

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

Introduced

Senate Bill 634

FISCAL
NOTE

By Senator Rucker

[Introduced February 28, 2025; referred
to the Committee on Energy, Industry, and Mining;
and then to the Committee on Finance]

1 A BILL to amend the Code of West Virginia, 1931, as amended, by adding a new article,
 2 designated §24-2J-1, §24-2J-2, §24-2J-3, §24-2J-4, and §24-2J-5, relating to establishing
 3 a new category of net metering energy projects in West Virginia, which projects provide for
 4 location on distressed land or in an energy community, allow for multiple customers, and
 5 be exempt from certain limitations established in the code and certain rules promulgated
 6 by the Public Service Commission; providing definitions; providing an electricity bill credit,
 7 subscription framework, and exemptions; and providing the Public Service Commission
 8 rule-making authority and directives.

Be it enacted by the Legislature of West Virginia:

ARTICLE 2J. DISTRESSED LAND NET METERING PROJECTS.

§24-2J-1. Definitions.

1 As used in this article:

2 "Applicable Bill Credit Rate" means the dollar-per-kilowatt-hour rate previously approved
 3 by the Public Service Commission in docket 23-0460-E-42T, which will be used to calculate a net
 4 metering customer's electricity bill credit.

5 "Distressed Land" means a site made up of one or more parcels of land, located within an
 6 electric utility's service territory, or located within a county in which such an electric utility operates,
 7 where the majority of the acreage is at least one or more of the following:

- 8 (1) Former mine land reclaimed or abandoned;
- 9 (2) Property owned by a state or county land reutilization corporation; or
- 10 (3) Industrial or commercial rooftops greater than 80,000 square feet.

11 "Energy community" has the same meaning provided under the Inflation Reduction Act of
 12 2022 (IRA) and subsequent guidance from the U.S. Department of Treasury, including:

13 (1) A brownfield site as defined under the Comprehensive Environmental Response,
 14 Compensation, and Liability Act (CERCLA);

15 (2) A census tract (or directly adjoining census tract) where:

16 (A) A coal mine has closed after December 31, 1999, or

17 (B) A coal-fired electric generating unit has been retired after December 31, 2009;

18 (3) A census tract, or directly adjoining census tract, where significant fossil fuel-related
19 employment exists or historically existed, defined as:

20 (A) Fossil fuel-related employment accounting for 0.17% or more of total employment, or

21 (B) Fossil fuel-related tax revenues accounting for at least 25% of total local tax revenues.

22 Notwithstanding any provision of this chapter to the contrary, an energy community shall
23 not be interpreted to include agricultural land as defined in §19-19-2(b) of this code, and such
24 agricultural land shall not be eligible for a Distressed Land or Energy Community net metering
25 project.

26 "Net metering" means measuring the difference between electricity supplied by an electric
27 utility and electricity generated by a net metering facility for a net metering customer. The
28 electricity generated by a net metering facility may be used to offset the net metering generator's
29 own electricity requirements or provided to eligible net metering customers. The total electricity
30 supplied must not exceed net metering facility size limitations defined in this article or generation
31 reservation capacity of a net metering facility site.

32 "Net metering customer" means either (1) a net metering generator; or (2) an off taker of
33 power (including, among other off takers, an energy subscription fee organization) from a net
34 metering facility that meets the following criteria:

35 (A) Consumes a minimum of 5,000 kilowatt hours (kWh) of electricity per month;

36 (B) Is located within the same electric utility service territory as the net metering facility; and

37 (C) Has electrical facilities interconnected with the electric utility system in compliance with
38 applicable interconnection standards and regulations.

39 A net metering customer may aggregate multiple meters within the same electric utility
40 service territory to apply net metering credits: *Provided*, That the meters are under the same
41 customer account or are legally associated with the same entity, as defined in subsection (h) of

42 this section;

43 "Net Metering Facility" means an energy generation project that produces energy from
44 alternative or renewable sources as those terms are defined in West Virginia Regulations Section
45 §150-33-2 of the West Virginia code of state rules.

46 "Net Metering Generator" means any for-profit or tax-exempt entity that owns, leases, or
47 operates a net metering facility in this state. A net metering generator may use the electricity
48 generated from the net metering facility to meet its own energy needs and may supply electricity to
49 net metering customers, provided the total energy generation remains within the net metering
50 facility's size limitations or allocated generation reservation. A net metering generator shall not be
51 considered a utility under this chapter solely as a result of its ownership, operation, or
52 management of a net metering facility;

53 "Meter aggregation" means the combination of readings from and billing for all meters
54 regardless of rate class on properties managed, owned, or leased by a net metering customer for
55 properties located within the service territory of a single electric utility.

