

(S. B. 2472)

**(No. 103-2012)**

(Approved June 2, 2012)

## **AN ACT**

To amend Sections 2, 5, and 7 of Act No. 114-2007, as amended, for the purpose of increasing the qualifying generating capacity up to five megawatts (5MW) for commercial and industrial customers that are interconnected to the Electric Power Authority subtransmission and transmission system; temper the Act with the current name of the Energy Affairs Administration; and for other related purposes.

### **STATEMENT OF MOTIVES**

The price of oil has increased significantly since the beginning of the 21<sup>st</sup> century. A barrel of oil, which cost a little over thirty dollars (\$30) in the year 2000, went up to one hundred thirty dollars (\$130) by 2011. This caused an exorbitant price hike for some essential goods such as gasoline and electric power.

Aware of this situation, during the past electoral process we presented to the People of Puerto Rico our vision to improve energy production in our Island. In this sense, we stated that we would make Puerto Rico independent from fossil fuels by specifically promoting the generation of electric power through clean development mechanisms that lead to a lower dependence on the aforementioned fuels.

Our commitment to the People of Puerto Rico was incorporated into Act No. 82-2010 and Act No. 83-2010. The former, known as the “Public Policy on Energy Diversification by Means of Sustainable and Alternative Renewable Energy in Puerto Rico Act,” has the purpose of establishing the rules to promote the generation of renewable energy pursuant to short-, medium-, and long-term mandatory goals known as Renewable Portfolio Standards. Thus, a series of incentives, which are included in Act No. 83-2010, known as the “Green Energy

Incentives Act of Puerto Rico,” were established. Act No. 83-2003 sets forth measures aimed at fostering the development of sustainable energy systems that further energy use savings and efficiency.

Likewise, on December 11, 2011, seven (7) legislative measures whose purpose was reducing the cost of electric power were enacted into law. These measures became Acts No. 233, 234, 235, 236, 237, 238, and 239. These new Acts are part of our effort to lower the electricity bill of PREPA customers by fifteen percent (15%) to twenty percent (20%).

In addition to the measures taken to improve the production of renewable energy and to reduce energy costs, we also evaluated existing measures when we took the reins of the government. Among the initiatives taken was the Net Metering Program which was established through Act No. 114-2007, as amended. This initiative allows interconnection to PREPA’s electric transmission and distribution system, and electricity feedback for customers who have installed solar electric equipment, a windmill, or any other source of renewable energy capable of producing electric power. Customers who participate in this program may receive credits in the bills for the electricity generated by such equipment, and compensation for the excess power generated by the same which is purchased by PREPA.

Notwithstanding the good intentions of this program, four (4) years after its promulgation we recognize the need to amend its enabling Act for the purpose of tempering it with the realities of the commercial and industrial customers who are connected to subtransmission and transmission voltages. Most of these customers, whose energy demand exceeds that which one megawatt (1MW) projects can produce, have no incentive to install renewable or alternative energy systems because the law does not allow them to participate in the current net metering program, if the project exceeds one megawatt (1MW).

This Act increases the amount of energy that can be generated by customers participating in the Net Metering Program for the purpose of promoting an increase in the number of residential and commercial customers participating in said program. The consequences of an increase in the number of participants of said program are the following:

- a reduction of oil dependence for the production of electric power;
- lower electricity bills for program participants; and
- a reduction of energy costs for PREPA.

As stated above, the main effect of this Act is that PREPA shall have more renewable energy providers to purchase power from at a reasonable price; thus decreasing the price of electric power for all customers. Therefore, this measure shall help reducing energy costs even more improving our economy and reducing the people's financial burden.

***BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:***

Section 1.- Section 2 of Act No. 114-2007, as amended, is hereby amended to read as follows:

“Section 2.- Eligibility

To be eligible for this benefit, the solar electric equipment, windmill, or other source of sustainable or alternative renewable energy, as such terms are defined in Act No. 83-2010, must meet all the requirements established in the Federal legislation and regulations applicable to net metering programs that allow for interconnection to the electric power grid. Unless otherwise provided, or unless another requirement is specifically imposed through the applicable Federal legislation or regulations to expressly prevent state legislation, every solar electric equipment, windmill, or other source of sustainable or alternative renewable energy, as defined in Act No. 83, *supra*, must meet the following requirements:

a) Have a generating capacity of not more than twenty-five kilowatts (25kW) for residential customers and one megawatt (1MW) for commercial, governmental, industrial or agricultural customers, or educational institutions or medical-hospital facilities connected to distribution voltages (up to 13.2kW), and five megawatts (5MW) for commercial, governmental, industrial, or agricultural customers, or educational institutions or medical-hospital facilities connected to subtransmission or transmission voltages ( 38kW or 115kW);

b) Be electrically connected after the customer's meter.

