

By: Representative Baria

To: Energy; Public Utilities

HOUSE BILL NO. 768

1 AN ACT TO PROVIDE FOR THE MISSISSIPPI DISTRIBUTED ENERGY
2 RESOURCE PROGRAM; TO DEFINE CERTAIN TERMS; TO SET GOALS FOR THE
3 PROGRAM AND TO PROVIDE FOR THE PROCESS AND IMPLEMENTATION OF THE
4 PROGRAM, INCLUDING THE APPLICATION AND APPROVAL PROCESS FOR THE
5 PROGRAM AND COST RECOVERY; TO PROVIDE FOR A NET ENERGY METERING
6 PROGRAM THAT INCLUDES COSTS AND THE RESPONSIBILITIES OF THE PUBLIC
7 SERVICE COMMISSION AND THE PUBLIC UTILITIES STAFF RELATING TO THE
8 NET ENERGY METERING PROGRAM; TO PROVIDE FOR THE LEASE OF RENEWABLE
9 ELECTRIC FACILITIES THROUGH A PROGRAM, WHICH INCLUDES AN
10 APPLICATION PROCESS AND REGISTRATION WITH THE PUBLIC UTILITIES
11 STAFF; TO REQUIRE THE PUBLIC UTILITIES STAFF TO REPORT TO THE
12 PUBLIC SERVICE COMMISSION ON COSTS AND CHARGES ATTRIBUTABLE TO
13 DISTRIBUTED ENERGY RESOURCES WITHIN CURRENT COSTS OF SERVICE
14 RATEMAKING METHODOLOGIES; TO REQUIRE THE PUBLIC SERVICE COMMISSION
15 TO PROMULGATE STANDARDS FOR RENEWABLE ENERGY FACILITY
16 INTERCONNECTION; TO REQUIRE EACH DISTRIBUTION ELECTRIC
17 COOPERATIVES BOARD TO CONSIDER NET ENERGY METERING POLICIES AND TO
18 MAKE A REPORT TO THE PUBLIC UTILITIES STAFF; TO REQUIRE EACH
19 ELECTRIC COOPERATIVE TO INVESTIGATE THE RELATIONSHIP BETWEEN COSTS
20 AND CHARGES ATTRIBUTABLE TO DISTRIBUTED ENERGY RESOURCES WITHIN
21 CURRENT COSTS OF SERVICE RATEMAKING METHODOLOGIES AND REPORT ITS
22 FINDING TO THE PUBLIC UTILITIES STAFF; AND FOR RELATED PURPOSES.

23 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

24 **SECTION 1.** (1) The term "fuel cost" as used in this act
25 includes the cost of fuel, cost of fuel transportation, and fuel
26 costs related to purchased power. "Fuel cost" also shall include
27 the following variable environmental costs: (a) the cost of
28 ammonia, lime, limestone, urea, dibasic acid and catalysts



29 consumed in reducing or treating emissions, and (b) the cost of
30 emission allowances, as used, including allowance for SO2, NOx,
31 mercury, and particulates. Upon application of an utility, and
32 after a hearing at which all interested parties may appear and
33 present evidence, the Public Service Commission may, if it
34 determines such action to be just and reasonable, allow the
35 variable costs of other environmental reagents, other
36 environmental allowances or emissions-related taxes to be
37 recovered as a component of fuel costs, but only to the extent
38 these variable environmental costs are required to be incurred in
39 relation to the consumption of fuel and the air emissions caused
40 thereby. Alternatively, the commission may decide that the costs
41 related to these other variable environmental costs may only be
42 recovered through base rates established under Sections 77-3-37
43 and 77-3-39. All variable environmental costs included in fuel
44 costs shall be recovered from each class of customers as a
45 separate environmental component of the overall fuel factor. The
46 specific environmental component for each class of customers shall
47 be determined by allocating such variable environmental costs
48 among customer classes based on the utility's Mississippi firm
49 peak demand data from the prior year. Fuel costs must be reduced
50 by the net proceeds of any sales of emission allowances by the
51 utility. If capacity costs are permitted to be recovered through
52 the fuel factor, such costs shall be allocated and recovered from
53 customers under a separate capacity component of the overall fuel



54 factor based on the same method that is used by the utility to
55 allocate and recover variable environmental costs. The
56 incremental and avoided costs of distributed energy resource
57 programs and net metering as authorized and approved under
58 Sections 2 through 8 of this act, which pertain to Mississippi
59 Distributed Energy Resource Act and net energy metering, shall be
60 allocated and recovered from customers under a separate
61 distributed energy component of the overall fuel factor that shall
62 be allocated and recovered based on the same method that is used
63 by the utility to allocate and recover variable environmental
64 costs.

65 (2) In order to clarify the intent of this section, "fuel
66 costs related to purchased power," as used in subsection (1) of
67 this section shall include:

68 (a) Costs of "firm generation capacity purchases,"
69 which are defined as purchases made to cure a capacity deficiency
70 or to maintain adequate reserve levels; costs of firm generation
71 capacity purchases include the total delivered costs of firm
72 generation capacity purchased and shall exclude generation
73 capacity reservation charges, generation capacity option charges,
74 and any other capacity charges;

75 (b) The total delivered cost of economy purchases of
76 electric power including, but not limited to, transmission
77 charges; "economy purchases" are defined as purchases made to
78 displace higher cost generation, at a price which is less than the



79 purchasing utility's avoided variable costs for the generation of
80 an equivalent quantity of electric power; and

81 (c) Avoided costs under the Public Utility Regulatory
82 Policy Act of 1978, also known as PURPA.

83 **SECTION 2.** Sections 2 through 6 of this act may be cited as
84 the "Mississippi Distributed Energy Resource Act." The goals of
85 Sections 2 through 6 of this act are to promote the establishment
86 of a reliable, efficient, and diversified portfolio of distributed
87 energy resources for the state.

88 **SECTION 3.** As used in Sections 2 through 6 of this act:

89 (a) The term "AC" means alternating current, as
90 measured at the point of interconnection of the renewable energy
91 facility to the interconnecting electrical utility's transmission
92 or distribution system.

