

# HOUSE BILL REPORT

## HB 1427

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**As Reported by House Committee On:**  
Environment & Energy

**Title:** An act relating to on-premises energy generation.

**Brief Description:** Concerning on-premises energy generation.

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

**Brief History:**

**Committee Activity:**

Environment & Energy: 1/24/23, 2/9/23 [DPS].

**Brief Summary of Substitute Bill**

- Changes the net metering requirement for electric utilities from June 30, 2029, to December 31, 2029, or the first date upon which a utility reaches the cumulative generating capacity for net metering systems, which is increased from 4 percent to 6 percent of the utility's peak demand during 1996.
- Changes the size of systems that utilities must allow to be net metered, from 100 kilowatts to 1 megawatt for utilities.
- Changes requirements for utilities regarding net metering, including requiring 25-year contracts between customer-generators, requiring that net metering continue to be made available for low-income households, and directing that unused energy credits at the end of an annual cycle be granted to low-income customers through a utility energy assistance program.
- Adopts consumer protections for solar energy customers through contract requirements.
- Requires the Department of Commerce (Commerce) to begin conducting

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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 part of the legislation nor does it constitute a statement of legislative intent.*

a study by January 31, 2024, on cost shifting associated with net metering, the Utilities and Transportation Commission (UTC) and Commerce to jointly convene a work group by May 1, 2024, to make recommendations about the future of net metering, and the UTC and Commerce to summarize both the work group's recommendations and the findings of the cost shift study in a report submitted to the Legislature by December 1, 2026.

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## HOUSE COMMITTEE ON ENVIRONMENT & ENERGY

**Majority Report:** The substitute bill be substituted therefor and the substitute bill do pass. Signed by 12 members: Representatives Doglio, Chair; Mena, Vice Chair; Dye, Ranking Minority Member; Abbarno, Barnard, Berry, Duerr, Fey, Lekanoff, Ramel, Slatter and Street.

**Minority Report:** Do not pass. Signed by 2 members: Representatives Ybarra, Assistant Ranking Minority Member; Goehner.

**Minority Report:** Without recommendation. Signed by 1 member: Representative Couture.

**Staff:** Andrew Hatt (786-7296) and Megan McPhaden (786-7114).

### **Background:**

#### Net Metering.

Net metering allows customers who produce their own electricity with on-premises energy systems (customer-generators) to sell the electricity they are not using back to an electric utility and offset their future energy costs. A net metering on-premises energy system is defined as a fuel cell, a combined heat and power facility, or a renewable energy generation facility that:

- has an electrical generating capacity of not more than 100 kilowatts;
- is located on the customer-generator's premises;
- operates in parallel with the electric utility's transmission and distribution facilities;
- and
- is intended primarily to offset part or all of the customer-generator's requirements for electricity.

An electric utility must measure the net electricity produced or consumed by a customer-generator during a billing period in accordance with normal metering practices. If the electricity supplied by the electric utility exceeds the electricity generated by the customer-generator and fed back to the electric utility during the billing period, the customer-

generator must be billed for the net electricity supplied. If the electricity generated by the customer-generator exceeds the electricity supplied by the electric utility, the customer-generator:

- must be billed for the appropriate customer charges for that billing period; and
- must be credited at the retail rate for the excess kilowatt-hours generated during the billing period, with the credit appearing on the bill for the following billing period.

On March 31 of each calendar year, any unused kilowatt-hour credit accumulated during the previous year is granted to the electric utility, without any compensation to the customer-generator.

An electric utility must offer to make net metering available to eligible customer-generators until the earlier of either June 30, 2029, or the cumulative generating capacity of net metering systems equals 4 percent of the utility's peak demand during 1996. After either of these criteria are reached, a utility may develop a standard rate or tariff schedule that deviates from conventional net metering, with new tariff schedules requiring the approval of the governing body or Utilities and Transportation Commission.

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### **Summary of Substitute Bill:**

#### Net Metering.

A number of changes are made to the rules for utilities regarding net metering, including:

- The size of systems that a utility must allow to be net metered is changed from 100 kilowatts to 1 megawatt for utilities. An investor-owned utility may allow net metering for larger systems if they desire, and a consumer-owned utility is not required to approve a system that conflicts with an existing contract with the Bonneville Power Administration.
- An electric utility is required to offer net metering for eligible customer-generators until the earlier of either December 31, 2029, rather than June 30, 2029, or until the cumulative generating capacity of net metering systems in the utility's service territory equals 6 percent, rather than 4 percent, of the utility's peak demand during 1996.
- An electric utility must continue to make net metering available for low-income customers after the above conditions are met.
- An electric utility must offer 25-year contracts to eligible customer generators for new net metering systems. The contract must be transferable to any future customer-generator at the electric meter, in the case of changing ownership, for the remainder of the contract term.
- On March 31 of each calendar year, any unused energy credits accumulated during the previous year be granted to the electric utility for distribution to low-income customers through a utility energy assistance program, rather than be granted to the electric utility.

