‑120(C), that:

(a) generates electricity from a renewable energy resource, as defined in Section 58‑40‑10(F);

(b) has an electric generating system with a capacity of:

(i) not more than the lesser of one thousand kilowatts (1,000 kW AC) or one hundred percent of contract demand if a nonresidential customer, provided that the electric generating capacity of an onsite distributed energy resource that includes an energy storage device paired with a renewable energy resource will be determined as the lesser of the total inverter capacity or the sum of the direct current power components that comprise the onsite distributed energy resource facility; or

(ii) not more than twenty kilowatts (20 kW AC) if a residential customer, provided that the electric generating capacity of an onsite distributed energy resource that includes an energy storage device paired with a renewable energy resource will be determined as the lesser of the total inverter capacity or the sum of the direct current power components that comprise the onsite distributed energy resource facility;

(c) is located on a single premises owned, operated, leased, or otherwise controlled by the customer;

(d) is configured to serve load on the customer’s side of the electrical utility’s revenue meter;

(e) is interconnected and operates in parallel phase and synchronization with an electrical utility and complies with the applicable interconnection standards;

(f) is intended primarily to offset part or all of the customer‑generator’s own electrical energy requirements; and

(g) meets all applicable safety, performance, interconnection, and reliability standards established by the commission, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the federal Energy Regulatory Commission, and any local governing authorities.

Section 58‑42‑30. This chapter applies to all electrical utilities providing retail service to electric customers in the State, including electric cooperatives, municipalities, and the Public Service Authority.

Article 2

Interconnection

Section 58‑42‑210. (A) Each electrical utility shall adopt the interconnection standards approved by the commission for interconnection of electric generation facilities and onsite distributed energy resources to the distribution grid.

(B) An electrical utility not subject to rate regulation by the commission may set cost‑based interconnection application fees that vary from the commission‑approved, statewide interconnection standard, but may not establish a charge of more than two‑hundred fifty dollars per interconnection request for electric generation facilities with a nameplate capacity of twenty kilowatts (20 kW AC) or less.

Section 58‑42‑220. (A) Within one hundred eighty calendar days of enactment of this act, the commission shall modify the interconnection standards for generator interconnections to the distribution system to provide an expedited procedure for interconnection of onsite distributed energy resources, including configurations that utilize battery storage as a component of the distributed energy resource facility.

(B) If an electrical utility fails to deny or approve an application for interconnection of an onsite distributed energy resource within thirty calendar days of receipt of a completed application, the application is deemed approved and the electrical utility will provide notice of permission to operate to the applicant within five calendar days.

Section 58‑42‑230. An electrical utility shall not require a customer‑generator to purchase additional liability insurance as a condition of interconnection for an inverter‑based onsite distributed energy resource facility.

Section 58‑42‑240. Each electrical utility shall maintain a list of distribution circuits where the nameplate capacity of interconnected aggregate electric generation exceeds fifteen percent of circuit peak demand. Each electrical utility with over one‑hundred thousand customers shall publish a map or maps reflecting available circuit capacity under the fifteen percent threshold on the electrical utility’s website and shall update these maps at least on a quarterly basis.

Section 58‑42‑250. The owner or user of an onsite distributed energy resource may proceed with construction and installation of the facility after receiving approval from the local or county authority with appropriate permitting jurisdiction. An electrical utility shall not delay or prohibit commencement of construction or installation beyond the date of permitting approval.

Article 3

Rates and Charges

Section 58‑42‑310. (A) Before one hundred and eighty days after the enactment of this act, each electrical utility will offer net metering service to customers with onsite distributed energy resources.

(B) For net metering service, the net electrical energy measurement 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 export of electricity.

(2) If the electricity supplied by the electrical utility exceeds the electricity generated and exported to the electrical utility by the customer‑generator during a billing period, the customer‑generator 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 and exported to the electrical utility’s grid that exceeds the energy supplied by the electrical utility during a monthly billing period must be recorded as a net excess kWh credit.

(4) Net excess kWh credits may not be used to offset the nonvolumetric electricity charges.