93 (b) The term "avoided costs" means payments for
94 purchases of electricity made according to an electrical utility's
95 most recently approved or established avoided cost rates in this
96 state or rates negotiated pursuant to PURPA, in the year the costs
97 are incurred, for purchases of electricity from qualifying
98 facilities pursuant to Section 210 of the Public Utility
99 Regulatory Policies Act, with costs to be calculated as set forth
100 in Section 5 of this act.

101 (c) The term "distributed energy resource" (DER) means
102 demand-and supply-side resources that can be deployed throughout
103 the system of an electrical utility to meet the energy and



104 reliability needs of the customers served by that system,
105 including, but not limited to, renewable energy facilities,
106 managed loads (including electric vehicle charging), energy
107 storage, and other measures necessary to incorporate renewable
108 generation resources, including load management and ancillary
109 services, such as reserves, voltage control, and reactive power,
110 and black start capabilities.

111 (d) The term "electrical utility" shall be defined as a
112 public utility as defined under Section 77-3-3(d) (i), provided,
113 however, that electrical utilities serving less than One Hundred
114 Thousand (100,000) customer accounts shall be exempt from the
115 provisions of Sections 2 through 6 of this act.

116 (e) The term "renewable energy facility" means a
117 facility that generates electric power by the use of a renewable
118 generation resource that was placed in service for use by or to
119 provide power to an electrical utility after January 1, 2019. A
120 "renewable energy facility" shall also mean any incremental
121 capacity installed after January 1, 2019, that delivers energy
122 from a renewable generation resource.

123 (f) The term "renewable generation resource" means
124 solar photovoltaic and solar thermal resources, wind resources,
125 low-impact hydroelectric resources, geothermal resources, tidal
126 and wave energy resources, recycling resources, hydrogen fuel
127 derived from renewable resources, combined heat and power derived
128 from renewable resources, and biomass resources.



129 **SECTION 4.** (1) An electrical utility may apply to the
130 Public Service Commission for approval to participate in the
131 distributed energy resource program. After conducting a hearing
132 on the application, the commission may approve such application if
133 the applicant demonstrates that the program will further the goals
134 as set forth in Sections 2 through 6 of this act.

135 (2) The application authorized under this section shall, at
136 a minimum, include the following information:

137 (a) A statement of the specific goals to be addressed
138 by the program and the benefits to be achieved from its
139 implementation;

140 (b) A description of the principal elements of the
141 program and a statement of the benefits to be achieved from the
142 implementation of each of those elements;

143 (c) A description of the electrical utility's planned
144 actions to implement the program and the anticipated timing of
145 those actions;

146 (d) Where relevant, the locational benefits and costs
147 of proposed distributed energy resources proposed to be located on
148 the distribution and transmission system, including, but not
149 limited to, reductions or increases in local generation capacity
150 needs, and avoided or increased investments in distribution
151 infrastructure;

152 (e) Any proposed customer programs and changes in
153 tariffs, or other mechanisms that support the prudent, efficient,



154 and reliable deployment of cost-effective distributed energy
155 resources and the goals of the distributed energy resource program
156 as defined in Sections 2 through 6 of this act, including but not
157 limited to, programs intended to support access to distributed
158 energy resources for tax-exempt entities;

159 (f) Additional utility expenditures necessary to
160 integrate cost-effective distributed energy resources into
161 distribution and transmission planning;

162 (g) Where relevant, a description and evaluation of any
163 barriers to the deployment of distributed energy resources as
164 envisioned in the plan, including, but not limited to, safety
165 standards related to technology or operation of the distribution
166 circuit in a manner that ensures reliable service;

167 (h) A schedule of the projected incremental costs
168 anticipated to implement the electrical utility's distributed
169 energy resource program for each year of the subject period; and

170 (i) An estimate of costs to be incurred pursuant to the
171 distributed energy resource program as defined in Section 4 of
172 this act and an estimate of those costs to be recovered pursuant
173 to Sections 1 and 5 of this act to fully recover the projected
174 costs of the program.

175 (3) Upon approval of its application, an electrical utility
176 shall be permitted to recover its costs related to the approved
177 distributed energy resource program pursuant to Sections 1 and 5
178 of this act to the extent those costs are reasonably and prudently



179 incurred to implement an approved program. Approval of a program,
180 measure, or investment shall constitute a finding by the
181 commission that it is just, reasonable, and prudent for the
182 utility to implement the program, measure or investment as
183 approved until such time as the commission orders otherwise.

184 (4) The Public Utilities Staff, an electrical utility, or
185 any other interested party may file a petition for amendment of a
186 distributed energy resource program at any time. The commission
187 may hold a hearing on such petition if it determines that the
188 extent of the proposed changes warrant a hearing. The petition
189 for amendment shall include the information set forth in Section 5
190 of this act to the extent that such information is relevant to the
191 amendments proposed.

192 (5) The effect of a decision to amend or terminate an
193 approved distributed energy resource program, investment or
194 measure shall be prospective only and costs incurred prior to that
195 decision shall be recoverable.

196 (6) An electrical utility may invest in distributed energy
197 resources or programs outside of an approved distributed energy
198 resource program under Sections 2 through 6 of this act. The
199 utility may seek recovery of the costs associated with such
200 programs and resources under the ratemaking principles and
201 procedures generally applicable to electrical utilities outside of
202 Sections 2 through 6 of this act. The fact that such resources
203 are not part of an approved distributed energy resource program



204 shall create no negative inference concerning their recoverability
205 under other ratemaking provisions.

206 (7) An electrical utility may file an application to
207 participate in a distributed energy resource program at any time.

208 (8) An electrical utility may implement a distributed energy
209 resource program by one or more of the following:

210 (a) Investment in distributed energy resources located
211 in the state as defined in Section 3 of this act;

212 (b) Purchase of power from renewable energy facilities
213 located in the state;

214 (c) Investment in technologies necessary to mitigate
215 the effects of variable renewable energy generation through
216 provision of ancillary services, including, but not limited to,
217 reserves, voltage control and reactive power in the state; and

218 (d) Investment in technologies that enhance load
219 management including, but not limited to, electric vehicle
220 charging and energy storage.