56 "Net Crediting" means a program under which an electric utility remits the portion of the
57 electric bill credit representing the net metering customer's subscription fee directly to the net
58 metering generator and applies any remaining bill credit to the net metering customer's bill.

59 (1) The subscription fee shall be calculated as a percentage of the value of the bill credit,
60 which must be less than 100% of the bill credit.

61 (2) The electric utility may charge the net metering generator a fee of up to 1% of the value
62 of the bill credit remitted to the net metering generator to cover implementation costs.

§24-2J-2. Program Characteristics.

1 (a) A net metering generator may establish and generate power from a Distressed Land or
2 Energy Community net metering facility which shall have the following characteristics:

3 (1) The net metering facility shall be on Distressed Land or within an Energy Community.

4 (2) The net metering facility shall be interconnected to the electric utility in the service

5 territory.

6 (3) The net metering facility may have unlimited net metering customers as defined in this
7 article. Net metering customers may use meter aggregation to satisfy the requirements of this
8 article.

9 (4) The net metering facility may provide electric power to any net metering customer
10 within the same utility service territory where it is located.

11 (5) The net metering facility shall not be limited by the provisions in §24-2F-8(f) of this
12 code.

13 (6) The net metering facility shall not be subject to limitations set forth in §24-2F-8(g) of this
14 code.

15 (b) The electric utility in the service territory of a Distressed Land or Energy Community net
16 metering facility shall enter into an agreement on reasonable terms with the net metering
17 generator to accept power generated by the net metering facility and distribute that power to net
18 metering customers subscribed to the Distressed Land or Energy community net metering facility.

§24-2J-3. Bill credit and subscription framework.

1 (a) An electric utility shall provide a bill credit to a net metering customer's subsequent
2 monthly electric bill for the proportional output of a net metering facility attributable to that net
3 metering customer. The value of the bill credit for the net metering customer shall be calculated by
4 multiplying the net metering customer's portion of the kilowatt-hour electricity production from the
5 net metering facility by the applicable bill credit rate for that net metering customer. Any amount of
6 the bill credit that exceeds the net metering customer's monthly bill shall be carried over and
7 applied to the next month's bill in perpetuity. The electric utility shall provide bill credits to a net
8 metering customer for not less than 35 years from the date the net metering customer is first
9 interconnected to a net metering facility.

10 (b) Subscriptions shall be sized such that the estimated bill credits do not exceed the net
11 metering customer's average annual electricity bill.

§24-2J-4. Exemptions.

1 Notwithstanding any provision of §24-2-1 of this code to the contrary:

2 (1) A distressed land or energy community net metering project shall not be subject to the
3 aggregate power purchase agreement (PPA) capacity limit of three percent of a utility's aggregate
4 customer peak load as set forth in §24-2-1 of this code.

5 (2) The system size limitations established in §24-2-1 of this code, including 50 kilowatts
6 for residential customers, one megawatt for commercial customers, and two megawatts for
7 industrial customers, shall not apply to a distressed land or energy community net metering
8 project.

§24-2J-5. Oversight and Implementation.

1 (a) The Public Service Commission shall:

2 (1) Oversee and administer the compliance of the net metering program in accordance
3 with this article;

4 (2) Propose rules for legislative approval in accordance with §29A-3-1 et seq. of this code
5 consistent with this article for siting and regulating distressed land and energy community net
6 metering projects, including, other among other things, rules for agreements between electric
7 utilities and net metering generators to accept power transmission from a net metering facility and
8 distribute that power to net metering customers subscribed to the distressed land or energy
9 community net metering facility;

10 (3) Report annually to the Legislature on the program's operation and effectiveness; and

11 (4) Ensure all projects comply with applicable size limitations and statutory requirements;

12 (b) The Public Service Commission may not establish or modify rules regarding bill credits,
13 meter aggregation, or subscription sizes, as these shall be governed exclusively by state statute.

NOTE: The purpose of this bill is to replace previous sections of §24-2F-1 *et seq.* of the Code of West Virginia which were repealed by the Legislature in its 2015 Regular Session of the legislature. The purpose of this bill is also to enable West Virginia to attract more

businesses that need access to renewable or alternative energy sources; provide West Virginia businesses access to less expensive power and more efficient energy cost accounting by aggregating meters on a single electric bill; generate new economic benefits and tax revenues from underutilized land in West Virginia, including distressed lands and property that qualifies as an energy community; and protect West Virginia's traditional fossil fuel industry through larger dedicated energy projects that rely on alternative sources including those derived from coal and other fossil fuels.

Strike-throughs indicate language that would be stricken from a heading or the present law and underscoring indicates new language that would be added.