(5) 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.

(C) Customer‑generators utilizing an energy storage device as part of the onsite distributed energy resource may participate in net metering so long as the storage device is configured to charge solely from a renewable energy resource, as that term is defined in Section 58‑40‑10(F).

(D) Any renewable or environmental attributes associated with a customer‑generator’s onsite distributed energy resource are the sole property of the customer‑generator or the customer‑generator’s assignee and may not be claimed by the interconnected electrical utility except through a written agreement with the customer‑generator or the customer‑generator’s assignee that is supported by appropriate consideration for the transfer of those attributes.

(E) Each electrical utility shall develop a standardized net metering agreement, substantially similar to the agreement approved by the commission pursuant to this section. The standardized net metering agreement shall:

(1) guarantee the right of the customer‑generator to continue to receive net metering service for the associated onsite distributed energy resource facility under the terms of this section in effect on the date of execution for a period of thirty years;

(2) allow for the assignment of the net metering agreement by the customer‑generator to subsequent owners or users of the onsite distributed energy resource facility at the premises where it was originally installed;

(3) allow for reasonable capacity increases or modifications to the distributed energy resource, including the addition of an energy storage device, routine component complacent and addition of generation capacity that does not exceed twenty‑five percent of the original capacity;

(4) provide that the customer‑generator will have access to the same electrical rate options that the customer would have had if they had not installed and utilized onsite distributed energy resources; and

(5) allow the electrical utility to terminate the agreement if the onsite distributed energy resource is inactive for a consecutive period of twelve months or if the customer‑generator is operating the facility in violation of laws or regulations related to safety and reliability of the grid.

(F) Within thirty days of the enactment of this act, the commission shall issue a notice to request comments and proposals for a standardized net metering agreement from all interested persons. Within one‑hundred fifty days of the enactment of this act, the commission shall issue an order approving a standardized net metering agreement for use by electrical utilities subject to commission jurisdiction.

(G) Customers engaged in a prior net metering program may opt out and apply for net metering service as soon as the net metering tariff and standardized net metering agreement is available. For customer‑generators opting out of a legacy net metering service that is included in a commission‑approved distributed energy resource program, nothing in this section prohibits an electrical utility from continuing to recover distributed energy resource program costs for the duration and in the manner approved by the commission prior to the enactment of this act.

(H) With the exception of customer‑generators participating in a distributed energy resource program described in subsection (G), electrical utilities may not recover any portion of lost revenues from reduced kilowatt‑hour sales associated with generation that is utilized by customer‑generators through net metering service under this chapter.

(I) Electrical utilities may charge a one‑time, cost‑based interconnection application fee for a net metering facility. The one‑time interconnection application fee shall not exceed two‑hundred fifty dollars for customers applying to interconnect a distributed energy resource with a total nameplate generating capacity of twenty kilowatts or less.

(J) An electrical utility that has customer‑generators taking net metering service under a legacy net metering program pursuant to Section 54‑40‑10, et seq. shall provide these customer‑generators the opportunity to transition to new net metering service under this chapter and shall automatically transition these customer‑generators to new net metering service upon the termination of the customer‑generator’s rights to receive net metering service pursuant to a commission‑approved distributed energy resource program.

Section 58‑42‑320. (A) Electrical utilities shall provide service to customers that install and utilize onsite distributed energy resources at nondiscriminatory rates that are identical, with respect to rate structure, retail rate components and any monthly charges, to the rates that the customer would be charged if they did not utilize onsite distributed energy resources and shall not require a separately allocated class of service for these customers.

(B) Nothing in this section prohibits a customer utilizing onsite distributed energy resources from taking optional service under an alternate structure that is specifically developed for and available to customers using onsite distributed energy resources.

Section 58‑42‑330. An industrial account utilizing an onsite distributed energy resource facility with a nameplate capacity of at least one‑hundred kilowatts is exempt from paying the incremental distributed energy resource program costs that are subject to the cost cap in Section 58‑39‑150.

