

Massachusetts General Laws

Chapter 164: MANUFACTURE AND SALE OF GAS AND ELECTRICITY

Current as of October 2020

Mass. Gen. Laws Ann. ch. 164, §§ 138-139

Section 138: Definitions

As used in this section and sections 139 and 140, the following words shall, unless the context otherwise requires, have the following meanings:—

"Agricultural net metering facility", a renewable energy generating facility operated as part of an agricultural business that generates electricity that does not have a generation capacity of more than 2 megawatts and is located on land owned or controlled by the agricultural business and is used to provide energy to metered accounts of the business.

"Agriculture", the same meaning as provided in section 1A of chapter 128; provided, however, that when necessary, the commissioner of agricultural resources shall determine if a business is an agricultural business.

"Anaerobic digestion net metering facility", a facility that (1) generates electricity from a biogas produced by the accelerated biodegradation of organic materials under controlled anaerobic conditions; and (2) has been determined by the department of energy resources, in coordination with the department of environmental protection, to qualify under the department of energy resources regulations as a Class I renewable energy generating source under section 11F of chapter 25A.

"Class I net metering credit", a credit equal to the excess kilowatt-hours by time of use billing period, if applicable, multiplied by the sum of the distribution company's: (i) default service kilowatt-hour charge in the ISO–NE load zone where the customer is located; (ii) distribution kilowatt-hour charge; (iii) transmission kilowatt-hour charge; and (iv) transition kilowatt-hour charge; provided, however, that this shall not include the demand side management and renewable energy kilowatt-hour charges set forth in sections 19 and 20 of chapter 25; and provided further, that credit for a Class I net metering facility that is not an agricultural net metering facility or that is not using solar, anaerobic digestion or wind as its energy source shall be the average monthly clearing price at the ISO–NE.

"Class I net metering facility", a plant or equipment that is used to produce, manufacture or otherwise generate electricity and that is not a transmission facility and that has a design capacity of 60 kilowatts or less.

"Class II net metering credit", a credit equal to the excess kilowatt-hours by time of use billing period, if applicable, multiplied by the sum of the distribution company's: (i) default service kilowatt-hour charge in the ISO–NE load zone where the customer is located; (ii) distribution kilowatt-hour charge; (iii) transmission kilowatt-hour charge; and (iv) transition kilowatt-hour charge; provided, however, that this shall not include the demand side management and renewable energy kilowatt-hour charges set forth in sections 19 and 20 of chapter 25.

"Class II net metering facility", an agricultural net metering facility, an anaerobic digestion net metering facility, solar net metering facility, or wind net metering facility with a generating capacity of more than 60 kilowatts but less than or equal to 1 megawatt; provided, however, that a Class II net metering facility of a municipality or other governmental entity may have a generating capacity of more than 60 kilowatts but less than or equal to 1 megawatt per unit.

"Class III net metering credit", a credit equal to the excess kilowatt-hours by time of use billing period, if applicable, multiplied by the sum of the distribution company's: (i) default service kilowatt-hour charge in the ISO-NE load zone where the customer is located; (ii) transmission kilowatt-hour charge; and (iii) transition kilowatt-hour charge; provided, however, that for a Class III net metering facility of a municipality or other governmental entity, the credit shall be equal to the excess kilowatt-hours multiplied by the sum of (i), (ii) and (iii) and the distribution kilowatt-hour charge; and provided further, that this shall not include the demand side management and renewable energy kilowatt-hour charges set forth in sections 19 and 20 of chapter 25.

"Class III net metering facility", an agricultural net metering facility, an anaerobic digestion net metering facility, solar net metering facility, or wind-net-metering facility with a generating capacity of more than 1 megawatt but less than or equal to 2 megawatts; provided, however, that a Class III net metering facility of a municipality or other governmental entity may have a generating capacity of more than 1 megawatt but less than or equal to 2 megawatts per solar net metering, anaerobic digestion net metering or wind net metering unit.

"Customer", a customer of a distribution company that is entitled to the net metering credits, including net metering facilities.