221 (9) Any distributed energy resource program proposed by an
222 electrical utility shall, at a minimum, result in development by
223 2025 of renewable energy facilities located in the state in an
224 aggregated amount of installed nameplate generation capacity equal
225 to at least two percent (2%) of the previous five-year average of
226 the electrical utility's Mississippi retail peak demand. All
227 investments and procurements proposed by an electrical utility
228 under its program shall be reviewed by the commission before the



229 program is implemented to determine whether the investments or
230 procurements are reasonable and prudent in light of the nature of
231 the resources to be acquired, the goals of the utility's
232 distributed energy resources program and alternatives available in
233 the market. In the proposed distributed energy resource program,
234 the electrical utility:

235 (a) Shall submit a plan to invest in or procure power
236 from renewable energy facilities located in the state, each with a
237 nameplate capacity that is greater than one thousand kilowatts
238 (1,000 kW AC) but no greater than ten thousand kilowatts (10,000
239 kW AC) in an aggregated amount of installed nameplate generation
240 capacity equal to one percent (1%) of the electrical utility's
241 previous five-year average of the electrical utility's Mississippi
242 retail peak demand.

243 (b) Shall establish a program, to be implemented no
244 later than one (1) year from the initial approval of a distributed
245 energy resource program, to encourage customers of the electrical
246 utility to purchase or lease renewable energy facilities, each no
247 greater than one thousand kilowatts (1,000 kW AC) in nameplate
248 capacity in an aggregated amount of installed nameplate generation
249 capacity equal to one percent (1%) of the electrical utility's
250 previous five-year average of the electrical utility's Mississippi
251 retail peak demand with no less than twenty-five percent (25%) of
252 the capacity being from renewable energy facilities each no
253 greater than twenty kilowatts (20 kW AC) in nameplate capacity.



254 The program shall be implemented according to the following
255 options:

256 (i) An incentive to encourage residential
257 customers of the electrical utility to purchase or lease renewable
258 energy facilities in order to become an eligible
259 customer-generator, as defined under Section 7 of this act.

260 (ii) An incentive to encourage customers of the
261 electrical utility to purchase or lease renewable energy
262 facilities, each no greater than one thousand kilowatts (1000 kW
263 AC) in nameplate capacity, which are intended primarily to offset
264 part or all of an electrical utility customer's own electrical
265 energy requirements.

266 (c) Shall establish a program, to be implemented no
267 later than one (1) year from the initial approval of a distributed
268 energy resource program, to support access to distributed energy
269 resources for Mississippi entities holding tax-exempt status under
270 the Internal Revenue Code and governmental entities and
271 instrumentalities.

272 (10) Upon satisfaction of the minimum aggregate generation
273 capacity targets specified in subsection (8) of this section, the
274 electrical utility may invest in renewable energy facilities
275 located in the state, each with a nameplate capacity that is less
276 than ten thousand kilowatts (10,000 kW AC) and greater than one
277 thousand kilowatts (1,000 kW AC), with a cumulative installed
278 nameplate generation capacity equal to one percent (1%) of the



279 previous five-year average of the electrical utility's Mississippi
280 retail peak demand.

281 (11) If the application of the provisions of Sections 2
282 through 6 of this act to any wholesale electrical contract
283 executed on or before the effective date of this act is determined
284 to impair unlawfully any term of such contract or to add material
285 costs to either party, then that contract will be exempt from the
286 terms of Sections 2 through 6 of this act to the extent necessary
287 to cure such impairment or to avoid the imposition of additional
288 material costs.

289 **SECTION 5.** (1) For purposes of this section, "incremental
290 costs" means all reasonable and prudent costs incurred by an
291 electrical utility to implement a distributed energy resource
292 program pursuant to the provisions of Section 4 of this act,
293 including, but not limited to:

294 (a) The cost an electrical utility incurs in excess of
295 the electrical utility's avoided cost rate, as defined in this
296 section. All costs paid under avoided cost rates, or negotiated
297 rates pursuant to PURPA, whichever is lower, shall be considered
298 an avoided cost under Section 3 of this act and shall be recovered
299 under Section 1 of this act.

300 (b) The full cost of an electrical utility's investment
301 in nongenerating distributed energy resources, such as, but not
302 limited to, energy storage devices.



303 (c) The electrical utility's weighted average cost of
304 capital as applied to the electrical utility's investment in
305 distributed energy resources. The weighted average cost of
306 capital means the utility's weighted average cost of (i) common
307 equity, as most recently approved by the commission, and (ii) long
308 term debt. The capital costs of the resource shall include, but
309 not be limited to, all reasonable and prudent costs associated
310 with the design, siting, selection, acquisition, licensing,
311 permitting, constructing, testing, and placing into service of the
312 resource as well as capital maintenance and other capital costs
313 associated with its repair, renewal, replacement, and upgrading.
314 Such costs shall also include all reasonable and prudent costs
315 incurred to expand, upgrade, or reconfigure transmission or
316 distribution systems to accommodate power flows from the resource
317 or to respond to other requirements placed by the resource on the
318 electrical system, along with all other costs properly considered
319 capital costs for a project or asset under generally accepted
320 principles of regulatory or utility accounting or accounting
321 orders issued by the commission. Capital costs shall include the
322 utility's weighted average cost of equity and long-term debt
323 applied to the balance of construction work in progress for which
324 capital costs are not yet being collected through a fuel cost
325 component approved under Sections 2 through 6 of this act and
326 Section 1 of this act.



327 (d) Operating and maintenance expenses, taxes,
328 insurance, depreciation, overheads, and all other expenses
329 properly considered to be expenses associated with a project,
330 asset, or program under generally accepted principles of
331 regulatory, or utility accounting or accounting orders issued by
332 the commission, provided that such expenses shall be recorded as a
333 capital cost of the resource or program until such time as a fuel
334 cost component providing for their recovery goes into effect.

335 (e) The electrical utility's incremental labor cost
336 associated with implementing a distributed energy resource
337 program.

