

(S. B. 1064)

(No. 10-2024)

(Approved January 10, 2024)

AN ACT

To amend Sections 4 and 9 of Act No. 114-2007, as amended, known as the “Electric Power Authority Net Metering Program,” to reformulate the time period for conducting a study on net metering and distributed energy; and for other related purposes.

STATEMENT OF MOTIVES

Act No. 17-2019, as amended, known as the “Puerto Rico Energy Public Policy Act,” set forth a public policy to establish the parameters for a resilient, reliable, and robust energy system with just and reasonable rates for all classes of customers. Furthermore, the net metering program was created by virtue of Act No. 114-2007, to incentivize residential and commercial customers to install photovoltaic systems. Through the net metering program, customers would receive a compensation for any unused excess energy generated by their equipment in the form of a credit, hence, they would only pay for the net energy used from the Electric Power Authority (hereinafter, “PREPA”) or the Electric Power Company (hereinafter, “EPC”).

The quarterly reports that LUMA is required to file with the Energy Bureau show that, in recent years, solar energy generation has reached over 370 MW, and over 2,000 new systems are connected to the electrical grid each month. These systems have the potential to contribute around 52,000 GWh monthly. This trend shows the great importance and value that our people place on solar power generation, particularly at a time when we have a weak, unreliable, and poorly operated electrical grid.

Rooftop solar power generation renders tens of thousands of consumers resilient and self-sufficient, as well as contributes to reducing public spending on account of the purchase of imported fossil fuels, the cost of which is contingent on supply and demand fluctuations and stock market speculation. This reduction in the purchase of fossil fuels also translates into economic benefits for various classes of consumers who still depend on the generation system operated by PREPA, AES, and Ecoeléctrica, and the transmission and distribution system currently operated by LUMA Energy (hereinafter, “LUMA”).

For the various classes of consumers (citizens, businesses, NGOs, and companies, among others) that are able to invest in photovoltaic systems, such systems have become a feasible and essential alternative to mitigate instability issues as well as offset the high costs of an electric power system that relies on fossil fuel-based generation. For people with chronic illnesses who depend on medical equipment to manage such illnesses and maintain their quality of life, backup energy systems powered by solar panels connected to a battery could literally save their lives.

In its Puerto Rico Distributed Energy Resource Integration Study, the organization CAMBIO, in collaboration with the Institute for Energy Economics and Financial Analysis (IEEFA) used modeling to show the feasibility of Puerto Rico generating 75% of its electricity from distributed energy resources within 15 years, and that such a transformation would render the system more resilient, reliable, and affordable. This modeling also shows that no operational changes or grid improvements would be necessary to maintain the system’s reliability until at least 25% of the energy consumed on the Island is generated by distributed energy resources.

Net metering is key for consumers to have the right to avail themselves of clean and local energy and be self-sufficient while also benefiting the electrical grid.

The rapid growth of rooftop solar power systems in recent years is consistent with our public policy on energy. Unfortunately, this growth has been mostly driven by the energy needs of the various classes of consumers due to the instability and high cost of our energy system as well as the compensation incentive granted to prosumers through the net metering program. The net metering program plays a key role in the implementation of the public policy objectives established in Act No. 17-2019, including “to facilitate the interconnection of distributed generation to the electric power grid” and “to make it feasible for energy service consumers to become prosumers.” There are currently no other incentives available to the various groups of consumers who choose to install solar power systems.

It should be very clear that reducing the credit prosumers receive for the energy generated by their systems could be interpreted as another effort to “tax the sun,” which has been and must be rejected outright. This type of tax would contribute to the deterioration of a market that is struggling to grow and would delay the economic recovery of the Island.

This Legislative Assembly promotes the ongoing development of policies that evaluate and implement different renewable energy alternatives. Hence, any efforts to undermine the net metering system would be counterproductive for the island. There are too many factors that affect the deficient electric power system offered by the Government, and the reliability of the electrical grid has worsened since LUMA was contracted. Thus, basically, the only alternative available for the various groups of consumers is to install solar power systems with or without battery storage systems. Therefore, it would be very unfair to hinder their capacity to install solar power systems at a time when the system is highly unstable, and fuel prices are high, among others.

It is our responsibility to promote the transformation of our electric power system and promote any initiatives seeking to prevent: excessive fossil fuel

dependence, environmental pollution, and worsening the effects of climate change effects. Every day, more and more jurisdictions are moving towards energy generation through renewable sources, and thus, more programs are being created to incentivize this change. For such reason, it is essential to promote the reconstruction and modernization of our electrical grid as well as to use the federal funds allocated for such purposes correctly. In view of this, it is necessary to ensure that a substantial portion of these federal funds is used to increase the capacity of the electrical grid through renewable energy generation systems and to interconnect them to the transmission and distribution network, without this entailing an increase in costs for consumers or the implementation of new taxes.

