

# SENATE BILL REPORT

## E2SSB 5223

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As Amended by House, April 12, 2019

**Title:** An act relating to net metering.

**Brief Description:** Concerning net metering.

**Sponsors:** Senate Committee on Ways & Means (originally sponsored by Senators Palumbo, Rivers, Rolfes, King, Carlyle, Mullet, McCoy, Wellman, Das, Nguyen, Randall, Frockt, Salomon, Keiser, Wilson, C., Kuderer, Darneille, Cleveland, Saldaña, Dhingra, Pedersen, Conway and Van De Wege).

**Brief History:**

**Committee Activity:** Environment, Energy & Technology: 1/16/19, 1/24/19 [DPS-WM, w/oRec, DNP].

Ways & Means: 2/05/19, 2/18/19 [DP2S, DNP, w/oRec].

**Floor Activity:**

Passed Senate: 3/04/19, 29-19.

Passed House: 4/12/19, 55-40.

**Brief Summary of Engrossed Second Substitute Bill**

- Creates a process for each electric utility to create a new standard rate or tariff schedule once June 30, 2029, or the 4 percent for the cumulative generating capacity available for net metering systems is reached, whichever comes first.
- Clarifies when a customer-generator may aggregate meters.
- Requires electric or gas utilities to include on customer bills the total amount of kWh of electricity consumed for the most recent 12-month period, or other information that provides customer energy usage.
- Prohibits an electric utility from establishing compensation arrangements or interconnection requirements, other than net metering, that would have the effect of prohibiting or restricting a customer's ability to consume the electricity it self-generates or stores on its premises.

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**SENATE COMMITTEE ON ENVIRONMENT, ENERGY & TECHNOLOGY**

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*This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.*

**Majority Report:** That Substitute Senate Bill No. 5223 be substituted therefor, and the substitute bill do pass and be referred to Committee on Ways & Means.

Signed by Senators Carlyle, Chair; Palumbo, Vice Chair; Billig, Das, Hobbs, Lias, McCoy, Nguyen and Wellman.

**Minority Report:** That it be referred without recommendation.

Signed by Senator Fortunato, Assistant Ranking Member, Environment.

**Minority Report:** Do not pass.

Signed by Senators Ericksen, Ranking Member; Sheldon, Assistant Ranking Member, Energy & Technology; Brown and Short.

**Staff:** Kimberly Cushing (786-7421)

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## SENATE COMMITTEE ON WAYS & MEANS

**Majority Report:** That Second Substitute Senate Bill No. 5223 be substituted therefor, and the second substitute bill do pass.

Signed by Senators Rolfes, Chair; Frockt, Vice Chair, Operating, Capital Lead; Mullet, Capital Budget Cabinet; Billig, Carlyle, Conway, Darneille, Hunt, Keiser, Lias, Palumbo, Pedersen, Rivers and Van De Wege.

**Minority Report:** Do not pass.

Signed by Senators Brown, Assistant Ranking Member, Operating; Bailey, Becker and Schoesler.

**Minority Report:** That it be referred without recommendation.

Signed by Senators Braun, Ranking Member; Honeyford, Assistant Ranking Member, Capital; Wagoner and Warnick.

**Staff:** Claire Goodwin (786-7736)

**Background:** Net Metering. Net metering allows electricity customers to offset their consumption of purchased electricity with electricity generated by their own small-scale, renewable systems. Net-metered electricity is valued at the utility's retail rate. Under current law, a net-metering system must be located on a customer's premises and must generate no more than 100 kilowatts (kW) using cogeneration, fuel cells, water, wind, solar energy, or biogas. On April 30th of each year, any remaining unused kWh credit accumulated during the previous year must be granted to the utility without compensation to the customer.

Electric utilities must offer to make net metering available to eligible customer-generators on a first-come, first-served basis until the cumulative generating capacity of net metering systems equals 0.5 percent of the utility's peak demand during 1996. As of December 2018, 20 utilities have exceeded the 0.5 percent threshold.

Information Required on Customer Billings. Any customer billing issued by a light or power business that serves more than 20,000 customers in Washington must include:

- the rates and amounts of taxes paid directly by the customer on products or services from the light and power business; and
- the rate, origin, and approximate amount of each tax levied on revenues of the light and power business.

**Summary of Engrossed Second Substitute Bill: Net Metering.** An electric utility must offer net metering for customer generators until the utility's cumulative generating capacity of net metering systems is increased to 4 percent, rather than 0.5 percent, or June 30, 2029, whichever comes first. A process is created for each electric utility to develop an alternative standard rate or tariff schedule once June 30, 2029, or the new threshold is met.

Investor-owned utilities (IOUs) may submit a filing to the utilities and transportation commission (UTC) to develop alternative tariff schedule. The UTC must approve, reject, or approve with conditions an alternative net metering tariff schedule within one-hear of an IOU filing. UTC may determine an threshold if it does not approve an IOU alternative tariff schedule.

Consumer-owned utilities (COUs) may apply to their governing body upon reaching 4 percent and must notify the Washington State University extension energy program (WSU energy program) to provide public notice 60 days in advance of when an alternative standard rate is placed on the agenda of the governing body.

Beginning July 31, 2020, and semiannually thereafter, each electric utility must provide notice to the WSU energy program of the current status of meeting the 4 percent threshold. Additionally, the WSU energy program must make related information available on its website.

A customer-generator may aggregate a designated meter—the meter for the net metering system—and an additional aggregated meter located on the same parcel or on a contiguous parcel. A retail electric customer who is a customer-generator and receives retail electric service from a utility at an aggregated meter must also be the customer who receives service at the designated meter where the net metering system is located.