338 (2) Upon approval of a distributed energy resource program,
339 the commission shall direct the electrical utility which incurs
340 incremental or avoided costs to submit to the commission and to
341 the Public Utilities Staff, within such time and in such form as
342 the commission may designate, its estimates of incremental or
343 avoided costs for the next twelve (12) months. The commission may
344 hold a public hearing at any time between the twelve-month reviews
345 to determine whether an increase or decrease in the fuel cost
346 component designed to recover incremental or avoided costs should
347 be granted. Upon conducting public hearings in accordance with
348 law, the commission shall direct the electrical utility to place
349 in effect an amount designed to recover, during the succeeding
350 twelve (12) months, the incremental or avoided costs determined by
351 the commission to be appropriate for that period, adjusted for the



352 over-recovery or under-recovery from the preceding twelve-month
353 period. This amount shall be a component of the fuel cost factor
354 established under Section 1 of this act. The commission shall
355 direct the electrical utility to send notice to the utility
356 customers with the antecedent billing of the time and place of any
357 public hearing to be held pursuant to this subsection, and the
358 commission shall again direct the electrical utility to send
359 notice to the utility customers with the next billing if the
360 utility is granted a rate increase by the commission.

361 (3) Upon request by the Public Utilities Staff or the
362 electrical utility, a public hearing must be held by the
363 commission coincident with the fuel cost recovery proceeding
364 required under Section 1 of this act to determine whether an
365 increase or decrease in the fuel cost component designed to
366 recover incremental or avoided costs should be granted. If the
367 request is by an electrical utility for an increase or decrease in
368 the fuel cost factor, the commission shall direct the utility to
369 send notice of the request and hearing to all customers with the
370 next billing, and if the commission grants the rate request
371 subsequent to the request and hearing, the commission shall direct
372 the utility to send notice of the amount of the increase or
373 decrease to all customers with the next billing.

374 (4) The commission is authorized to promulgate, in
375 accordance with the provisions of this section, all regulations
376 necessary to allow the recovery by electrical utilities of all



377 their prudently incurred distributed energy resource program
378 implementation costs incurred pursuant to Sections 4 and 5 of this
379 act.

380 (5) No later than July 31, 2021, the Public Utilities Staff
381 shall prepare and submit to the Chairmen of the Public Utilities
382 Committees of the House of Representatives and the Senate a report
383 on the implementation of Sections 2 through 6 of this act and
384 Sections 7 and 8 of this act. The Public Utilities Staff shall
385 update this report no later than July 31, 2022, and each two (2)
386 years thereafter. Upon receipt and review of these reports, and
387 in consultation with the Legislature, the Public Utilities
388 Committees of the House of Representatives and the Senate shall
389 make recommendations to the Public Utilities Staff as to any
390 changes in implementation that may be needed.

391 (6) The authorization to propose or approve new components
392 of DER programs shall sunset and expire on January 1, 2024;
393 provided, however, that the cost recovery provisions of Sections 2
394 through 6 of this act shall remain in force until the costs
395 associated with all approved DER program components have been
396 recovered.

397 **SECTION 6.** For the protection of consumers and to ensure
398 that the cost of DER programs do not exceed a reasonable
399 threshold, the commission must not approve a DER plan in which the
400 total incremental costs to be incurred by an electrical utility
401 and recovered from the electrical utility's Mississippi retail



402 customer classes exceeds the following annual amounts per number
403 of accounts for costs that are incurred on or after January 1,
404 2019: residential: Twelve Dollars (\$12.00); commercial: One
405 Hundred Twenty Dollars (\$120.00); and industrial: Twelve Hundred
406 Dollars (\$1,200.00). The application of these caps to
407 residential, commercial, and industrial accounts will be as set
408 forth in the electrical utility's approved distributed energy
409 resource program.

410 **SECTION 7.** As used in this act:

411 (a) The term "commission" means the Public Service
412 Commission of the State of Mississippi.

413 (b) The term "customer" means the person who is named
414 on the electrical utility bill for the premises.

415 (c) The term "customer-generator" means the owner,
416 operator, lessee, or customer-generator lessee of an electric
417 energy generation unit which:

418 (i) Generates electricity from a renewable energy
419 resource;

420 (ii) Has an electrical generating system with a
421 capacity of:

422 1. Not more than the lesser of one thousand
423 kilowatts (1,000 kW AC) or one hundred percent (100%) of contract
424 demand if a nonresidential customer, or

425 2. Not more than twenty kilowatts (20 kW AC)
426 if a residential customer;



427 (iii) Is located on a single premises owned,
428 operated, leased, or otherwise controlled by the customer;

429 (iv) Is interconnected and operates in parallel
430 phase and synchronization with an electrical utility and complies
431 with the applicable interconnection standards;

432 (v) Is intended primarily to offset part or all of
433 the customer-generator's own electrical energy requirements; and

434 (vi) Meets all applicable safety, performance,
435 interconnection, and reliability standards established by the
436 commission, the National Electrical Code, the National Electrical
437 Safety Code, the Institute of Electrical and Electronics
438 Engineers, Underwriters Laboratories, the federal Energy
439 Regulatory Commission, and any local governing authorities.

440 (d) The term "electrical utility" shall be defined as a
441 public utility as defined under Section 77-3-3(d) (i); provided,
442 however, that electrical utilities serving less than one hundred
443 thousand (100,000) customer accounts shall be exempt from the
444 provisions of Sections 7 and 8 of this act.

445 (e) The term "net energy metering" means using metering
446 equipment sufficient to measure the difference between the
447 electrical energy supplied to a customer-generator by an
448 electrical utility and the electrical energy supplied by the
449 customer-generator to the electricity provider over the applicable
450 billing period.



451 (f) The term "renewable energy resource" means solar
452 photovoltaic and solar thermal resources, wind resources,
453 hydroelectric resources, geothermal resources, tidal and wave
454 energy resources, recycling resources, hydrogen fuel derived from
455 renewable resources, combined heat and power derived from
456 renewable resources, and biomass resources.

457 **SECTION 8.** (1) Net energy metering rates approved by the
458 commission under the terms of Sections 7 and 8 of this act shall
459 be the exclusive net energy metering rates available to
460 customer-generators. Upon commission approval, such net energy
461 metering rates shall supersede all prior net energy metering
462 rates. Customer-generators whose net energy metering facilities
463 were energized prior to the availability of net energy metering
464 rates approved by the commission under the terms of Sections 7 and
465 8 of this act may remain in historic net energy metering programs
466 through December 31, 2025.