Article 4

Regulation of Owners of Onsite Distributed Energy Resources

Section 58‑42‑410. (A) The owner of an onsite distributed energy resource facility contracting with the customer‑generator using that facility through a power purchase agreement or other agreement providing for the ongoing operation and maintenance of the facility is not considered an electrical utility pursuant to Section 58‑27‑10(7).

(B) Prior to offering a power purchase or other agreement for the operation and maintenance of an onsite distributed energy resource facility to a prospective customer‑generator, the owner of the facility must obtain and maintain a certificate pursuant to Section 58‑27‑2620 that permits the owner to market and lease renewable electric generation facilities to customer‑generator lessees.

Article 5

Utilization of Onsite Distributed Energy Resources

to Enhance Disaster Readiness

Section 58‑42‑510. As used in this article:

(1) ‘First responder’ means a law enforcement officer, a fire department worker, or a paramedic with a primary place of residence in this State who is employed by or volunteers for a state, county, or municipal agency that ordinarily provides emergency services to citizens of this State during a natural disaster or state of emergency as declared by state or federal authorities.

(2) ‘Designated emergency shelter’ means any building owned by a state, county, or municipal government agency which has been designated by appropriate authorities as a place of community refuge made available to provide temporary shelter and housing to citizens during a natural disaster or state of emergency as declared by the governor or other authorized official.

(3) ‘Onsite solar‑storage facility’ means an onsite distributed energy resource facility paired with a battery storage device which:

(a) utilizes solar energy to generate electricity sufficient to meet at least fifty percent of the host customer’s annual electrical requirements;

(b) is capable of isolating from the electric grid and operating independently during periods of electrical outages; and

(c) has sufficient battery storage capacity to supply a minimum of twenty‑four hours of back‑up power to the customer’s critical loads or a minimum of five hours of the customer’s average daily usage.

Section 58‑42‑520. (A) Each electrical utility shall develop and implement an incentive program to encourage the installation of an onsite solar‑storage facility to serve the critical loads of:

(1) the primary residence of a first responder; and

(2) designated emergency shelters within the service territory of the electrical utility.

(B) Each electrical utility’s disaster readiness incentive program shall provide ratepayer‑funded incentives, including rebates, grants, or other forms of incentives that support the purchase and installation of an onsite solar‑storage facility, on a first‑come, first served basis to encourage the installation of onsite solar‑storage facilities with an aggregate nameplate capacity equal to or greater than twenty‑five percent of the electrical utility’s 2016 peak demand. Not less than twenty‑five percent of the available incentive capacity must be reserved for solar‑storage facilities installed on the primary residences of first responders.

(C) The commission shall allow an electrical utility subject to its jurisdiction to recover the prudently incurred costs of implementing and administering the disaster readiness incentive program.”

SECTION 3. Chapter 1, Title 27 of the 1976 Code is amended by adding:

“Section 27‑1‑80. (A) Except as provided in subsection (B), a deed restriction, covenant, homeowners’ association document, or similar binding agreement that runs with the land which would prohibit, or have the effect of prohibiting, the installation and utilization of an onsite distributed energy resource facility, pursuant to Section 58‑42‑20, is void and unenforceable. Nothing is this section prohibits a homeowners’ association from requiring reasonable design accommodations to ensure that an onsite distributed energy resource facility is installed in a manner that is consistent with aesthetic requirements applicable to homeowners’ association members and that does not have an adverse impact on the cost or generating efficiency of the onsite distributed energy resource.

(B) For purposes of this section, ‘homeowners’ association document’ has the same meaning provided in Section 27‑1‑60.

(C) For purposes of this section, ‘adverse impact on the cost or generating efficiency of the onsite distributed energy resource’ means a requirement or mitigation measure that would increase the cost of installation or reduce the generating efficiency of the onsite distributed energy resource by more than ten percent.”