### Consumer Protections for Solar Energy Customers.

Customer protections are adopted for solar energy customers through contracting requirements. Protections include, but are not limited to:

- A customer must have a contract with a solar energy contractor if they intend to purchase the installation of a solar energy system.
- Provisions that a solar energy contract must contain, including a statement regarding whether or not any installation work is to be subcontracted, notices regarding obtaining loans and a customer's right to cancel, and a statement that adding a solar system may affect the value of the property, changing the owner's annual property taxes.
- A solar energy contractor or subcontractor may not begin work until after a customer's rescission rights have expired in the event that a customer intends to obtain a loan to pay for all or part of the cost of the solar energy contract.

### Prevailing Wages for Net Metering System Contractors.

A requirement is adopted stating that a contractor entering into a contract to perform work on a net metering system shall pay every worker employed in the work at least the prevailing rate of wage for their trade or occupation. There is an exception for apprentices registered in an apprenticeship program approved by the Washington State Apprenticeship and Training Council, who must be paid at least the applicable apprentice prevailing rate of wage.

### Future of Net Metering Work Group.

The Utilities and Transportation Commission (UTC) and Department of Commerce (Commerce) are required to jointly convene a work group focused on the future of net metering in Washington, no later than May 1, 2024. The work group is to be comprised of representatives from a variety of specified public and private sector entities, including:

- consumer-owned utilities;
- investor-owned utilities;
- the UTC;
- the rooftop solar industry, including the Washington Solar Energy Industries Association;
- agricultural farms;
- environmental justice advocates;
- labor unions;
- consumer advocates;
- rural communities, including communities east of the Cascade Mountains; and
- federally recognized Indian tribes.

The work group is to report recommendations to the UTC and Commerce on what alternatives to net metering should be considered by the Legislature. Along with its recommendations, the work group is to provide an inventory of other states' deviation from retail net metering laws, and the impact it had on the solar industry, utilities and its customers, rural and tribal lands, and customer-generator payback periods. In making its

recommendations, the work group must consider:

- implications for the solar industry workforce;
- the 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.

Additionally, Commerce must begin to conduct a study investigating the magnitude of any cost shifts among ratepayers associated with retail rate net metering in Washington by January 31, 2024. The study is to consider scenarios assuming a cumulative generation capacity of 6 percent, 8 percent, and 12 percent of 1996 peak power.

A report is to be delivered by the UTC and Commerce to the Legislature by December 1, 2026, summarizing:

- the work group's recommendations on what alternatives to retail net metering should be considered; and
- the findings of the cost shift study.

### **Substitute Bill Compared to Original Bill:**

As compared to the original bill, the substitute bill:

- raises the system size that consumer-owned utilities are required to offer net metering up to, from 200 kilowatts to 1 megawatt, and adds in an exception for systems conflicting with a current contract with the Bonneville Power Administration;
- lowers the system size that investor-owned utilities are required to offer net metering up to, from 2 megawatts to 1 megawatt;
- changes the requirements for utilities to offer net metering, by changing the date from December 31, 2035, to December 31, 2029, and lowering the cumulative generating capacity limit for net metering systems, from 12 percent to 6 percent;
- specifies that a utility is not prohibited from continuing to make net metering available after these conditions are met, and requires that utilities continue to make net metering available for low-income households;
- removes language requiring a utility to develop rates as a percentage of the utility's retail rate;
- removes language explicitly authorizing utilities to develop optional time-of-use rates;
- specifies that the annual production projections that are to be included in solar contracts are to be for a solar energy system's first year;
- requires that a solar contract states that adding a solar generation system may affect the value of the structure and property taxes, and that a solar generation system tied to the grid may turn off automatically in the event of a power outage to protect utility repair personnel;
- requires that workers performing work on a net metering system be paid their occupation's prevailing wage, with an exception for apprentices;

- changes the convenor of the future of net metering work group from the Washington State University Extension Energy Program to a joint effort by the Utilities and Transportation Commission and the Department of Commerce;
- removes work group language requiring them to consider whether it is reasonable for utilities to count consumer-owned clean energy systems in their service territory toward the Clean Energy Transformation Act;
- changes the total net metered generation capacity scenarios required in the cost shift study, to 6 percent, 8 percent, and 12 percent, and specifies that the study must consider the value of solar across a variety of factors;
- specifies that it is the intent of the Legislature for utilities to wait until the work group process has concluded before proposing or adopting alternatives to net metering, and that the state's net metering policy is updated and implemented by January 1, 2030; and
- reduces the period that customers must be notified regarding a new rate before it goes into effect, from three years to one year.

