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**HOUSE BILL 1427**

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**State of Washington 68th Legislature 2023 Regular Session**

**By** Representatives Mena, Doglio, Ramel, Street, Berry, Duerr, Hackney, Reed, Fosse, Cortes, Lekanoff, and Peterson

AN ACT Relating to on-premises energy generation; amending RCW 80.60.020 and 80.60.030; reenacting and amending RCW 80.60.010; adding a new section to chapter 19.86 RCW; adding new sections to chapter 80.60 RCW; and creating a new section.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

**Sec.**  RCW 80.60.010 and 2019 c 235 s 1 are each reenacted and amended to read as follows:

The definitions in this section apply throughout this chapter unless the context clearly indicates otherwise.

(1) "Aggregated meter" means an electric service meter measuring electric energy consumption that is eligible to receive credits under a meter aggregation arrangement as described in RCW 80.60.030.

(2) "Commission" means the utilities and transportation commission.

(3) "Consumer-owned utility" means a municipal electric utility formed under Title 35 RCW, a public utility district formed under Title 54 RCW, an irrigation district formed under chapter 87.03 RCW, a cooperative formed under chapter 23.86 RCW, or a mutual corporation or association formed under chapter 24.06 RCW, that is engaged in the business of distributing electricity to more than one retail electric customer in the state.

(4) "Customer-generator" means a user of a net metering system.

(5) "Designated meter" means an electric service meter at the service of a net metering system that is interconnected to the utility distribution system.

(6) "Electric cooperative" means a cooperative or association organized under chapter 23.86 or 24.06 RCW.

(7) "Electric utility" means any electrical company, public utility district, irrigation district, port district, electric cooperative, or municipal electric utility that is engaged in the business of distributing electricity to retail electric customers in the state.

(8) "Electrical company" means a company owned by investors that meets the definition of RCW 80.04.010.

(9) "Irrigation district" means an irrigation district under chapter 87.03 RCW.

(10) "Meter aggregation" means the administrative combination of billing net energy consumption from a designated net meter and eligible aggregated meter.

(11) "Municipal electric utility" means a city or town that owns or operates an electric utility authorized by chapter 35.92 RCW.

(12) "Net metering" means measuring the difference between the electricity supplied by an electric utility and the excess electricity generated by a customer-generator's net metering system over the applicable billing period.

(13) "Net metering system" means a fuel cell, a facility that produces electricity and used and useful thermal energy from a common fuel source, or a facility for the production of electrical energy that generates renewable energy, and that:

(a) Has an electrical generating AC capacity of ((~~not more than one hundred kilowatts~~)) up to 200 kilowatts for a system in the service territory of a consumer-owned utility. Consumer-owned utilities may allow a net metering system larger than 200 kilowatts in their service territory;

(b) Has an electrical generating AC capacity of up to two megawatts for a system in the service territory of an investor-owned utility. Investor-owned utilities may allow a net metering system larger than two megawatts in their service territory;

(c) Is located on the customer-generator's premises;

((~~(c)~~)) (d) Operates in parallel with the electric utility's transmission and distribution facilities and is connected to the electric utility's distribution system; and

((~~(d)~~)) (e) Is intended primarily to offset part or all of the customer-generator's requirements for electricity.

(14) "Port district" means a port district within which an industrial development district has been established as authorized by Title 53 RCW.

(15) "Premises" means any residential property, commercial real estate, or lands, owned or leased by a customer-generator within the service area of a single electric utility.

(16) "Public utility district" means a district authorized by chapter 54.04 RCW.

(17) "Renewable energy" means energy generated by a facility that uses water, wind, solar energy, or biogas as a fuel.

(18) "Retail electric customer" includes an individual, organization, group, association, partnership, corporation, agency, unit of state government, or entity that is connected to the electric utility's distribution system and purchases electricity for ultimate consumption and not for resale.

(19) "Annual production projections" means estimates of the energy production of a solar energy system over one calendar year.

(20) "System components" means the physical parts of a solar energy system including solar modules, direct current to alternating current inverters, solar module level electronics, and solar racking.