SECTION 4. Section 58‑40‑10(C) of the 1976 Code is amended to read:

“(C) ‘Customer‑generator’ means the ~~owner, operator, lessee, or customer‑generator lessee~~ user of an electric energy generation unit ~~which~~ that:

(1) generates electricity from a renewable energy resource;

(2) has an electric generating system with a capacity of:

(a) not more than the lesser of one thousand kilowatts (1,000 kW AC) or one hundred percent of contract demand if a nonresidential customer; or

(b) not more than twenty kilowatts (20 kW AC) if a residential customer;

(3) is located on a single premises owned, operated, leased, or otherwise controlled by the customer;

(4) is interconnected and operates in parallel phase and synchronization with an electrical utility and complies with the applicable interconnection standards;

(5) is intended primarily to offset part or all of the customer‑generator’s own electrical energy requirements; and

(6) meets all applicable safety, performance, interconnection, and reliability standards established by the commission, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the federal Energy Regulatory Commission, and any local governing authorities.”

SECTION 5. Section 58‑40‑20(A) and (B) 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 be the exclusive net energy metering rates available to customer‑generators. Upon commission approval, such 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.

(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 percent of the previous five‑year average of the electrical utility’s South Carolina retail peak demand. ~~No electrical utility shall be required to approve any 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 percent of the previous five‑year average of the electrical utility’s South Carolina retail peak demand.~~ Applications for interconnection from net energy metering customer-generators received after December 31, 2020, or after the two percent cap is met, will proceed under the statewide net metering program established in Section 58‑42‑310. If an electrical utility’s cap is met prior to the approval of a successor tariff pursuant to Section 58‑42‑310, the electrical utility shall continue to make the currently approved net metering rider or tariff available to new applicants for net metering service for the interim period and will provide these interim customer‑generators a new standardized net metering agreement pursuant to Section 58‑42‑310(E) within thirty days of commission approval.”

SECTION 6. Section 58‑27‑2600(B) of the 1976 Code is amended to read:

“(B) ‘Retail electric provider’ means an electrical utility as defined in Section 58‑27‑10 and also means other entities that provide retail electric service in South Carolina~~, but excluding electric cooperatives organized under the laws of a state other than South Carolina~~.”

SECTION 7. Section 58‑27‑2610 of the 1976 Code is amended to read:

“Section 58‑27‑2610. (A) An entity that owns a renewable electric generation facility, located on a premises or residence owned or leased by an eligible customer‑generator lessee to serve the electric energy requirements of that particular premises or residence or to enable the customer‑generator lessee to obtain a credit for or engage in the sale of energy from the renewable electric generation facility to that customer‑generator lessee’s retail electric provider or its designee, ~~shall~~ must be permitted to lease ~~such~~ the facility exclusively to a customer‑generator lessee under a lease, provided that the entity complies with the terms, conditions, and restrictions set forth within this article and holds a valid certificate issued by the Office of Regulatory Staff. An entity owning renewable electric generation facilities in compliance with the terms of this article ~~shall~~ is not ~~be~~ considered an ‘electrical utility’ ~~under~~ pursuant to Section 58‑27‑10 if the renewable electric generation facilities are ~~only~~ made available only to a customer‑generator lessee for the customer‑generator lessee’s use on the customer‑generator lessee’s premises or the residence where the renewable electric generation facilities are located, or for the sale of energy to that customer‑generator lessee’s retail electric provider or its designee, and pursuant to a lease.

(B) ~~All customer‑generator lessees that interconnect renewable electric generation facilities to a retail electric provider’s transmission or distribution system must enroll in the applicable rate schedules made available by that retail electric provider, subject to the participation limitations set forth therein or in the policy adopted by the retail electric provider not subject to Section 58‑40‑20(B), and the customer‑generator lessee shall otherwise comply with all requirements of Section 58‑40‑10, et seq., or the policy adopted by the retail electric provider not subject to Section 58‑40‑10, et seq.~~ A lessor of a renewable electric generation facility may provide additional warranty service to guarantee that the facility’s electrical output will fall within an expected range based on the age and expected degradation of system components, any site‑specific factors impacting facility production present at the time of installation, and meteorological conditions. Payments or credits provided to customer‑generator lessees pursuant to these warranties or agreements must not be construed as implicating a retail sale of electricity.