"Market net metering credit", (i) a credit equal to 60 per cent of the excess kilowatt-hours by time of use billing period, if applicable, multiplied by the sum of the distribution company's: (a) default service kilowatt-hour charge in the ISO-NE load zone where the customer is located; (b) distribution kilowatt-hour charge; (c) transmission kilowatt-hour charge; and (d) transition kilowatt-hour charge; provided, however, this shall not include the demand side management and renewable energy kilowatt-hour charges set forth in sections 19 and 20 of chapter 25; or (ii) for net metering facilities of a municipality or other governmental entity, a credit equal to the excess kilowatt-hours by time of use billing period, if applicable, multiplied by the sum of the distribution company's: (a) default service kilowatt-hour charge in the ISO-NE load zone where the customer is located; (b) distribution kilowatt-hour charge; (c) transmission kilowatt-hour charge; and (d) transition kilowatt-hour charge; provided, however, that this shall not include the demand side management and renewable energy kilowatt-hour charges set forth in said sections 19 and 20 of said chapter 25; and, provided further, that credits shall only be allocated to an account of a municipality or government entity.

"Neighborhood", a geographic area including and limited to a unique community of interests that is recognized as such by residents of such area and which, in addition to residential and undeveloped properties, may encompass commercial properties.

"Neighborhood net metering credit", a credit equal to the excess kilowatt-hours by time of use billing period, if applicable, multiplied by the sum of the distribution company's: (i) default service kilowatt-hour charge in the ISO-NE load zone where the customer is located; (ii) transmission kilowatt-hour charge; and (iii) transition kilowatt-hour charge; provided, however, that this shall not include the demand side management and renewable energy kilowatt-hour charges set forth in sections 19 and 20 of chapter 25.

"Neighborhood net metering facility", a Class I, II or III net metering facility that: (i) is owned by, or serves the energy needs of, a group of 10 or more residential customers that resides in a single neighborhood and is served by a single distribution company; and (ii) is located within the same neighborhood as the customers that own or are served by the facility.

"Net metering", the process of measuring the difference between electricity delivered by a distribution company and electricity generated by a Class I, Class II, Class III or neighborhood net metering facility and fed back to the distribution company.

"Net metering facility of a municipality or other governmental entity", a Class II or III net metering facility: (1) that is owned or operated by a municipality or other governmental entity; or (2) of which the municipality or other governmental entity is assigned 100 per cent of the output.

"Renewable energy", energy generated from any source that qualifies as a Class I or Class II renewable energy generating source under section 11F of chapter 25A; provided, however, that after conducting administrative proceedings, the department of energy resources, in consultation with the department of agriculture, may add technologies or technology categories.

"Solar net metering facility", a facility for the production of electrical energy that uses sunlight to generate electricity and is interconnected to a distribution company.

"Wind net metering facility", a facility for the production of electrical energy that uses wind to generate electricity and is interconnected to a distribution company.

Section 139: Class I, II or III net metering facilities; election of net metering; tariffs; limitation on aggregate capacity; rules and regulations

(a) A distribution company customer that uses electricity generated by a Class I or Class II net metering facility may elect net metering as follows:

(1) If the electricity generated by the Class I or Class II net metering facility during a billing period exceeds the customer's kilowatt-hour usage during the billing period, the customer shall be billed for 0 kilowatt-hour usage and the excess Class I or Class II net metering credits shall be credited to the customer's account. Credits may be carried forward from month to month. A Class I or Class II net metering facility may designate customers of the same distribution company to which the Class I or Class II net metering facility is interconnected and that are located in the same ISO-NE load zone to receive such credits in amounts attributed by the Class I or Class II net metering facility. Written notice of the identities of the customers so designated and the amounts of the credits to be attributed to such customers shall be in a form as the distribution company shall reasonably require.

(2) If the customer's kilowatt-hour usage exceeds the electricity generated by the Class I or Class II net metering facility during the billing period, the customer shall be responsible for the balance at the distribution company's applicable rate.