**Sec.**  RCW 80.60.020 and 2019 c 235 s 2 are each amended to read as follows:

(1) An electric utility:

(a) Shall offer to make net metering, pursuant to RCW 80.60.030, available to eligible customer-generators on a first-come, first-served basis until the earlier of either: (i) ((~~June 30, 2029~~)) December 31, 2035; or (ii) the first date upon which the cumulative generating capacity of net metering systems equals ((~~four~~)) 12 percent of the utility's peak demand during 1996. Not less than one-half of the utility's 1996 peak demand available for net metering systems shall be reserved for the cumulative generating capacity attributable to net metering systems that generate renewable energy;

(b) Shall allow net metering systems to be interconnected using a standard kilowatt-hour meter capable of registering the flow of electricity in two directions, unless the commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, determines, after appropriate notice and opportunity for comment:

(i) That the use of additional metering equipment to monitor the flow of electricity in each direction is necessary and appropriate for the interconnection of net metering systems, after taking into account the benefits and costs of purchasing and installing additional metering equipment; and

(ii) How the cost of purchasing and installing an additional meter is to be allocated between the customer-generator and the utility;

(c) Shall charge the customer-generator a minimum monthly fee that is the same as other customers of the electric utility in the same rate class, but shall not charge the customer-generator any additional standby, capacity, interconnection, or other fee or charge unless the commission, in the case of an electrical company, or the appropriate governing body, in the case of other electric utilities, determines, after appropriate notice and opportunity for comment that:

(i) The electric utility will incur direct costs associated with interconnecting or administering net metering systems that exceed any offsetting benefits associated with these systems; and

(ii) Public policy is best served by imposing these costs on the customer-generator rather than allocating these costs among the utility's entire customer base;

(d) Must enter a contract, which must be no shorter than 25 years, with any person interested in becoming an eligible customer-generator. If the person interested in becoming an eligible customer-generator, or an existing customer-generator, and the electric utility both agree to the terms of the contract, they must enter into the contract. The contract must be transferable to any future customer-generator at the electric meter, in the case of changing system ownership, for the remainder of the contract term;

(e) Must develop a standard rate or tariff schedule that is expressed as a percentage of the utility's retail rate.

(2) If a production meter and software is required by the electric utility to provide meter aggregation under RCW 80.60.030(4), the customer‑generator is responsible for the purchase of the production meter and software.

(3)(a)(i) A consumer-owned utility may develop a standard rate or tariff schedule that deviates from RCW 80.60.030 for eligible customer-generators to take effect at the earlier of either: (A) ((~~June 30, 2029~~)) December 31, 2035; or (B) the first date upon which the cumulative generating capacity of net metering systems equals ((~~four~~)) 12 percent of the utility's peak demand during 1996.

(ii) An electrical company may submit a filing with the commission to develop a standard tariff schedule that deviates from RCW 80.60.030 for eligible customer-generators. The commission must approve, reject, or approve with conditions a net metering tariff schedule pursuant to this subsection within one year of an electrical company filing. If the commission approves the filing with conditions, the investor-owned utility may choose to accept the tariff schedule with conditions or file a new tariff schedule with the commission.

(b) An approved standard rate or tariff schedule under this subsection applies to any customer-generator subject to an interconnection agreement entered into: (i) After ((~~June 30, 2029~~)) December 31, 2035, or (ii) the first date upon which the cumulative generating capacity of net metering systems pursuant to RCW 80.60.030 equals ((~~four~~)) 12 percent of the utility's peak demand during 1996, whichever is earlier, unless the commission or governing body determines that a customer-generator is eligible for net metering under a rate or tariff schedule pursuant to RCW 80.60.030.

(c)(i) A consumer-owned utility must notify the Washington State University extension energy program ((~~sixty~~)) 60 days in advance of when a standard rate for an eligible customer-generator is first placed on the agenda of the governing body.

(ii) Each electric utility must give notice by July 31, 2020, and semiannually thereafter, to the Washington State University extension energy program of the status of meeting the cumulative generating capacity available to net metering systems pursuant to subsection (1)(a) of this section.