Consistent with the foregoing, this Legislative Assembly deems it convenient to amend Act No. 114-2007, as amended, to conform the letter of the law to the legislative intent of providing customers who install solar power systems with fair compensation for the energy they contribute to the grid.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:

Section 1.- Section 4 of Act No. 114-2007, as amended, known as the “Electric Power Authority Net Metering Program,” is hereby amended to read as follows:

“Section 4.- Applicable Rate.

a) Study on Net Metering and Distributed Energy.- The Energy Bureau is hereby directed to conduct a study, through an independent formal process and with the participation of interested parties and the general public, whereby it shall evaluate and consider the costs and benefits associated with: (1) the net metering program, (2) distributed generation technologies, (3) small-scale solar energy projects, and (4) energy storage systems. Said study shall not begin before January 2030, but shall be subject to public comment and take into account the following factors: the costs of energy generation, the capacity value, the transmission and

distribution costs, the system losses prevented, and the environmental compliance costs avoided, among other factors deemed relevant and appropriate by the Bureau. Upon concluding said study, the Bureau may issue any determination concerning the net metering program while taking into account the results of such study; provided, that the current policy on net metering continues for the duration of the study, and for a period of not less than (12) months after the Energy Bureau makes any decision to change the policy on net metering. Once the results of the study have been integrated into the program or the net metering rate, the study shall remain in effect for not less than three (3) years and until the Bureau, *motu proprio* or at the request of a party, determines it is appropriate to initiate a formal study review process.

b) Determination on Applicable Rate.- If the Energy Bureau chooses to establish the new values for distributed energy and energy storage systems in accordance with the study described in the preceding subsection, the credit for energy exported by net metering customers shall be equal to the value of such energy according to the customer's applicable rate, and any charges applicable to net metering customers shall be based on their net consumption for a period of not less than (12) additional months before the Energy Bureau applies any changes to said values. The rate applicable to net metering customers, including the rate or mechanisms through which customers shall be compensated for the energy they supply to the electric power grid, shall be determined exclusively by the Energy Bureau as part of the electric power service rate review process provided in Act No. 57-2014, or through a separate administrative process when deemed necessary or convenient. Any determination regarding the net metering program shall take effect within the period provided by the Bureau. Any customer that, on the date in which the Bureau issues its final determination, has a net metering contract or has notified the Bureau about the certification of the distributed generator installed by a professional engineer or expert electrician, both members of their professional

associations and admitted to the practice of their profession, shall be automatically grandfathered as a net metering customer under the rate in effect before the Bureau's final determination. In such cases, the net metering customer shall have the right to the rate or compensation mechanism in effect at the time for a term of not less than twenty (20) years as of the execution of the net metering contract. However, the net metering customer shall be entitled and may opt to avail himself of the new rate or compensation mechanism approved by the Bureau.

c) ...
...”

Section 2.- Subsection (c) of Section 4 of Act No. 114-2007, as amended, known as the “Electric Power Authority Net Metering Program,” is hereby amended to read as follows:

“Section 9.- Public Policy on Interconnection

...

a) ...

b) ...

c) The fact that the feeder exceeds its capacity shall not constitute an obstacle for the interconnection of photovoltaic or renewable energy systems with a generation capacity that does not exceed 25 kilowatts. In such cases, the necessary improvements and/or changes to be made to the feeder shall be defrayed by the requesting company.

d) ...
...”

Section 3.- Compliance Clause

The Energy Bureau is hereby empowered to approve or amend regulations as are necessary to achieve the purposes of this Act.

Section 4.- Severability

If any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be void or unconstitutional, the ruling, holding, or judgment to such effect shall not affect, impair, or invalidate the remainder of this Act. The effect of said holding shall be limited to the clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act thus held to be void or unconstitutional. If the application to a person or a circumstance of any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, heading, or part of this Act were held to be null or unconstitutional, the ruling, holding, or judgment to such effect shall not affect or invalidate the application of the remainder of this Act to such persons or circumstances where it may be validly applied. It is the express and unequivocal will of this Legislative Assembly that the courts enforce the provisions and application thereof to the greatest extent possible, even if it renders ineffective, voids, invalidates, impairs, or holds to be unconstitutional any part thereof, or even if it renders ineffective, invalidates, or holds to be unconstitutional the application thereof to any person or circumstance. This Legislative Assembly would have approved this Act regardless of any determination of severability that the Court may make.

Section 5.- Effectiveness

This Act shall take effect upon its approval.

CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 10-2024 (S. B. 1064)** of the **6th Regular Session** of the **19th Legislative Assembly of Puerto Rico**:

AN ACT to amend Sections 4 and 9 of Act No. 114-2007, as amended, known as the “Electric Power Authority Net Metering Program,” to reformulate the time period for conducting a study on net metering and distributed energy; and for other related purposes.

has been translated from Spanish to English and that the English version is correct.

In San Juan, Puerto Rico, on this 25th day of September, 2024.

Jonathan E. Pérez Cora, Esq.
Director