Nothing in the bill prohibits the following:

- a utility from allowing aggregation under terms if an existing arrangement is in effect on or before July 1, 2019.
- the owner of a multifamily residential facility from installing a net metering system assigned to a single designated meter located on the premises of the facility, where the tenants are not individually metered customers of the utility, and distributing any benefits to the tenants.

The date changes from April 30th to March 31st for determining whether a customer has any remaining unused kWh credit accumulated.

**Amount of kWh of Electricity on Customer Bills.** All electric or gas utilities in Washington that serve more than 20,000 customers are required to include the total amount of kWh of electricity consumed for the most recent 12-month period on customer bills, or other information that provides the customer with their energy usage for this same period.

Consuming Self-Generated Electricity. Except when required under the federal Public Utility Regulatory Policies Act, an electric utility may not establish compensation arrangements or interconnection requirements, other than net metering, that would have the effect of prohibiting or restricting a customer's ability to consume the electricity it self-generates or stores on its premises.

The State Building Code Council Study. The State Building Code Council, in consultation with the Department of Commerce and local governments, is required to conduct a study of the building code and adopt changes necessary to encourage greater use of renewable energy systems.

**Appropriation:** None.

**Fiscal Note:** Available.

**Creates Committee/Commission/Task Force that includes Legislative members:** No.

**Effective Date:** Ninety days after adjournment of session in which bill is passed.

**Staff Summary of Public Testimony on Original Bill (Environment, Energy & Technology):** *The committee recommended a different version of the bill than what was heard.* PRO: This bill passed out of the Senate last year. Ninety percent of utility owners live in service areas of utilities that hit the threshold. Washington State has the most restrictive net metering law. Four utilities have abandoned net metering. Utilities want clarification. Solar customers are all over the map and stimulate economic growth in the state. Net metering allows the average person to make their own clean energy. Customers pay a basic charge for having utility connection and should not be penalized for not using any electricity. We are at net metering 1.0 and should think about 2.0. The task force is the way to do this. Two solar representatives should be on the taskforce, one for installers and one for manufacturers.

CON: Electric cooperatives must pass on to members all costs regardless of how insignificant. Some have reached the 0.5 threshold and some have continued to provide this even though aware of cost-shifting, but local boards made this decision. If the local governing board wants to subsidize the non net metering customers, that is their choice. Overall state policies are in a period of transition with many states considering other options, such as net billing to address cost shifts from high to low-value homes. Hold off on section one of the bill. We support making recommendations on the best and fairest way to move forward.

OTHER: This is a timely discussion because there is a lot of development in self-generation with customers taking advantage of tax incentives. Net metering shifts costs from more affluent customers to other rate payers. Avista is approaching cap and wants to establish the appropriate mechanism. The meter aggregation statues are unworkable. Customers don't want to apply their unused credits to other customers.

**Persons Testifying (Environment, Energy & Technology):** PRO: Senator Guy Palumbo, Prime Sponsor; Dave Warren, Silfab Solar Inc.; Allison Arnold, Solar Installers of Washington; Jeremy Smithson, Puget Sound Solar.

CON: Kent Lopez, Washington Rural Electric Cooperative Association; Nicolas Garcia, WPUA.

OTHER: John Rothlin, Avista.

**Persons Signed In To Testify But Not Testifying (Environment, Energy & Technology):** No one.

**Staff Summary of Public Testimony on First Substitute (Ways & Means):** *The committee recommended a different version of the bill than what was heard.* PRO: Last year, this bill passed out of the Senate on a bipartisan basis with 28 votes. Changes have been made and a few more changes are coming. We support the bill and are working with our utility partners to reduce the fiscal impacts. Net-metering provides a fair and clear mechanism to use energy residents are creating. Washington has one of the lowest thresholds for net-metering. Not all lost revenue to utilities automatically means a cost shift to customers. There a number of actions customers take such as energy efficiency that reduces the energy used by the customer and net-metering is very similar. The Commerce study would address the concerns raised.

CON: The bill increases the amount of net-metered electricity a utility is required to credit at the retail rate without addressing the shift in costs that occurs with a retail credit for net-metered electricity. Electric cooperatives are not-for-profit utilities which must pass on the cost of the utility to its consumer members. It should be the decision of the governing boards.

OTHER: This is timely discussion since we have seen a larger number of net-metering systems increasing. We are willing to continue net-metering beyond the minimum requirement. We think the work group is not necessary because the issues around net-metering are well established. We suggest utilities be allowed to submit an alternative plan to regulators to establish an alternative to net-metering once the utility exceeds the 4 percent. Puget Sound Energy believes the work group is not necessary. There is a clear path forward with what comes next after net-metering.

**Persons Testifying (Ways & Means):** PRO: Brad Boswell, Solar Installers of Washington; Jaimes Valdez, Spark Northwest.

CON: Kent Lopez, Washington Rural Electric Cooperative Association.

OTHER: John Rothlin, Avista; Laura Wilkeson, Puget Sound Energy.

**Persons Signed In To Testify But Not Testifying (Ways & Means):** No one.

**EFFECT OF HOUSE AMENDMENT(S):**

- Clarifies language in sections 2 and 3, which includes removing a reference to an alternative standard rate or tariff and instead referring to a standard rate or tariff schedule that deviates from current law.
- Removes the definition of investor-owned utility.
- Amends the definition of net metering system to refer to a system's electrical generating alternating current capacity rather than its nameplate capacity.
- Authorizes an electric or gas utility in Washington serving more than 20,000 customers to include information regarding rates over the most recent 12-month period on any customer billing.