(C) To comply with the terms of this article, each customer‑generator lessee renewable electric generation facility shall serve only one premises or residence, and shall not serve multiple customer‑generator lessees or multiple premises or residences.

(D) Any lease of a renewable electric generation facility not entered into pursuant to this article is prohibited. The owner of a renewable electric generation facility subject to ~~any~~ a lease entered into outside of this program ~~shall be~~ is considered an ‘electrical utility’ ~~under~~ pursuant to Section 58‑27‑10.

(E) ~~This section shall not be construed as allowing any sales of electricity from renewable electric generation facilities directly to any customer of any retail electric provider by the owner.~~ This article ~~shall~~ must not be construed as abridging or impairing any existing rights or obligations, established by contract or statute, of retail electric providers to serve South Carolina customers. The electrical output from ~~any~~ a renewable electric generation unit leased pursuant to this program ~~shall be~~ is the sole and exclusive property of the customer‑generator lessee.

(F) An entity and its affiliates that lawfully provide retail electric service to the public may offer leases of renewable generation facilities in those areas or territories where it provides retail electric service. ~~No such~~ A provider or affiliate shall not offer or enter into leases of renewable generation facilities in areas served by another retail electric provider.

(G) The costs an electrical utility incurs in marketing, installing, owning, or maintaining solar leases through its own leasing programs as a lessor ~~shall~~ must not be recovered from other nonparticipating electrical utility customers through rates, ~~provided, however,~~ accept that an electrical utility and the customer‑generator lessees ~~which~~ who lease facilities from it may participate on an equal basis with other lessors and lessees in any applicable programs provided pursuant to Chapter 39, ~~of this title, 1976 Code Sections 58‑39‑110, et seq.~~ Title 58, and nothing in this section shall prevent the reasonable and prudent costs of a utility’s distributed energy resource programs, including the provision of incentives to its own lessees and other allowable costs, from being reflected in a utility’s rates ~~as provided for in~~ pursuant to Chapter 39, or as otherwise permitted under generally applicable regulatory principles.

(H) ~~The total installed capacity of all renewable electric generation facilities on a retail electric provider’s system that are leased pursuant to this article shall not exceed two percent of the previous five‑year average of the retail electric provider’s South Carolina residential and commercial contribution to coincident retail peak demand and two percent of the previous five‑year average of the retail electric provider’s South Carolina industrial contribution to coincident retail peak demand. A provider may refuse to interconnect with customers where to do so would result in this limitation being exceeded. Every retail electric provider must establish a program for new installations of leased equipment to permit the reservation of capacity on its system including provisions to prevent or discourage abuse of such programs. Such programs must provide that only prospective individual customer‑generator lessees may apply for, receive, and hold reservations. Each reservation shall be for a single customer premises only and may not be sold, exchanged, traded, or assigned except as part of the sale of the underlying premises. Requests for reservations to electrical utilities as defined in Section 58‑27‑10 shall accompany applications for interconnection of the leased facilities pursuant to Chapter 40, Title 58 and the reservation shall remain in force only so long as the application or permit for interconnection remains active. Electrical utilities as defined in Section 58‑27‑10 shall submit programs establishing the terms of such reservations to the commission for approval.~~

~~(I)~~ ~~Notwithstanding the provisions of subsection (H), for an electrical utility for which more than fifty percent of the electricity that it generates in South Carolina comes from renewable resources, the total installed capacity of all renewable electric generation facilities on its system that are leased pursuant to this article shall not exceed one‑tenth of one percent of the previous five‑year average of the electrical utility’s South Carolina residential and commercial contribution to coincident retail peak demand and one‑tenth of one percent of the previous five‑year average of the electrical utility’s South Carolina industrial contribution to coincident retail peak demand. Electrical utilities meeting the requirements of this subsection shall not be required to establish a capacity reservation program as required by subsection (H).~~

~~(J)~~(1) The provisions of ~~this~~ Article 23 related to leased generation facilities ~~shall~~ do not apply to facilities:

(a) ~~facilities~~ serving a single premises ~~that~~ which are not interconnected with a retail electric provider;

(b) ~~facilities~~ owned by customer generators but financed by a third party; or

(c) ~~facilities~~ used exclusively for standby emergency service or participation in an approved standby generation program operated by a retail electric provider.