(b) A distribution company customer that uses electricity generated by a Class III net metering facility may elect net metering as follows:

(1) If the electricity generated by the Class III net metering facility during a billing period exceeds the customer's kilowatt-hour usage during the billing period, the customer shall be billed for 0 kilowatt-hour usage and the excess Class III net metering credits shall be credited to the customer's account. Credits may be carried forward from month to month. A Class III net metering facility may designate customers of the same distribution company to which the Class III net metering facility is interconnected and that are located in the same ISO-NE load zone to receive such credits in amounts attributed to such customers by the Class III net metering facility. Written notice of the identities of the customers so designated and the amounts of the credits to be attributed to such customers shall be in a form as the

distribution company shall reasonably require. A distribution company may elect not to allocate such credits and instead may purchase net metering credits from the facility at the rates provided for in this subsection.

(2) If the customer's kilowatt-hour usage exceeds the electricity generated by the Class III net metering facility during the billing period, the customer shall be responsible for the balance at the distribution company's applicable rate.

(b1/2) Upon a determination by the department of energy resources that the aggregate nameplate capacity of solar net metering facilities qualified under subsection (g) of section 11F of chapter 25A, is equal to or greater than 1,600 megawatts direct current, the department shall certify the date that capacity has been reached and provide a date of notification after which all new Class I, Class II and Class III solar net metering facilities shall generate market net metering credits only. A distribution company customer that uses electricity generated by a solar net metering facility that generates market net metering credits may elect net metering as follows:

(1) If the electricity generated by the solar net metering facility under this subsection during a billing period exceeds the customer's kilowatt-hour usage during the billing period, the customer shall be billed for 0 kilowatt-hour usage and the excess market net metering credits shall be credited to the customer's account. Credits may be carried forward from month to month. A solar net metering facility may designate customers of the same distribution company to which the solar net metering facility is interconnected and that are located in the same ISO–NE load zone to receive such credits in amounts attributed by the solar net metering facility. Written notice of the identities of the customers so designated and the amounts of the credits to be attributed to those customers shall be in such a form as the distribution company shall reasonably require.

(2) If the customer's kilowatt-hour usage exceeds the electricity generated by the solar net metering facility during the billing period, the customer shall be responsible for the balance at the distribution company's applicable rate.

(c) The distribution portion of any Class I, Class II or Class III net metering credits and distribution company delivery charges displaced by a Class I, Class II or Class III net metering facility shall be aggregated by the distribution company and billed to all customers on an annual basis through a uniform per kilowatt-hour surcharge or surcharges.

[First paragraph of subsection (d) applicable as provided by 2018, 227, Sec. 24.]

(d) The distribution company shall impose tariffs, as may be approved from time to time by the department, regarding necessary interconnection studies and the type, costs and timeframe for installing metering and distribution system upgrades to accommodate these installations. Such tariffs shall require that all facilities maintain adequate insurance. Distribution companies shall be prohibited from imposing special fees on Class I net metering facilities, such as backup charges and demand charges, including demand charges as part of a monthly minimum reliability contribution except as authorized under subsection (j), or additional controls or liability insurance, as long as the facility meets the other requirements of the interconnection tariff and all relevant safety and power quality standards.

Before providing net metering service under this section, a Class II or III net metering facility shall provide all necessary information to, and cooperate with, the distribution utility to which it is interconnected to enable the distribution utility to obtain the appropriate asset identification for reporting generation to ISO–NE.

(e) A Class I, II or III net metering facility or net metering customer shall not be: an electric utility, generation company, aggregator, supplier, energy marketer or energy broker, within the meaning of those terms as defined in sections 1 and 1F.

(f) The aggregate net metering capacity of facilities that are not net metering facilities of a municipality or other governmental entity shall not exceed 7 per cent of the distribution company's peak load. The aggregate net metering capacity of net metering facilities of a municipality or other governmental entity shall not exceed 8 per cent of the distribution company's peak load. The maximum amount of generating capacity eligible for net metering by a municipality or other governmental entity shall be 10 megawatts. For the purpose of calculating the aggregate capacity, the capacity of a solar net metering facility shall be 80 per cent of the facility's direct current rating at standard test conditions and the capacity of a wind net metering facility or an anaerobic digestion net metering facility shall be the nameplate rating.

