

Introduced by

Senators Piepkorn, Grabinger, Mathern

Representatives Adams, Hager, Schneider

1 A BILL for an Act to create and enact chapter 49-20.1 of the North Dakota Century Code,  
2 relating to net metering of electricity.

3 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

4 **SECTION 1.** Chapter 49-20.1 of the North Dakota Century Code is created and enacted as  
5 follows:

6 **49-20.1-01. Definitions.**

7 As used in this chapter:

8 1. "Annualized billing period" means:

9 a. A twelve-month billing cycle beginning on April first of one year and ending on  
10 March thirty-first of the following year; or

11 b. An additional twelve-month billing cycle as defined by an electric company's net  
12 metering tariff or rate schedule.

13 2. "Customer-generated electricity" means electricity that:

14 a. Is generated by a customer generation system for a customer participating in a  
15 net metering program;

16 b. Exceeds or offsets the electricity the customer needs for the customer's own use;  
17 and

18 c. Is supplied to the electric company administering the net metering program.

19 3. "Customer generation system":

20 a. Means an eligible facility used to supply energy to or for a specific customer that:

21 (1) Has a generating capacity of:

22 (a) Not more than twenty-five kilowatts for a residential facility; or

23 (b) Not more than two megawatts for a nonresidential facility, unless the  
24 commission approves a greater generation capacity;

- 1                   (2) Is located on, or ~~adjacent to, the premises of~~within the electric company's  
2                   customerservice territory, subject to ~~the electric company's~~its service  
3                   requirements;
- 4                   (3) Operates in parallel and is interconnected with the electric company's  
5                   distribution facilities;
- 6                   (4) Is intended primarily to offset part or all ~~of~~ the customer's requirements for  
7                   electricity; and
- 8                   (5) Is controlled by an inverter; and
- 9                   b. Includes an electric generator and its accompanying equipment package.
- 10                  4. "Eligible facility" means a facility that uses energy derived from one of the following to  
11                  generate electricity:
- 12                  a. Solar photovoltaic and solar thermal energy;
- 13                  b. Wind energy;
- 14                  c. Hydrogen;
- 15                  d. Organic waste;
- 16                  e. Hydroelectric energy;
- 17                  f. Waste gas and waste heat capture or recovery;
- 18                  g. Biomass and biomass byproducts, except for the combustion of:
- 19                   (1) Wood that has been treated with chemical preservatives such as creosote,  
20                   pentachlorophenol, or chromated copper arsenate; or
- 21                   (2) Municipal waste in a solid form;
- 22                  h. Forest or rangeland woody debris from harvesting or thinning conducted to  
23                  improve forest or rangeland ecological health and to reduce wildfire risk;
- 24                  i. Agricultural residues;
- 25                  j. Dedicated energy crops;
- 26                  k. Landfill gas or biogas produced from organic matter, wastewater, anaerobic  
27                  digesters, or municipal solid waste; or
- 28                  l. Geothermal energy.
- 29                  5. "Equipment package" means a group of components connecting an electric generator  
30                  to an electric distribution system, including all interface equipment and the interface  
31                  equipment's controls, switchgear, inverter, and other interface devices.