467 (2) An electrical utility shall make net energy metering
468 available to customer-generators on a first-come, first-served
469 basis until the total nameplate generating capacity of net energy
470 metering systems equals two percent (2%) of the previous five-year
471 average of the electrical utility's state retail peak demand. No
472 electrical utility shall be required to approve any application
473 for interconnection from net energy metering customer generators
474 if the total rated generating capacity of all applications for
475 interconnection from net energy metering customer generators



476 already approved to date by the electrical utility equals or
477 exceeds two percent (2%) of the previous five-year average of the
478 electrical utility's state retail peak demand.

479 (3) If determined to be prudent by the commission, the
480 electrical utility may furnish, install, own, and maintain
481 metering equipment needed to measure the kilowatt-hours purchased
482 by the customer-generator from the utility, the kilowatt-hours
483 generated or delivered to the electrical utility, and, if
484 applicable under the utility's tariffs, to measure the kilowatt
485 demand delivered by the electrical utility to the
486 customer-generator. The electrical utility shall have the right
487 to install special metering and load research devices on the
488 customer-generator's equipment and the right to use the
489 customer-generator's communication devices for communication with
490 electrical utility's and the customer-generator's equipment.

491 (4) The net electrical energy measurement shall be
492 calculated in the following manner:

493 (a) For a customer-generator, an electrical utility
494 shall measure the net electrical energy produced or consumed
495 during the billing period in accordance with normal metering
496 practices for customers in the same rate class, either by
497 employing a single, bidirectional meter that measures the amount
498 of electrical energy produced and consumed, or by employing
499 multiple meters that separately measure the customer-generator's
500 consumption and production of electricity;



501 (b) If the electricity supplied by the electrical
502 utility exceeds the electricity generated by the
503 customer-generator during a billing period, the customer-generator
504 shall be billed for the net electricity supplied by the electrical
505 utility in accordance with normal practices for customers in the
506 same rate class;

507 (c) Any energy generated by the customer-generator that
508 exceeds the energy supplied by the electrical utility during a
509 billing period shall not be used to offset the nonvolumetric
510 electricity charges for that billing period;

511 (d) The utility shall maintain an account of any net
512 excess kWh credits accruing from the customer-generator's excess
513 generation and allow those kWh credits to be used to offset the
514 customer-generator's energy usage during future billing periods.
515 Annually, the utility shall pay the customer-generator for any
516 accrued net excess generation at the utility's avoided cost for
517 qualified facilities, zeroing-out the customer-generator's account
518 of net excess kWh credits.

519 (5) Each electrical utility shall submit an annual net
520 metering report to the Public Service Commission, with a copy to
521 the Public Utilities Staff, including the following information
522 for the previous calendar year:

523 (a) The total number of customer-generator facilities;

524 (b) The estimated gross generating capacity of its
525 net-metered customer-generators;



526 (c) The estimated net kilowatt-hours received from
527 customer-generators.

528 (6) Any and all costs prudently incurred pursuant to the
529 provisions of Sections 7 and 8 of this act by an electrical
530 utility as approved by the commission and any and all commission
531 approved benefits conferred by a customer-generator shall be
532 recoverable by each entity respectively in the electrical
533 utility's rates in accordance with these provisions:

534 (a) The electrical utility's general rates, tariffs,
535 and any additional monthly charges or credits, in addition to any
536 other charges or credits authorized by law, to recover the costs
537 and confer the benefits of net energy metering shall include such
538 measures necessary to ensure that the electrical utility recovers
539 its cost of providing electrical service to customer-generators
540 and customers who are not customer-generators.

541 (b) Any charges or credits prescribed under paragraph
542 (a) of this subsection, and the terms and conditions under which
543 they may be assessed shall be in accordance with a methodology
544 established through the proceeding described under paragraph (d)
545 of this subsection. The methodology shall be supported by an
546 analysis and calculation of the relative benefits and costs of
547 customer generation to the electrical utility, the
548 customer-generators, and those customers of the electrical utility
549 that are not customer-generators.



550 (c) Upon approval of the methodology provided for under
551 paragraph (d) of this subsection, each electrical utility shall
552 file its analysis of the net cost to serve customer-generators
553 using the approved methodology and shall propose new net energy
554 metering rates.

555 (d) No later than thirty (30) days after the enactment
556 of this act, the commission shall initiate a generic proceeding
557 for purposes of implementing the requirements of Sections 7 and 8
558 of this act with respect to the net energy metering rates,
559 tariffs, charges, and credits of electrical utilities,
560 specifically to establish the methodology to set any necessary
561 charges and credits as required under paragraphs (a) and (b) of
562 this subsection. All interested parties shall be allowed to
563 participate. In its notice initiating such proceeding the
564 commission must require the electrical utilities propose
565 methodologies required under paragraph (a) and shall allow
566 intervening parties to propose methodologies required by paragraph
567 (b) of this subsection. The Public Utilities Staff shall
568 represent the public interest in this proceeding and shall serve
569 as a facilitator to resolve disputes and issues between the
570 parties to this proceeding.

571 (e) In evaluating the benefits and costs of customer
572 generation as required under paragraph (b) of this subsection, and
573 the methodology for calculating such benefits and costs, the
574 Public Utilities Staff may engage third parties with relevant



575 prior experience conducting distributed generation cost-benefit
576 studies. The cost of any experts and consultants engaged by the
577 Public Utilities Staff for purposes of this proceeding shall be
578 assessed to the electrical utilities pro rata based on their
579 five-year average of retail peak demand and shall be recoverable
580 by those electrical utilities through the base rate for fuel costs
581 established pursuant to Section 1 of this act.

582 (f) In the event that the commission determines that
583 future benefits from net energy metering are properly reflected in
584 net metering rates because they provide quantifiable benefits to
585 the utility system, its customers, or both, and to the degree such
586 benefits are not then being recovered by the electrical utility in
587 its base rates, then such future benefits shall be deemed an
588 avoided cost and shall be recoverable pursuant to Section 1 of
589 this act by the electrical utility as an incremental cost of the
590 distributed energy resource program.