(2) The commission may promulgate regulations consistent with this section interpreting the scope of these exemptions as to electrical utilities.”

SECTION 8. Section 58‑27‑2630(A)(9) of the 1976 Code is amended to read:

“(9) ~~an affidavit~~ a signed declaration from the customer‑generator lessee that it will not sell, resell, or attempt to sell or resell the electrical output of the facility to ~~any~~ a person, corporation, or entity, other than the customer‑generator lessee’s retail electric provider or its designee, that the primary purpose for the operation of the renewable electric generation facility is to generate electricity for the benefit of the premises where it is located, and that the facility has been or will be operated in substantial compliance with all federal and state laws, rules, and regulations and all local codes and ordinances.”

SECTION 9.A. Section 12‑37‑220(B) of the 1976 Code, as last amended by Act 40 of 2017, is further amended by adding appropriately numbered items at the end to read:

“(\_\_)(a) eighty percent of the fair market value of a distributed energy resource required to be returned, pursuant to Section 12‑37‑970, or to be appraised and assessed pursuant to Section 12‑4‑540;

(b) this exemption applies for property that became operational after property tax year 2017 and only applies for the twenty consecutive property tax years after the distributed energy resource becomes operational. Renewable energy properties that have an executed Fee In Lieu of Taxes agreement are not eligible for this exemption. This exemption only applies if the taxpayer elects not to take any additional exemptions as defined in Section 4‑12‑30;

(c) for purposes of this item, ‘distributed energy resource’ means property that is defined in Section 58‑39‑120(C). This definition includes, but is not limited to, all equipment required to meet all applicable safety, performance, interconnection, and reliability standards established by the commission, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing authorities;

(d) it does not include entities classified as an ‘electrical utility’ pursuant to Section 58‑27‑10.

(\_\_)(a) Effective for property tax years beginning after 2017, a renewable energy resource property having a nameplate capacity of no greater than twenty kilowatts, as measured in alternating current, is exempt.

(b) For purposes of this item, ‘renewable energy resource’ means property defined in Section 58‑40‑10. This definition includes, but is not limited to, all components that enhance the operational characteristics of the generating equipment, such as an advanced inverter or battery storage device, and equipment required to meet all applicable safety, performance, interconnection, and reliability standards established by the commission, the National Electrical Code, the National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, the Federal Energy Regulatory Commission, and any local governing

authorities.”

B. This SECTION takes effect in property tax years beginning after 2017 and shall apply and terminate in the same manner as provided in Section 1.B. of Act 134 of 2016.

SECTION 10.A. Section 12‑6‑3770(A) of the 1976 Code, as added by Act 134 of 2016, is amended to read:

“(A) A taxpayer who constructs, purchases, or leases solar energy property located on the Environmental Protection Agency’s National Priority List, National Priority List Equivalent Sites, or on a list of related removal actions, as certified by the Department of Health and Environmental Control, or on property owned by the Pinewood Site Custodial Trust, located in the State of South Carolina, and places it in service in this State during the taxable year, is allowed an income tax credit equal to twenty‑five percent of the cost, including the cost of installation of the property. The credit is earned in the year in which the solar energy property is placed in service, but must be taken in five equal annual installments, beginning in the year in which the solar energy property is placed in service. Unused credit may be carried forward for five taxable years from the year in which the credit was able to be taken. A lessor shall give a taxpayer who leases solar energy property from him a statement that describes the solar energy property and states the cost of the property upon request. A credit is not allowed pursuant to this section to the extent the cost of the solar energy property is provided by public funds. For purposes of this section, ‘public funds’ does not include federal grants or tax credits.”

B. This SECTION takes effect in income tax years beginning after 2017 and shall apply and terminate in the same manner as provided in Section 1.B. of Act 134 of 2016.

SECTION 11. Except as otherwise provided, this act takes effect upon approval by the Governor.

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