- 1       6. "Excess customer-generated electricity" means the amount of customer-generated  
2       electricity in excess of the customer's consumption from the customer generation  
3       system during a monthly billing period, as measured at the electric company's meter.
- 4       7. "Fuel cell" means a device in which the energy of a reaction between a fuel and an  
5       oxidant is converted directly and continuously into electrical energy.
- 6       8. "Inverter" means a device that:
- 7       a. Converts direct current power into alternating current power that is compatible  
8       with power generated by an electric company; and
- 9       b. Has been designed, tested, and certified to underwriters' laboratories standard  
10       1741 and installed and operated in accordance with institute of electrical and  
11       electronics engineers standard 1547.
- 12       9. "Net electricity" means the difference, as measured at the meter owned by the electric  
13       company between:
- 14       a. The amount of electricity an electric company supplies to a customer participating  
15       in a net metering program; and
- 16       b. The amount of customer-generated electricity delivered to the electric company.
- 17       10. "Net metering" means measuring the amount of net electricity for the applicable billing  
18       period.
- 19       11. "Net metering program" means a program administered by an electric company  
20       whereby a customer with a customer generation system may:
- 21       a. Generate electricity primarily for the customer's own use;
- 22       b. Supply customer-generated electricity to the electric company; and
- 23       c. If net metering results in excess customer-generated electricity during a billing  
24       period, receive a credit as provided in section 49-20.1-03.
- 25       12. "Switchgear" means the combination of electrical disconnects, fuses, or circuit  
26       breakers:
- 27       a. Used to isolate electrical equipment and de-energize equipment to allow work to  
28       be performed or faults downstream to be cleared; and
- 29       b. Designed, tested, and certified to underwriters' laboratories standard 1741, and  
30       installed and operated in accordance with institute of electrical and electronics  
31       engineers standard 1547.

1        **49-20.1-02. Net metering program - Metering equipment - Interconnection agreement.**

2        1. Each electric company shall:

3            a. Except as provided in subsection 2, make a net metering program available to  
4            the electric company's customers; and

5            b. Allow customer generation systems to be interconnected to the electric  
6            company's facilities using, except as provided in subsection 4, a kilowatt-hour  
7            meter capable of net metering.

8        2. An electric company may discontinue making a net metering program available to  
9        customers not already participating in the program if:

10           a. The cumulative generating capacity of customer generation systems in the  
11           program equals at least one tenth of one percent of the electric company's peak  
12           demand during the previous year; or

13           b. The electric company serves fewer than one thousand customers in the state.

14        3. a. Notwithstanding subdivision a of subsection 2, the commission may establish a  
15        higher amount of generating capacity from customer generation systems than  
16        ~~one-tenth of one percent of the electric company's peak demand during the~~  
17        ~~previous year before a net metering program may be discontinued~~  
18        ~~underdescribed in subsection 2.~~

19           b. Before acting under subdivision a, the commission shall provide public notice of  
20           its proposed action and an opportunity for public comment.

21        4. a. Notwithstanding subdivision b of subsection 1, an electric company may require a  
22        customer participating in the electric company's net metering program to use  
23        metering equipment other than a standard kilowatt-hour meter if the commission,  
24        after appropriate notice and opportunity for public comment:

25           (1) Determines the use of other metering equipment is necessary and  
26           appropriate to monitor the flow of electricity from and to the electric  
27           company; and

28           (2) Approves the requirement for other metering equipment, after considering  
29           the benefits and costs associated with the other metering equipment.

30           b. ~~If the commission approves the requirement for~~~~electric company requires~~ other  
31           ~~metering equipment under subdivision a, the commission~~~~electric company shall~~

1 determine how the cost of purchasing and installing the other metering  
2 equipment is to be allocated between the electric company and the customer.

3 5. An electric company may require a customer to enter an  
4 ~~interconnection~~ ~~interconnecting~~ agreement ~~before~~ and disclose the necessary control  
5 equipment needed to interconnect which may not additionally burden the customer  
6 connecting the customer generation system to the electric company's facilities.

7 **49-20.1-03. Charges or credits for net electricity.**

8 1. Each electric company with a customer participating in a net metering program shall  
9 measure net electricity during each monthly billing period, in accordance with normal  
10 metering practices.

11 2. If net metering does not result in excess customer-generated electricity during the  
12 monthly billing period, the electric company shall bill the customer for the net  
13 electricity, in accordance with normal billing practices and credit the  
14 customer-generated electricity with a value per kilowatt hour no less than seventy-five  
15 percent of what the electric company would otherwise have charged per kilowatt hour  
16 for electricity supply.