(iii) The Washington State University extension energy program must make available on its website a list of the following:

(A) Each electric utility's progress on reaching the cumulative generating capacity available to net metering systems pursuant to subsection (1)(a) of this section;

(B) Electric utilities that have provided notice of a rate or tariff schedule under this subsection; and

(C) Electric utilities that have adopted a standard rate or tariff schedule under this subsection.

(d) If the commission does not approve an electrical company's tariff schedule under (a)(ii) of this subsection, the commission may determine the alternative cumulative generating capacity available to net metering systems pursuant to RCW 80.60.030.

(4)(a) An electric utility must continue to credit a customer-generator pursuant to RCW 80.60.030 if:

(i) The customer-generator takes service under net metering prior to the earlier of: (A) ((~~June 30, 2029~~)) December 31, 2035; or (B) the first date upon which the cumulative generating capacity of net metering systems reaches ((~~four~~)) 12 percent of the utility's peak demand in 1996; and

(ii) The customer-generator's existing interconnection agreement for the net metering system remains valid.

(b) The commission, in the case of electrical companies, and a governing body, in the case of consumer-owned utilities, must determine as part of a standard rate or tariff schedule under this subsection when customer-generators become ineligible for credit pursuant to RCW 80.60.030.

(c) Upon adoption of a standard rate or tariff schedule by the commission or governing body pursuant to subsection (3)(a) of this section, the electric utility is exempt from requirements under subsection (1)(c) of this section and RCW 80.60.030 for new interconnection agreements.

(5)(a) An electric utility may offer net metering that incorporates time-of-use net metering rates to eligible customer-generators, consistent with the other provisions of this chapter.

(b) An electric utility offering time-of-use net metering rates is encouraged to create incentive plans for distributed energy storage.

(c) Any time-of-use net metering rate offered by an electric utility must be optional for customer-generators.

**Sec.**  RCW 80.60.030 and 2019 c 235 s 3 are each amended to read as follows:

Consistent with the other provisions of this chapter, the net energy measurement, billed charges for kilowatt-hour consumption, and credits for excess kilowatt-hour generation by a net metered system, must be calculated in the following manner:

(1) The electric utility shall measure the net electricity produced or consumed during the billing period, in accordance with normal metering practices.

(2) If the electricity supplied by the electric utility exceeds the electricity generated by the customer-generator's net metering system and fed back to the electric utility during the billing period, the customer-generator shall be billed for the net electricity supplied by the electric utility, in accordance with normal metering practices.

(3) If excess electricity generated by the net metering system during a billing period exceeds the electricity supplied by the electric utility during the same billing period, the customer-generator:

(a) Shall be billed for the appropriate customer charges for that billing period, in accordance with RCW 80.60.020; and

(b) Shall be credited for the excess kilowatt-hours generated during the billing period, with the credit for kilowatt-hours appearing on the bill for the following billing period.

(4) If a customer-generator requests, an electric utility shall provide such a customer-generator meter aggregation.

(a) For a customer-generator participating in meter aggregation, credits for kilowatt-hours earned by the customer-generator's net metering system during the billing period first shall be used to offset electricity supplied by the electric utility at the location of the customer-generator's designated meter.

(b) A customer-generator may aggregate a designated meter with one additional aggregated meter located on the same parcel as the designated meter or a parcel that is contiguous with the parcel where the designated meter is located.

(c) For the purposes of (b) of this subsection, a parcel is considered contiguous if they share a common property boundary, but may be separated only by a road or rail corridor.

(d) A retail electric customer who is a customer-generator and receives retail electric service from an electric utility at an aggregated meter must be the same retail electric customer who receives retail electric service from such an electric utility at the designated meter that is located on the premises where such a customer-generator's net metering system is located.

(e) Credits for excess kilowatt-hours earned by the net metering system at the site of a designated meter during a billing period shall be credited by the electric utility for kilowatt-hour charges due at the aggregated meter at the applicable rate of the aggregated meter.

