Puerto Rico Net Metering Program Act

Act No. 114 of August 16, 2007, as amended

(Contains amendments incorporated by:
Act No. 211 of August 9, 2008
Act No. 103 of June 2, 2012
Act No. 108 of September 9, 2013
Act No. 57 of May 27, 2014
Act No. 4 of February 16, 2016
Act No. 133 of August 5, 2016
Act. No. 17 of April 11, 2019
Act No. 33 of May 22, 2019)

To direct and authorize the Electric Power Authority to establish a net metering program allowing interconnection to its 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 energy; to grant credits in the bills for the electricity generated by this equipment and compensate the unused excess energy generated by the same; and for other purposes.

STATEMENT OF MOTIVES

The excessive dependency on fossil fuels to generate electricity and their ensuing environmental pollution, high costs in electricity bills, questionable charges in the matter of fuel costs and the purchase of energy, frequent interruptions in the electrical service caused by greater power demand opposite a stagnant generation capacity, and the absence of efficient preventive maintenance in the electrical system of the Island, leave little hope for relief in energy costs for the people of Puerto Rico. It is for this reason that we must resort to new options to provide solutions to our energy problems that adjust to our geographic and climactic realities. It is necessary to stimulate energy production through renewable sources such as the sun and the wind. A way to make investments in solar and wind energy systems attractive is through the establishment of a program requiring interconnection and net metering of the Puerto Rico Electric Power Authority (PREPA) with those customers that install solar electric equipment, windmills or other sources of renewable energy.

At present, forty states and the District of Columbia of the United States of America, as well as some areas of other countries such as Canada, Japan and Germany, offer alternative net metering programs. Three reasons are indicated for establishing such programs in these countries. First, customers instantly receive an economic benefit for the electricity produced by consuming this energy or eventually by means of a credit or payment for the excess feedback to the electricity company. Second, net metering reduces customer costs by eliminating the need for a second meter. Third, net metering provides a simple, inexpensive, and easily administered mechanism for
encouraging the use of solar electric equipment and windmills which at the same time benefit the environment and the economy in general.

Net metering is an essential incentive for investment in equipment that generates electricity using sources of renewable energy. This is obtained by means of the interconnection of PREPA’s system of transmission and distribution and the solar and wind energy system installed by the customer. Net metering enables customers to use the electricity generated by their solar electric equipment, windmills or other source of renewable energy to offset the consumption of electricity provided by PREPA by means of a single meter that registers the flow of electricity in the opposite direction when it generates electricity in excess of the demand.

Net metering translates into benefits for the customer because it promotes the use of clean and inexpensive energy, and the customer receives compensation for the excess electricity generated and only pays for the net electricity supplied by PREPA. It is also an encouragement to save energy because the greater the amount of excess energy generated and not used, the greater the credit or the payment the customer will receive from PREPA.

In the same way, PREPA benefits because when customers produce electricity during peak periods, it alleviates the load on the transmission and distribution system. PREPA also reduces its operating expenses by receiving energy at a lower cost than what it costs the public utility to produce said energy and increases its reserve.

The operation of a net metering program is very simple. During the day, the solar or wind energy system installed in a residence deposits any excess energy generated on PREPA’s transmission and distribution system, generating a credit in the customer’s bill. At night, the system automatically extracts the electricity that the customer needs from PREPA’s grid. In the cases of businesses and industries, this process mostly takes place in inverted schedules. The feedback—the outflow and inflow of electricity—is completely automatic, providing a smooth and uninterrupted flow of electricity to meet the household or business needs.

The benefit provided in this Act is available for residential and commercial customers who install equipment whose generating capacity is not greater than twenty-five kilowatts (25 kW) and one megawatt (1 MW), respectively. In addition, it is hereby provided that a credit shall be granted in the bills for excess in the production generated by the installed renewable energy equipment. The Act further establishes the distribution of the credit accrued and unused by the feedback customer during the previous billing year, reserving a credit or reduction of twenty-five percent (25%) in the electricity bills for public schools and seventy-five percent (75%) for a reasonable compensation to the feedback customer. The rate of the compensation provided is ten (10) cents per kilowatt-hour or the amount resulting from the subtraction of the adjusted fuel fee based on the variable costs incurred by PREPA exclusively for the purchase of fuel and energy from the total price PREPA charges its customers, converted into kilowatt hours, whichever is greater.

