

HOUSE BILL 2099

By Clemmons

AN ACT to amend Tennessee Code Annotated, Title 7 and
Title 65, relative to energy production.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF TENNESSEE:

SECTION 1. Tennessee Code Annotated, Title 65, Chapter 5, is amended by
adding the following as a new part:

65-5-401. This part shall be known and may be cited as the "Cogeneration and
Distributed Generation Act."

65-5-402.

(a) The general assembly finds that it is in the public interest to:

- (1) Encourage private investment in renewable energy resources;
- (2) Stimulate the economic growth of this state; and
- (3) Enhance the continued diversification of the energy resources used in
this state.

(b) The general assembly further finds that a program to provide distributed
generation for eligible cogenerators is a way to encourage private investment in
renewable energy resources, stimulate in-state economic growth, enhance the continued
diversification of this state's energy resource mix, and reduce interconnection and
administrative costs.

65-5-403. As used in this part:

- (1) "Authority" means the Tennessee regulatory authority;
- (2) "Bidirectional metering" means measuring the amount of electricity supplied
by an electric service provider and the amount fed back to the electric service provider
by the customer's distributed generation facility using the same meter;

(3) "Cogeneration facility" means a facility, other than a distributed generation facility, that produces electric energy, steam, or other forms of useful energy that are used for industrial, commercial, heating, or cooling purposes;

(4) "Customer generator" means the owner and operator of a distributed generation facility;

(5) "Distributed generation facility" means a facility owned and operated by a customer of the electric service provider for the production of electrical energy that:

(A) Uses a solar photovoltaic system, fuel cell, or wind turbine;

(B) Has a peak generating capacity of not more than ten kilowatts (10kW) for a residential application and one hundred kilowatts (100kW) for a commercial application;

(C) Is located on the customer's premises;

(D) Operates in parallel with the electric service provider's distribution facilities;

(E) Is connected to the electric service provider's distribution system on either side of the electric service provider's meter; and

(F) Is intended primarily to offset part or all of the customer generator's requirements for electricity;

(6) "Electric service provider" means any public utility as defined in § 65-4-101 that is engaged in the business of distributing electricity to retail electric customers in this state;

(7) "Electric supplier" means any public utility as defined in § 65-4-101 furnishing wholesale electric service, any other person which furnishes wholesale electric service, and the Tennessee Valley authority; and

(8) "Person" means a natural person, corporation, trust, partnership, incorporated or unincorporated association, or any other legal entity.

65-5-404.

(a) Any person may operate a cogeneration facility without being subject to the jurisdiction or regulation of the authority if such person uses all of the electric energy, steam, or other form of useful energy produced at the cogeneration facility; provided, however, the electric energy shall not be sold to any other person except as provided in subsection (b).

(b) Any person may operate a cogeneration facility and sell any excess electric energy to an electric supplier without being subject to the jurisdiction or regulation of the authority; provided, however, that nothing in this part shall exempt a person from compliance with federal law.

65-5-405. An electric service provider shall:

(a)

(1) Make either bidirectional metering or single directional metering available to customer generators depending on how the distributed generation facility is connected to the distribution system of the electric service provider; and

(2) Enter into a written agreement with the customer generator to charge the customer generator the rate established by the authority, or the appropriate governing body, in the case of any other electric service provider or electric supplier, for metering services.

(b) In setting the fees for metering service, the authority, or the appropriate governing body, in the case of any other electric service provider or electric supplier, will include the direct costs associated with interconnecting or administering metering services or distributed generation facilities and will not allocate these costs among the utility's entire customer base.

(c) In establishing the fee described in subsection (b) for metering services, the electric service provider shall not charge the customer generator any standby, capacity,

interconnection, or other fee or charge, other than a monthly service charge, unless agreed to by the customer generator or approved by the authority, in the case of an electric service provider, or the appropriate governing body, in the case of an electric supplier.

65-5-406. The energy flow shall be measured and paid for in the following manner, unless otherwise provided by this part:

(1)

(A) If the distributed generation facilities are connected to the electric service provider's distribution system on the customer generator's side of the customer's meter, the electric service provider shall measure the electricity produced or consumed during the billing period, in accordance with normal metering practices using bidirectional metering;

(B) When the electricity supplied by the electric service provider exceeds the electricity generated by the customer's distributed generation, the electricity shall be billed by the electric service provider, in accordance with rates filed with the authority; or

(C) When electricity generated by the customer's distributed generation system exceeds the electricity supplied by the electric service provider, the customer generator:

(i) Shall be billed for the appropriate customer charges for that billing period; and

(ii) Shall be credited for the excess kilowatt-hours generated during the billing period at an agreed-to rate as filed with the commission, with this kilowatt-hour credit appearing on the bill for the billing period; or

(2)

(A) If the distributed generation facilities are connected to the electric service provider's distribution system on the electric service provider's side of the customer's meter, the electric service provider shall:

(i) Measure the electricity produced or consumed during the billing period, in accordance with normal metering practices using single directional metering; and

(ii) Charge the customer generator a minimum monthly fee as established by the authority;

(B) If there is electricity generated by the customer generator for the billing period, the customer generator shall be compensated at an agreed-to rate as filed with the authority.

65-5-407.

(a) An electric service provider shall only be required to purchase energy as specified in § 65-5-406 from an eligible customer generator on a first-come, first-served basis until the cumulative generating capacity of all renewable energy sources equals two-tenths of one percent (0.2%) of the utility's annual peak demand in the previous year; provided, however, that no electric service provider will be required to purchase such energy at a price above avoided energy cost unless that amount of energy has been subscribed under any renewable energy program.

(b) Once the capacity is subscribed, an electric service provider may purchase energy from an eligible customer generator at a cost of energy as defined for a utility by the authority, in the case of an electric service provider, or by the appropriate governing body, in the case of an electric supplier.

(c) A distributed generation facility used by a customer generator shall include, at the customer's own expense, all equipment necessary to meet applicable safety,

power quality, and interconnection requirements established by the National Electrical Code, National Electrical Safety Code, the Institute of Electrical and Electronics Engineers, and Underwriters Laboratories.

(d) The authority, in the case of an electric service provider, or the appropriate governing body, in the case of an electric supplier, after appropriate notice and opportunity for comment, may adopt by regulation additional safety, power quality, and interconnection requirements for a customer generator that the authority or governing body determines are necessary to protect public safety and system reliability.

(e) An electric service provider shall not require a customer generator whose distributed generation facility meets the standards in subsections (a) and (b) to comply with additional safety or performance standards, perform or pay for additional tests, or purchase additional liability insurance.

(f) No electric service provider or electric supplier shall be liable to any person, directly or indirectly, for loss of property, injury, or death resulting from the interconnection of a cogenerator or distributed generation facility to its electrical system.

SECTION 2. The Tennessee Regulatory Authority is authorized to promulgate rules to effectuate the purposes of this act. The rules shall be promulgated in accordance with the Uniform Administrative Procedures Act, compiled in Tennessee Code Annotated, Title 4, Chapter 5.

SECTION 3. For the purpose of promulgating rules, this act shall take effect upon becoming a law, the public welfare requiring it. For all other purposes, this act shall take effect January 1, 2017, the public welfare requiring it.