c) ...

d) Comply with the standards and specifications on minimum requirements of efficiency established by the Energy Affairs Administration or the government body designated for such purpose.

e) Be installed by a person certified by the North American Board of Certified Energy Practitioners, and registered with the Energy Affairs Administration. Windmills with a generating capacity greater than twenty-five kilowatts (25W), shall be installed under the supervision of an Engineer registered with the Energy Affairs Administration;

...

i) All installations shall meet the interconnection and operation requirements set forth in the regulations of the Electric Power Authority. Failure to comply with these requirements may result in a suspension from the Net Metering Program. However, the Electric Power Authority shall not suspend or cancel any Net Metering Program agreement in a capricious manner, or suspend or cancel any Net Metering Program agreement for installations that at all times meet the interconnection and operation requirements set forth in the regulations of the Electric Power Authority in effect at the time of the execution of the Net Metering agreement, nor impair contractual obligations.”

Section 2.- Subsection (c) is hereby amended and a new subsection (f) is hereby added to Section 5 of Act No. 114-2007, as amended, to read as follows:

“Section 5.- Energy Metering

Except as otherwise expressly and specifically directed by applicable federal laws or regulations in effect, the metering and accreditation process shall be as follows:

- a) ...
- b) ...
- c) In those cases in which a customer feeds back to the Electric Power Authority more electricity than it supplied to the customer during a billing cycle, the Electric Power Authority may charge the customer a minimum monthly service fee not greater than that which it charges other regular customers who do not consume electricity during a billing cycle. However, this public corporation shall be required to credit the feedback customer for the excess kilowatt-hours generated during the billing cycle up to a daily maximum of three hundred kilowatt-hours (300kWh) for residential customers and ten megawatt-hours (10MWh) for customers connected to distribution voltages, and fifty megawatt-hours (50MW) for customers connected to subtransmission or transmission voltages.
- d) ...
- e) ...
- f) If an agreement in accordance with this Act is not reached by the parties within the non-extendable term of one hundred twenty (120) days from the date a net metering application was submitted to the Electric Power Authority, or in those cases in which the Authority must disconnect a renewable energy source under the Net Metering Program due to technical or security reasons, any of the parties may request the Energy Affairs Administration to appoint an arbitrator to resolve the controversy between the parties. The Energy Affairs Administration is

hereby empowered to impose the necessary fees to cover the expenses of the arbitration mechanism.”

Section 3.- Section 7 of Act No. 114-2007, as amended, is hereby amended to read as follows:

“Section 7.- Rulemaking Authority and Education.-

The Electric Power Authority and the Energy Affairs Administration are hereby authorized to adopt the necessary regulations for the faithful compliance with this Act. Likewise, they shall also regularly develop and implement educational campaigns directed to informing consumers of the benefits of net metering and of the different technologies available in the market for the generation of energy from renewable sources.

...”

Section 4.- The Electric Power Authority and the Energy Affairs Administration are hereby authorized to promulgate the necessary amendments to the Regulations to ensure the faithful compliance with this Act. These amendments shall be promulgated not later than ninety (90) days after the approval of this Act. Provided, that the Energy Affairs Administration may use the income, funds, appropriations, or any other source, regardless of its nature, to implement its regulations.”

Section 5.- If any clause, paragraph, subparagraph, article, provision, section, or part thereof were held to be null or unconstitutional, said holding shall not affect, impair, or invalidate the remaining provisions of this Act. The effect of such holding shall be limited to the clause, paragraph, subparagraph, article, provision, section, or part thereof thus held to be unconstitutional.

Section 6.- Effectiveness

This Act shall take effect immediately after its approval.

## CERTIFICATION

I hereby certify to the Secretary of State that the following **Act No. 103-2012 (S. B. 2472)** of the **7<sup>th</sup> Regular Session** of the **16<sup>th</sup> Legislative Assembly of Puerto Rico**:

**AN ACT** to amend Sections 2, 5, and 7 of Act No. 114-2007, as amended, for the purpose of increasing the qualifying generating capacity up to five megawatts (5MW) for commercial and industrial customers that are interconnected to the Electric Power Authority subtransmission and transmission system; temper the Act with the current name of the Energy Affairs Administration; 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 10<sup>th</sup> day of June, 2016.

Juan Luis Martínez Martínez  
Director