591 (7) In no event shall the net energy metering provisions of
592 Sections 7 and 8 of this act be construed as allowing
593 customer-generators to engage in meter aggregation, group/joint
594 billing projects, and/or virtual net metering.

595 (8) The commission shall approve an electrical utility's
596 proposed net energy metering rates that meet the requirements of
597 Sections 7 and 8 of this act, provided that the commission has
598 previously approved that electrical utility's application to



599 participate in a distributed energy resource program pursuant to
600 Sections 2 through 6 of this act.

601 **SECTION 9.** As used in Sections 9 through 14 of this act:

602 (a) The term "customer-generator lessee" means the
603 lessee of a renewable electric generation facility which:

604 (i) Generates electricity from a renewable energy
605 resource;

606 (ii) Has an electrical generating system with a
607 capacity of:

608 1. Not more than the lesser of one thousand
609 kilowatts (1,000 kW AC) or one hundred percent (100%) of contract
610 demand if a nonresidential customer;

611 2. Not more than twenty kilowatts (20 kW AC)
612 if a residential customer;

613 (iii) Is located on a premises or residence owned,
614 operated, leased, or otherwise controlled by the
615 customer-generator lessee that is also the premises or residence
616 served by the renewable electric generation facility;

617 (iv) Is interconnected and operates in parallel
618 phase and synchronization with the retail electric provider for
619 the premises or residence and has been approved by that retail
620 electric provider;

621 (v) Is intended only to offset part or all of the
622 customer-generator lessee's own retail electrical energy
623 requirements for each respective premises or residence or to



624 enable the customer-generator lessee to obtain a credit for or
625 engage in the sale of energy from the renewable electric
626 generation facility to that customer-generator lessee's retail
627 electric provider or its designee; and

628 (vi) Meets all applicable safety, performance,
629 interconnection, and reliability standards established by
630 the commission or the retail electric provider, the National
631 Electrical Code, the National Electrical Safety Code, the
632 Institute of Electrical and Electronics Engineers, Underwriters
633 Laboratories, the federal Energy Regulatory Commission, and any
634 local governing authorities.

635 (b) The term "retail electric provider" means a public
636 utility as defined under Section 77-3-3 (d) (i) and also means
637 other entities that provide retail electric service in this state,
638 but excluding electric cooperatives organized under the laws of a
639 state other than Mississippi.

640 **SECTION 10.** (1) An entity that owns a renewable electric
641 generation facility, located on a premises or residence owned or
642 leased by an eligible customer-generator lessee to serve the
643 electric energy requirements of that particular premises or
644 residence or to enable the customer-generator lessee to obtain a
645 credit for or engage in the sale of energy from the renewable
646 electric generation facility to that customer-generator lessee's
647 retail electric provider or its designee, shall be permitted to
648 lease such facility exclusively to a customer-generator lessee



649 under a lease, provided that the entity complies with the terms,
650 conditions, and restrictions set forth within Sections 9 through
651 14 of this act and holds a valid certificate issued by the Public
652 Utilities Staff. An entity owning renewable electric generation
653 facilities in compliance with the terms of this act shall not be
654 considered an "electrical utility" as defined under Section 3 of
655 this act if the renewable electric generation facilities are only
656 made available to a customer-generator lessee for the
657 customer-generator lessee's use on the customer-generator lessee's
658 premises or the residence where the renewable electric generation
659 facilities are located, or for the sale of energy to that
660 customer-generator lessee's retail electric provider or its
661 designee, and pursuant to a lease.

662 (2) All customer-generator lessees that interconnect
663 renewable electric generation facilities to a retail electric
664 provider's transmission or distribution system must enroll in the
665 applicable rate schedules made available by that retail electric
666 provider, subject to the participation limitations set forth
667 therein or in the policy adopted by the retail electric provider
668 not subject to subsection (2) of Section 8 of this act, and the
669 customer-generator lessee shall otherwise comply with all
670 requirements of Sections 7 and 8 of this act, or the policy
671 adopted by the retail electric provider not subject to Sections 7
672 and 8 of this act.



673 (3) To comply with the terms of this article, each
674 customer-generator lessee renewable electric generation facility
675 shall serve only one (1) premises or residence, and shall not
676 serve multiple customer-generator lessees or multiple premises or
677 residences.

678 (4) Any lease of a renewable electric generation facility
679 not entered into pursuant to Sections 9 through 14 of this act is
680 prohibited. The owner of a renewable electric generation facility
681 subject to any lease entered into outside of this program shall be
682 considered an "electrical utility" as defined under Section 3 of
683 this act.

684 (5) This section shall not be construed as allowing any
685 sales of electricity from renewable electric generation facilities
686 directly to any customer of any retail electric provider by the
687 owner. Sections 9 through 14 of this act shall not be construed
688 as abridging or impairing any existing rights or obligations,
689 established by contract or statute, of retail electric providers
690 to serve customers of this state. The electrical output from any
691 renewable electric generation unit leased pursuant to this program
692 shall be the sole and exclusive property of the customer-generator
693 lessee.

694 (6) An entity and its affiliates that lawfully provide
695 retail electric service to the public may offer leases of
696 renewable generation facilities in those areas or territories
697 where it provides retail electric service. No such provider or



698 affiliate shall offer or enter into leases of renewable generation
699 facilities in areas served by another retail electric provider.

700 (7) The costs an electrical utility incurs in marketing,
701 installing, owning, or maintaining solar leases through its own
702 leasing programs as a lessor shall not be recovered from other
703 nonparticipating electrical utility customers through rates,
704 provided, however, that an electrical utility and the
705 customer-generator lessees which lease facilities from it may
706 participate on an equal basis with other lessors and lessees in
707 any applicable programs provided for under Chapter 5, Title 77,
708 Mississippi Code of 1972, and Sections 2 through 6 of this act and
709 nothing in this section shall prevent the reasonable and prudent
710 costs of a utility's distributed energy resource programs,
711 including the provision of incentives to its own lessees and other
712 allowable costs, from being reflected in a utility's rates as
713 provided for in Sections 2 through 6 of this act or as otherwise
714 permitted under generally applicable regulatory principles.