(f) If credits generated in any billing period exceed total consumption for that billing period at both meters that are part of an aggregated arrangement, credits are retained pursuant to subsections (3) and (5) of this section.

(g) Credits carried over from one billing period to the next pursuant to (f) of this subsection must be applied in subsequent billing periods in the same manner described under (a) and (e) of this subsection.

(h) Meters so aggregated shall not change rate classes due to meter aggregation under this section.

(5) On March 31st of each calendar year, any remaining unused credits for kilowatt-hours accumulated during the previous year shall be granted to the electric utility, without any compensation to the customer-generator, for distribution to low-income customers through a utility energy assistance program. It is the intent of the legislature that this be in addition to existing funds used for this purpose.

(6) Nothing in this section prohibits a utility from allowing aggregation under terms different than the requirements of subsection (4) of this section if a customer-generator has an existing arrangement for meter aggregation in effect or a customer submits a written request for aggregation on or before July 1, 2019.

(7) Nothing in this section prohibits the owner of multifamily residential facility from installing a net metering system as defined in RCW 80.60.010 assigned to a single designated meter located on the premises of the multifamily residential facility where the tenants are not individually metered customers of the utility and distributing any benefits of the net metering to tenants of the facility where the net metering system is located. The utility must measure the net energy produced and provide credit to the single designated meter to which the net metering system is assigned in accordance with subsections (1) through (3) of this section or under the terms of a standard rate or tariff schedule established under RCW 80.60.020(3). The distribution of benefits to tenants of such a system, if any, is the responsibility of the owner of the net metering system and not the responsibility of the utility.

NEW SECTION. **Sec.**  A new section is added to chapter 19.86 RCW to read as follows:

(1) A customer intending to purchase the installation of a system producing electricity with solar energy must have a contract with a solar energy contractor unless the customer installs the system without a solar energy contractor.

(2) A solar energy contract must be in writing. A copy of the contract must be given to the customer at the time the customer signs the contract. The contract must be typed or printed legibly and contain the following provisions:

(a) An itemized list or summary of work to be performed;

(b) The model and brand name of system components to be used, if system components change throughout the duration of the contract, those changes must be documented and their quality must be equal or greater to that of the original system components, unless agreed upon in writing by the customer;

(c) The warranty of each system component;

(d) The dollar amount of the contract;

(e) The solar energy system's annual production projections in kilowatt-hours and the methodology and the means, or name of the program or tool used to develop the projections;

(f) The name of the primary solar energy salesperson or solar sales firm;

(g) The name, address, and contractor's registration number of the solar energy contractor;

(h) A statement as to whether all or part of the work is intended to be subcontracted to or performed by another person or entity other than the contractor's own workforce;

(i) The link address to the Washington state labor and industries contractor verification tool;

(j) The contract must require the customer to disclose whether the customer intends to obtain a loan in order to pay for all or part of the amount due under the contract;

(k) If the customer indicates that he or she intends to obtain a loan to pay for a portion of the contract, the contract must clearly provide a recommendation that the customer wait until receiving financial approval before signing the solar energy contract, and the customer must sign below the recommendation provision acknowledging they have read and understand the recommendation provision;

(l) The contract must provide the following recommendation in capital letters:

"IF YOU INTEND TO OBTAIN A LOAN TO PAY FOR ALL OR PART OF THE CONTRACT, IT IS RECOMMENDED THAT YOU WAIT UNTIL RECEIVING FINANCIAL APPROVAL BEFORE SIGNING THIS SOLAR ENERGY CONTRACT.";

(m) The contract must provide notice of the right to cancel that allows the customer to cancel the solar energy contract within three business days of contract signing and the contract must require the customer to sign below the notice provision acknowledging they have read and understand the notice provision; and

(n) The contract must provide the following notice in capital letters:

"CUSTOMER'S RIGHT TO CANCEL: YOU HAVE THE RIGHT TO CANCEL YOUR SOLAR ENERGY CONTRACT WITHIN THREE BUSINESS DAYS OF CONTRACT SIGNING."