Be it enacted by the Legislature of Puerto Rico:
Section 1. — Mandate. — (22 L.P.R.A. § 1011)

The Electric Power Authority, its successor, or the transmission and distribution network Contractor are hereby directed and authorized to establish and maintain a net metering program allowing the interconnection to the electric power grid in order to allow electricity feedback for customers who have installed a solar electric equipment, windmill, or any other renewable energy source capable of producing electric power using a meter that registers the flow of energy in two directions, in accordance with the applicable provisions of the federal legislation and regulations, such as the Energy Policy Act, Pub. L. 102-486, Oct. 24, 1992, 106 Stat. 2776, as amended, and the Standards for Electric Utilities, Pub. L. 95-617, Title I, Sec. 111, Nov. 9, 1978, 92 Stat. 3121, as amended, among others, and the regulations to be adopted thereunder. In the event that the Electric Power Authority, its successor, or the transmission and distribution network Contractor fails to comply with the mandate provided herein, the Puerto Rico Energy Bureau may use, motu proprio or at the request of a party, any judicial or administrative mechanism deemed appropriate in order to allow and make feasible the interconnection to the electric power transmission and distribution system, and the feedback chargeable to the Electric Power Authority, its successor, or the transmission and distribution network Contractor.

Section 2. — Eligibility. — (22 L.P.R.A. § 1012)

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, known as the “Green Energy Incentives Act of Puerto Rico,” must meet all the requirements established in the federal legislation and regulations applicable to net metering programs that allow the 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) Conduct the operation compatible with the Electric Power Authority’s existing transmission and distribution facilities.
(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 licensed engineer or an expert electrician, both of whom shall be members of their respective professional associations and, in accordance with Act No. 173 of August 12, 1988, as amended, and Act No. 115 of June 2, 1976, as amended, respectively, must have approved
continuing education courses offered by their corresponding professional Associations about the installation of distributed generation equipment based on any type of renewable energy and interconnection, measuring, and testing rules of the National Association of Regulatory Utility Commissioners and the Institute of Electrical and Electronic Engineers. Such professionals shall register with the Commonwealth Energy Public Policy Office, furnishing a certified copy issued by the professional Association of which they are members, attesting to the approval of the required continuing education courses, which shall be in effect for four (4) years after approval, and by furnishing a copy of their engineer license or expert electrician license, as the case may be;

(f) Be guaranteed for five (5) years or more by the manufacturer or distributor.

(g) Provide that it be used primarily to offset part or all of the customer’s electric energy demand.

(h) Every installation shall incorporate emission and noise control and mitigation measures, if applicable due to the nature of the equipment, and the operation thereof shall comply with environmental, zoning and use laws and regulations in effect for the location site; if there are no regulations in effect for said type of equipment or location site, said matter shall be addressed in the regulations to be created pursuant to this Act.

(i) All installations shall meet the interconnection and operation requirements set forth in the appropriate regulations. Failure to meet these requirements may result in a suspension from the Net Metering Program. However, the Electric Power Authority or the transmission and distribution network Contractor 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 at the time of the execution of the Net Metering agreement, nor impair contractual obligations.

(j) No renewable energy system shall be installed if it invades an existing easement of the Authority, its successor, or the transmission and distribution network Contractor. However, a preexisting occupation of easement on the real property that is not related to the development of renewable energy shall not constitute an obstacle to prohibit or hinder the interconnection of the renewable energy source and the participation in the Net Metering Program. The foregoing, however, shall not hinder the application of the provisions of Section 5 of Act No. 143 of July 20, 1979, as amended.

Section 3. — Meter. — (22 L.P.R.A. § 1013)

In the case of renewable energy systems interconnected to PREPA’s electric power grid, the Meter shall be installed in the existing meter socket by the Authority or the Contractor upon the interconnection request. The Electric Power Authority or the Contractor may not establish additional requirements, reject requests, deny endorsements, or request the relocation of an existing meter socket, through regulations, technical order, directors’ orders, or otherwise except in such cases when the location of the existing meter socket fails to meet the safety standards set forth in the current National Electrical Code. However, the meter must be installed in an accessible location or if not, the customer shall be required, upon prior coordination, to grant the necessary access to PREPA’s personnel or the Contractor, as so required. The Electric Power Authority shall adjust any regulations to the provisions of this Act.