715 (8) The total installed capacity of all renewable electric
716 generation facilities on a retail electric provider's system that
717 are leased pursuant to this article shall not exceed two percent
718 (2%) of the previous five-year average of the retail electric
719 provider's Mississippi residential and commercial contribution to
720 coincident retail peak demand and two percent (2%) of the previous
721 five-year average of the retail electric provider's state
722 industrial contribution to coincident retail peak demand. A



723 provider may refuse to interconnect with customers where to do so
724 would result in this limitation being exceeded. Every retail
725 electric provider must establish a program for new installations
726 of leased equipment to permit the reservation of capacity on its
727 system including provisions to prevent or discourage abuse of such
728 programs. Such programs must provide that only prospective
729 individual customer-generator lessees may apply for, receive, and
730 hold reservations. Each reservation shall be for a single
731 customer premises only and may not be sold, exchanged, traded, or
732 assigned except as part of the sale of the underlying premises.
733 Requests for reservations to electrical utilities as defined under
734 Section 3 of this act shall accompany applications for
735 interconnection of the leased facilities under Sections 7 through
736 8 of this act and the reservation shall remain in force only so
737 long as the application or permit for interconnection remains
738 active. Electrical utilities as defined under Section 3 of this
739 act shall submit programs establishing the terms of such
740 reservations to the commission for approval.

741 (9) Notwithstanding the provisions of subsection (8) of this
742 section, for an electrical utility for which more than fifty
743 percent (50%) of the electricity that it generates in Mississippi
744 comes from renewable resources, the total installed capacity of
745 all renewable electric generation facilities on its system that
746 are leased pursuant to this article shall not exceed one-tenth of
747 one percent (.01%) of the previous five-year average of the



748 electrical utility's Mississippi residential and commercial
749 contribution to coincident retail peak demand and one-tenth of one
750 percent (.01%) of the previous five-year average of the electrical
751 utility's state industrial contribution to coincident retail peak
752 demand. Electrical utilities meeting the requirements of this
753 subsection shall not be required to establish a capacity
754 reservation program as required by subsection (8) of this section.

755 (10) (a) The provisions of Section 9 of this act related to
756 leased generation facilities shall not apply to:

757 (i) Facilities serving a single premises that is
758 not interconnected with a retail electric provider;

759 (ii) Facilities owned by customer generators but
760 financed by a third party; or

761 (iii) Facilities used exclusively for standby
762 emergency service or participation in an approved standby
763 generation program operated by a retail electric provider.

764 (b) The commission may promulgate regulations
765 consistent with this section interpreting the scope of these
766 exemptions as to electrical utilities.

767 **SECTION 11.** (1) Before any entity other than an entity
768 lawfully providing retail electric service to the public in this
769 state commences to do business as a lessor of renewable electric
770 generation facilities under the terms of Sections 9 through 14 of
771 this act, that entity shall submit an application to the Public
772 Utilities Staff and provide such information as the Public



773 Utilities Staff shall require. In performing its responsibilities
774 under Sections 9 through 14 of this act, the Public Utilities
775 Staff must balance the state's interest in promoting a market for
776 the provision of renewable electric generation facilities as
777 permitted by this article with an appropriate level of protection
778 for customer-generator lessees to ensure fair and accurate
779 marketing practices and ensure acceptable performance of renewable
780 electric generation facilities and lessors.

781 (2) The application shall be accompanied by such information
782 as the Public Utilities Staff shall require and the Public
783 Utilities Staff may condition its approval on such terms as the
784 Public Utilities Staff shall determine to be just and reasonable
785 to advance the goals of this article of balancing the state's
786 interest in promoting a market for the provision of renewable
787 electric generation facilities as permitted by this article, with
788 an appropriate level of protection for customer-generator lessees
789 and to ensure fair and accurate marketing practices.

790 (3) Upon review of the application and a finding that the
791 applicant is fit, willing, and able to conduct business in
792 accordance with the provisions of Sections 9 through 14 of this
793 act, the Public Utilities Staff shall approve the application and
794 issue the lessor a certificate permitting the lessor to market and
795 lease renewable electric generation facilities to
796 customer-generator lessees under the terms of Sections 9 through
797 14 of this act.



798 (4) The Public Utilities Staff is authorized to require the
799 regular updating of information by certificate holders.

800 (5) The Public Utilities Staff shall receive, compile and
801 investigate customer complaints arising under this article and
802 shall attempt to negotiate consent agreements or other settlements
803 resolving alleged violations of this article.

804 (6) As concerns potential violations of this article,
805 lessors of distributed generation resources and their officers,
806 agents, employees, or customers shall be subject to the
807 investigatory powers provided under Chapter 2, Title 77,
808 Mississippi Code of 1972, to the Public Utilities Staff regarding
809 public utilities.

810 (7) For the protection of the consuming public, the Public
811 Utilities Staff may file a petition with the appropriate court
812 requesting revocation of a certificate for violations of this
813 article. In appropriate circumstances, the Public Utilities Staff
814 may request the immediate revocation of a certificate.

815 (8) It shall be a violation of law punishable by civil
816 penalty of not more than Ten Thousand Dollars (\$10,000.00) per
817 occurrence for any person subject to, either directly or
818 indirectly:

819 (a) To solicit business as a lessor of renewable
820 electric generation facilities without a valid certificate issued
821 under this section or otherwise in violation of the terms of this
822 article; or



823 (b) To engage in any unfair or deceptive practice in
824 the leasing of renewable electric generation facilities.

825 (9) An aggrieved person with standing may file a request for
826 a contested case of a decision of the Public Utilities Staff with
827 the appropriate court within thirty (30) days of such decision.