17 3. ~~Subject to subsection 4, if~~ net metering results in excess customer-generated  
18 electricity during the monthly billing period:

19 ~~— a. (1) The,~~ the electric company shall credit the customer for the excess  
20 customer-generated electricity based on the meter reading for the billing  
21 period at a value that is ~~at least avoided cost, or as determined by the~~  
22 ~~commission; and~~

23 ~~— (2) All credits the customer does not use during the annualized billing period~~  
24 ~~expire at the end of the annualized billing period; and~~

25 ~~— b. As authorized by the commission, the electric company may bill the customer for~~  
26 ~~customer charges that otherwise would have accrued during that billing period in~~  
27 ~~the absence of excess customer-generated electricity.~~

28 ~~4. At the end of an annualized billing period, an electric company's avoided cost value of~~  
29 ~~remaining unused credits described in subdivision a of subsection 3 must be granted:~~

30 ~~— a. To the electric company's low income assistance programs as determined by the~~  
31 ~~commission; or~~

1 ~~\_\_\_\_\_ b. For another use as determined by the commission~~ no less than seventy-five  
2 percent of the regular retail price that would otherwise have been charged per  
3 kilowatt hour.

4 **49-20.1-04. Determination of costs and benefits - Determination of just and**  
5 **reasonable charge, credit, or ratemaking structure.**

6 The commission shall:

- 7 1. Determine, after appropriate notice and opportunity for public comment, whether costs  
8 the electric company or other customers will incur from a net metering program will  
9 exceed the benefits of the net metering program, or whether the benefits of the net  
10 metering program will exceed the costs; and  
11 2. Determine a just and reasonable charge, credit, or ratemaking structure, including new  
12 or existing tariffs, in light of the costs and benefits.

13 **49-20.1-05. Customer to provide equipment necessary to meet certain requirements -**  
14 **Commission may adopt additional reasonable requirements - Testing an inspection of**  
15 **interconnection.**

- 16 1. Each customer participating in a net metering program shall provide at the customer's  
17 expense all equipment necessary to meet:  
18 a. Applicable local and national standards regarding electrical and fire safety, power  
19 quality, and interconnection requirements established by the national electrical  
20 code, the national electrical safety code, the institute of electrical and electronics  
21 engineers, and underwriters laboratories; and  
22 b. Any other utility interconnection requirements as determined by the commission  
23 by rule made in accordance with North Dakota Administrative Code chapter  
24 69-09-07.  
25 2. After appropriate notice and opportunity for public comment, the commission may  
26 adopt by rule additional reasonable safety, power quality, and interconnection  
27 requirements for customer generation systems the commission considers to be  
28 necessary to protect public safety and system reliability.  
29 3. a. If a customer participating in a net metering program complies with requirements  
30 referred to under subsection 1 and additional requirements established under  
31 subsection 2, an electric company may not require that customer to:

- 1                   (1) Perform or pay for additional tests; or
- 2                   (2) Purchase additional liability insurance.
- 3           b. An electric company may not be held liable for permitting or continuing to permit
- 4                   an interconnection of a customer generation system to the electric company's
- 5                   system or for an act or omission of a customer participating in a net metering
- 6                   program for loss, injury, or death to a third party.
- 7           4. An electric company may test and inspect an interconnection at times the electric
- 8                   company considers necessary to ensure the safety of electrical workers and to
- 9                   preserve the integrity of the electric power grid.
- 10           5. The electrical function, operation, or capacity of a customer generation system, at the
- 11                   point of connection to the electric company's distribution system, may not compromise
- 12                   the quality of service to the electric company's other customers.

13 ~~— **49-20.1-06. Application to out-of-state electric company.**~~

14 ~~— An electric company with fewer than five thousand customers in this state headquartered in~~

15 ~~another state is considered to be in compliance with this chapter if the electric company offers~~

16 ~~net metering to its customers within the state in accordance with a tariff, schedule, or other~~

17 ~~requirement of the appropriate authority in the state in which the electric company's~~

18 ~~headquarters are located.~~