(g) The department shall adopt rules and regulations necessary to carry out this section, including adoption of a system that provides proposed net metering facilities of a municipality or other governmental entity an assurance of net metering eligibility at the time the facilities meet criteria established by the department. Nothing in this subsection shall limit the department's authority to adopt rules and regulations relating to other proposed net metering facilities.

(h) A municipality or other governmental entity that is a member of a cooperative corporation, organized under section 136, that is comprised solely of municipalities or other governmental entities, may transfer any or all of the net metering generating capacity associated with a facility, or facilities, as specified in subsection (f) to said cooperative corporation by providing written assent to the cooperative corporation and obtaining approval from the department. Such a cooperative corporation may serve as a host customer, as defined in 220 CMR 18.02, for net metering facilities of municipalities or other governmental entities for all such allocated capacity and its own allocation of capacity as an other governmental entity; provided, that the net metering credits for which such cooperative serves as host customer shall only be allocated to such cooperative or its members. Such cooperative shall not be considered an electric company, generation company, aggregator, supplier, energy marketer or energy broker, as those terms are defined in sections 1 and 1F.

(i) A Class I net metering facility shall be exempt from subsections (b1/2) and (k) and from the aggregate net metering capacity of facilities that are not net metering facilities of a municipality or other governmental entity under subsection (f), and may net meter and accrue Class I net metering credits if it is generating renewable energy and the nameplate capacity of the facility is (1) equal to or less than 10 kilowatts on a single-phase circuit or (2) 25 kilowatts on a 3-phase circuit.

[First paragraph of subsection (j) applicable as provided by 2018, 227, Sec. 24.]

(j) Distribution companies may submit to the department proposals for a monthly minimum reliability contribution to be included on electric bills for distribution utility accounts that receive Class I, Class II, Class III, or market net metering credits pursuant to this section, subject to the review and approval of the department. Any such minimum contributions shall ensure that all distribution company customers contribute to the fixed costs of ensuring the reliability, proper maintenance and safety of the electric distribution system; provided, however, that a distribution company may assess a demand charge if it is based on system peak demand during the hours of a day determined to be peak hours of system demand and if the distribution company regularly informs affected customers of the manner in which demand charges are assessed and of ways in which said customers might manage and reduce demand. Proposals shall be filed with the department in: (i) the distribution company's base distribution rate

proceeding; or (ii) a revenue neutral rate design filing that is supported by appropriate cost of service data across all rate classes. The department may approve a monthly minimum reliability contribution that: (i) equitably allocates the fixed costs of the electric distribution system not caused by volumetric consumption; (ii) does not excessively burden ratepayers; (iii) does not unreasonably inhibit the development of Class I, Class II, Class III facilities; and (iv) is dedicated to offsetting reasonably and prudently incurred costs necessary to maintain the reliability, proper maintenance and safety of the electric distribution system.

The department may only approve a proposal for a monthly minimum reliability contribution after the aggregate nameplate capacity of installed solar generating facilities in the commonwealth is equal to or greater than 1,600 megawatts. The department shall conduct a full adjudicatory proceeding when reviewing proposals for a monthly minimum reliability contribution, which shall include at least 1 public hearing and an opportunity for public comment.

[Third paragraph of subsection (j) applicable as provided by 2018, 227, Sec. 24.]

The department may exempt or modify any monthly minimum reliability contribution for low-income ratepayers. The department may also exempt, for any period through the year 2020, any class or subclass of Class I, Class II, or Class III net metering facilities that were in service not later than December 31, 2016 from any minimum reliability contribution. Minimum monthly reliability contributions shall take effect on such date designated by the department. The department may approve changes to the monthly minimum reliability contributions for individual electric distribution companies in any future base distribution rate proceeding, consistent with this section.

(k) A Class I, Class II or Class III solar net metering facility, as defined in section 138 and this section, shall continue to receive Class I, Class II or Class III net metering credits as otherwise provided by this section if such facility is determined to be so eligible prior to the date of notification as determined pursuant to subsection (b1/2), that the aggregate nameplate capacity of solar generating capacity in the commonwealth is equal to or greater than 1,600 megawatts; provided, however, that 25 years from the date upon which the Class I, Class II or Class III solar net metering facility was authorized to interconnect to the distribution system by a distribution company, the facility shall receive market net metering credits.