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**Appropriation:** None.

**Fiscal Note:** Available. New fiscal note requested on February 10, 2023.

**Effective Date of Substitute Bill:** The bill takes effect 90 days after adjournment of the session in which the bill is passed.

**Staff Summary of Public Testimony:**

(In support) Solar is one of the many clean technologies at Washington's disposal to meet its climate goals, and net metering enables energy customers to become active participants as generators in Washington's clean energy future. Financial benefits are needed to get people to install solar and investing in these policies would be good for future generations. Net metering makes rooftop solar affordable for middle class families, and installing rooftop solar systems increases home values. The State Building Code has new requirements for solar that will take effect soon, and net metering is the simplest way to support solar investments by home and business owners. The solar industry asked for a work group in the 2019 net metering bill, but it was not included. This bill would set the groundwork for Washington's clean energy future with all stakeholders fairly involved in the development of a successor policy and takes advantage of the federal Inflation Reduction Act funding timeline through 2035. Ending retail net metering would put Washington further off from reaching its climate goals, and would create 65 different policies. Washington is nowhere near solar adoption rates necessary to see cost shift effects, and utilities have not provided any data thus far that shows evidence of a cost shift occurring. Some studies have shown that retail net metering provides grid benefits up to a 10 percent adoption rate, and Washington currently is not even yet at 1 percent solar adoption. The current system size cap of 100 kilowatts does not align with the state's clean energy and climate goals, as it is

small, making it difficult to meet customer needs at an economy of scale. Washington has a history of ignoring tribal voices, and net metering is the first step towards an equitable and just transition to a clean energy future. Net metering is fundamentally an environmental issue, as climate change threatens Washington's natural resources, and the state needs to reduce its carbon footprint.

(Opposed) Solar is important and there is support for the creation of a work group to study the future of net metering, but there is also concern about this bill extending current net metering mechanisms which negatively impact non-net metering customers. Under current net metering, there is cost shifting to lower income customers without solar, advantaging some over others. Raising the maximum solar energy system size under net metering to two megawatts is also a concern, as utilities typically buy electricity from systems of this size at the wholesale energy rate which is lower than the retail rate under net metering. It is too early to push this expansion of retail net metering, as this bill amends the previous net metering bill passed only four years ago. The cost shift analysis included in the bill should be completed before current retail net metering mechanisms are extended.

(Other) The bill's provisions for solar consumer protections and the cost shift study are positive, but there is no urgency to raise the capacity limit for retail net metering. Waiting would have little to no impact, as only three utilities have passed the current 4 percent capacity limit. There is support for the consumer protection and cost shift study aspects of the bill, but there are concerns with the extension of retail net metering and expansion of maximum project system sizes. The bill as currently written would negatively impact low-income customers, particularly in hard-to-reach rural areas, due to cost shifting. The current rules outlining the end of retail net metering were already a compromise with the solar industry, and net billing is the new model being moved towards across the country.

**Persons Testifying:** (In support) Representative Sharlett Mena, prime sponsor; Markus Virta, Washington Solar Energy Industries Association; Kristy Royce, Sun Path Electric; Charlee Thompson, Northwest Energy Coalition; Rebecca Sayre, InfinitiRED; John Seng, Spark Northwest; Eric Blatz, Western Solar; Radha Iyer and Owen Johnson, University of Washington Solar; Gavin Tenold, Northwest Renewables; Naghmana Sherazi, The Lands Council; Jeremy Smithson, Puget Sound Solar; Jerry White Jr., Spokane Riverkeeper; and Mason Rolph, Olympia Community Solar.

(Opposed) Peter Godlewski, Association of Washington Business; John Rothlin, Avista; and Kathleen Collins, PacifiCorp.

(Other) Cassie Bordelon, Puget Sound Energy; Nicolas Garcia, Washington Public Utility Districts Association; Marian Dacca, Snohomish County Public Utility District; and Paul Griffin, Washington Rural Electric Cooperative Association.

**Persons Signed In To Testify But Not Testifying:** None.