(3) If the customer indicates that they intend to obtain a loan to pay for all or part of the cost of the solar energy contract, the solar energy contractor or their subcontractor may not begin work until after the customer's rescission rights provided in this section have expired. If the solar energy contractor or their subcontractor commences work under the contract before the customer's rescission rights have expired, the solar energy contractor is prohibited from enforcing the terms of the contract, including claims for labor or materials, in a court of law and must terminate any security interest or statutory lien created under the transaction within 20 days of receiving written rescission of the contract from the customer.

(4) A person or entity who purchases or is otherwise assigned a solar energy contract is subject to all claims and defenses with respect to the contract that the customer could assert against the solar energy contractor or subcontractor. A person or entity who sells or otherwise assigns a solar energy contract must include a prominent notice of the potential liability under this section.

(5) The legislature finds and declares that a violation of this chapter substantially affects the public interest and is an unfair and deceptive act or practice and unfair method of competition in the conduct of trade or commerce as set forth under this chapter.

(6) A solar energy contractor or subcontractor who fails to comply with the requirements of this chapter is liable to the customer for any actual damages sustained by the person as a result of the failure. Nothing in this section limits any cause of action or remedy available under RCW 19.186.050 or this chapter.

NEW SECTION. **Sec.**  A new section is added to chapter 80.60 RCW to read as follows:

An entity offering solar energy sales or installation services must offer a contract pursuant to section 4 of this act.

NEW SECTION. **Sec.**  A new section is added to chapter 80.60 RCW to read as follows:

(1)(a) By May 1, 2024, the Washington State University extension energy program must convene a work group focused on the future of net metering in Washington state. The work group must include representatives from consumer-owned utilities, investor-owned utilities, the commission, the rooftop solar industry, including the Washington solar energy industries association, agricultural farms in the business of producing crops for food and fermented beverages, environmental justice advocates, labor unions, consumer advocates, rural communities including communities east of the crest of the Cascade mountains, and Indian tribes.

(b) The work group must report recommendations to the Washington State University extension energy program on what alternatives to net metering should be considered by the legislature and when it is reasonable for these alternatives to be implemented. The work group should take into account the findings of the cost shift study required in subsection (2) of this section in its recommendations.

(c) As part of its recommendations, the work group must consider the implications for the solar industry workforce, rate of deployment of consumer-owned solar and storage, future electric load growth, reduction in utility income associated with different levels of net metering, and equitable distribution of the benefits of consumer-owned solar and storage.

(d) The work group must provide an inventory of other states' deviation from net metering laws and the impact deviating from retail net metering had on solar installations, solar installers, utilities, utility customers, rural land, tribal land, and customer-generator payback periods. The work group must consider whether it is reasonable for utilities to count consumer-owned clean energy systems in their service territory toward their clean energy transformation act compliance targets.

(2) By January 31, 2024, the Washington State University extension energy program must begin to conduct a study to investigate the magnitude of any cost shifts among ratepayers associated with retail rate net metering in Washington state, under scenarios assuming total net metered generation capacity of six percent, 12 percent, and 24 percent of 1996 peak power.

(3) The Washington State University extension energy program must summarize the work group's recommendations and the findings of the cost shift study in a report and must deliver the report to the appropriate committees of the legislature by December 1, 2026.

NEW SECTION. **Sec.**  A new section is added to chapter 80.60 RCW to read as follows:

(1) It is the intent of the legislature that the state's net metering policy is updated and implemented by January 1, 2035.

(2) Any rate or tariff schedule offered by an electric utility under a future net metering policy must:

(a) Compensate customer-generators at a rate that is different than the retail rate;

(b) Be expressed as a percentage of the utility's retail rate;

(c) Be communicated to customers with three year's notice from when the rate or tariff schedule is first publicly proposed to before it would go into effect; and

(d) Allow for inclusion of time-of-use net metering rate structures for distributed storage systems.

NEW SECTION. **Sec.**  This act may be known and cited as the solar energy resiliency act.

**--- END ---**