828 **SECTION 12.** (1) Not more than thirty (30) days after
829 installation of a renewable electric generation facility leased to
830 a customer-generator lessee, the lessor shall register the
831 facility with the Public Utilities Staff on forms developed and
832 provided by the Public Utilities Staff. This registration
833 information must include:

834 (a) The name, mailing, and electronic mail address and
835 telephone number of the lessor-owner;

836 (b) The nameplate generating capacity of the facility
837 and its expected annual energy output;

838 (c) The physical location of the facility;

839 (d) The name, mailing, and email address and telephone
840 number of the customer-generator lessee;

841 (e) A description of the intended use of the facility
842 and its output;

843 (f) A list of all federal, state, and local licenses
844 and permits required for the construction and operation
845 of the facility, along with a statement regarding whether each has
846 been obtained or applied for;



847 (g) The date the facility began or will begin
848 operating;

849 (h) The name of the retail electric provider to which
850 the facility has been or will be interconnected; and

851 (i) An affidavit from the customer-generator lessee
852 that it will not sell, resell, or attempt to sell or resell the
853 electrical output of the facility to any person, corporation, or
854 entity, other than the customer-generator lessee's retail electric
855 provider, or its designee, that the primary purpose for the
856 operation of the renewable electric generation facility is to
857 generate electricity for the benefit of the premises where it is
858 located, and that the facility has been or will be operated in
859 substantial compliance with all federal and state laws, rules, and
860 regulations and all local codes and ordinances.

861 (2) The Public Utilities Staff shall maintain a registry of
862 facilities registered pursuant to subsection (1) of this section.
863 This information must be available for inspection by the public
864 and is subject to the Freedom of Information Act. The Public
865 Utilities Staff may require the updating of information on the
866 registry.

867 (3) The Public Utilities Staff shall review the program
868 established pursuant to Sections 9 through 14 of this act and
869 issue a report to the Chairmen of the Public Utilities Committees
870 of the House of Representatives and Senate no later than December



871 31, 2020, relating to its review, including recommendations
872 regarding the expansion, reduction, or continuance of the program.

873 **SECTION 13.** The Public Utilities Staff shall have the
874 authority to investigate claims of violations of the provisions of
875 Section 10 of this act committed by electrical utilities and
876 lessors of renewable electric generation facilities.

877 **SECTION 14.** Section 10 of this act shall not become
878 effective until the commission has approved net energy metering
879 rates referenced in Sections 7 and 8 of this act for all
880 investor-owned electrical utilities serving more than one hundred
881 thousand (100,000) retail customer accounts in this state.

882 **SECTION 15.** The Public Utilities Staff, with guidance and
883 feedback from the electrical utilities and other interested
884 parties, shall investigate and report to the Public Service
885 Commission on fixed costs, fixed charges, and the extent of cost
886 shifting that is attributable to distributed energy resources
887 within current utility cost of service ratemaking methodologies,
888 cost allocations, and rate designs, with a focus on the
889 implications distributed energy resources could have for that
890 business model in the future. The report shall review how to
891 ensure a fair allocation of costs and benefits between consumers
892 who utilize distributed energy resources and consumers who do not
893 utilize distributed energy resources, as well as suggesting any
894 necessary or prudent changes to existing or future rate
895 structures. The report shall include a general overview of cost



896 shifting that is attributable to or arising from historical cost
897 of service ratemaking related to the current utility business
898 model, specifically the cost of service ratemaking methodology,
899 the cost allocations and rate designs. The findings shall include
900 public comment and be reported to the Public Service Commission by
901 December 31, 2020.

902 **SECTION 16.** (1) The commission shall promulgate standards
903 for interconnection of renewable energy facilities and other
904 nonutility-owned generation with a generation capacity of two
905 thousand kilowatts (2,000 kW AC) or less to an electrical
906 utility's distribution system.

907 (2) No customer-generator or customer-generator lessee shall
908 connect or operate an electric generation unit in parallel phase
909 and synchronization with any electrical utility without written
910 approval by the electrical utility that all of the commission's
911 requirements have been met. For a customer-generator or
912 customer-generator lessee who violates this provision, an
913 electrical utility may immediately and without notice disconnect
914 the electric facilities of the customer-generator or
915 customer-generator lessee and terminate the customer-generator's
916 or customer-generator lessee's electric service.

917 **SECTION 17.** Each distribution electric cooperative board
918 shall consider the general objectives of Sections 7 and 8 of this
919 act which pertain to net energy metering, and any methodology
920 promulgated thereunder in adopting a net energy metering policy.



921 Each distribution electric cooperative shall adopt a net energy
922 metering policy and shall report their policy to the Public
923 Utilities Staff within one (1) year of the passage of this act.
924 Provided, however, that the requirements of this section do not
925 apply to an electric cooperative organized under the laws of a
926 state other than Mississippi.

927 **SECTION 18.** Each electric cooperative shall investigate the
928 relationship between fixed costs, fixed charges, and the extent of
929 cost shifting that is attributable to distributed energy resources
930 within current cost of service ratemaking methodologies, cost
931 allocations, and rate designs, with a focus on the implications
932 distributed energy resources could have for their business models
933 in the future. The report shall review how to ensure a fair
934 allocation of costs and benefits between consumers who utilize
935 distributed energy resources and consumers who do not utilize
936 distributed energy resources, as well as suggesting any necessary
937 or prudent changes to existing or future rate structures. The
938 report shall include a general overview of cost shifting that is
939 attributable to or arising from historical cost of service
940 ratemaking related to the current utility business model,
941 specifically the cost of service ratemaking methodology, the cost
942 allocations, and rate designs. The investigation and report may
943 be coordinated and consolidated into a single project. The
944 findings shall be filed with the Public Utilities Staff by
945 December 31, 2022. Provided, however, that the provisions of this



946 section do not apply to an electric cooperative organized under
947 the laws of a state other than Mississippi.

948 **SECTION 19.** If the application of the provisions of this act
949 to any wholesale electrical contract existing on the date of its
950 adoption is determined to impair unlawfully any term of such
951 contract or to add material costs to either party, then that
952 contract will be exempt from the terms of this act to the extent
953 necessary to cure such impairment or to avoid the imposition of
954 additional material costs.

955 **SECTION 20.** Sections 9 through 14 of this act shall be
956 construed as a whole, and all parts of it are to be read and
957 construed together. If any part of Sections 9 through 14 of this
958 act shall be adjudged by any court of competent jurisdiction to be
959 invalid, the remainder of this act shall be invalidated. Nothing
960 herein shall be construed to affect the parties' right to appeal
961 the matter.

962 **SECTION 21.** This act shall take effect and be in force from
963 and after July 1, 2018.