Every installation of this sort shall include an automatic distribution line flow disconnection mechanism, in the event of an interruption of service.
Section 4. — Applicable Rate. — (22 L.P.R.A. § 1014)

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 participation of interested parties and the general public, to evaluate and consider the costs and benefits associated with: (1) the net metering program, (2) distributed generation technologies, (3) small scale solar energy projects, (4) energy storage systems. Said study must be completed within five (5) years as of the effective date of the Puerto Rico Energy Public Policy Act, shall be subject to public comment, and shall take into account the following factors: the costs of energy generation, the capacity value, the transmission and distribution costs, system losses prevented, and environmental compliance costs avoided, among other factors deemed relevant and appropriate by the Bureau.

Five (5) years after the approval of the Puerto Rico Energy Public Policy Act, the Bureau may issue any determination concerning the net metering program while taking into account the results of such study. Once the results of the study have been integrated into the program or the net metering rate, the study shall remain in effect for no 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. — During the aforementioned five (5)-year period, and until the Energy Bureau establishes the appropriate 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.

Once the aforementioned five (5)-year term has elapsed, 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 term 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) Prohibited charges. — The Electric Power Authority or the transmission and distribution network Contractor shall not impose any charge or modify the monthly electric power usage consumption rate of its net metering customers, or customers who interconnect any distributed generation system, without prior authorization from the Bureau as provided above. Likewise, the rate approved by the Bureau for net metering customers shall not be discriminatory or discourage
entering into net metering agreements. No direct or indirect charge shall be imposed on the
generation of renewable energy by prosumers.

\textbf{d) Contracts in effect as of the date of approval of the \textit{Energy Public Policy Act}.} — Pursuant to
the provisions of subsection (b) of this Section regarding grandfathered customers, the Authority
or transmission and distribution network Contractor shall honor net metering contracts in effect as
of the date of approval of this Act in accordance with the agreed-upon terms.

\textbf{Section 5. — Energy Metering.} — (22 L.P.R.A. § 1015)

Except for those cases where the applicable federal laws or regulations in effect expressly
and specifically direct otherwise, the metering and accreditation process shall be as follows:

\textbf{a) The Electric Power Authority or the transmission and distribution network Contractor shall meter the electricity consumed by the customer during a billing cycle in accordance with standard metering practices in effect, as provided in and pursuant to the net metering regulations and standards established by the Burea.}

\textbf{b) The Electric Power Authority or the transmission and distribution network Contractor shall bill a customer for the electricity supplied by applying the rate or compensation mechanism approved by the Energy Bureau in accordance with Section 4 of this Act.}

\textbf{c) Every net metering customer shall be entitled to receive a credit per each kilowatt-hour of energy supplied to the electric power grid, in accordance with the rate or compensation mechanism authorized by the Bureau. For the purposes of this Act, the term ‘kilowatt-hour’ shall be understood to be the unit of electric power equivalent to the electricity yielded by the power of one kilowatt acting for one hour.}

\textbf{d) For the billing cycle closing in June of each year, any excess kilowatthour credit accumulated by the feedback customer during the previous year and which remains unused shall be compensated as follows:}

1) Seventy-five percent (75\%) of the excess shall be purchased by the Electric Power Authority or the transmission and distribution network Contractor as provided by the Energy Bureau; and

2) the remaining twenty-five percent (25\%) shall be granted to the Electric Power Authority to distribute as a credit or reduction in the electricity bills of public schools.

\textbf{f) PREPA or the Contractor shall credit every participant of the Net Metering Program promptly and expeditiously. Such credit shall be clearly shown in the monthly bill for the next billing cycle, following the installation of the Meter, not later than thirty (30) days after having notified 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.}

\textbf{g) If an agreement in accordance with this Act is not reached between the parties thereto within a non-extendable term of one hundred twenty (120) days counted from the date on which a net metering application was submitted to the Electric Power Authority or the transmission and distribution network Contractor, or in those cases where a renewable energy source under the Net Metering Program must be disconnected due to technical or security reasons, or in the event of a dispute related to bills or credits, the Puerto Rico Energy Bureau shall have jurisdiction to settle such disputes as provided in \textit{Act No. 57-2014, as amended}.}
Section 6. — Liability. — (22 L.P.R.A. § 1016)

The Electric Power Authority or the transmission and distribution network Contractor shall not be directly or indirectly liable for allowing or continuing to allow solar electric equipment, a windmill, or other source of renewable energy to be connected to its transmission and distribution system, or for acts or omissions of the feedback customer that cause losses or injuries, including death, to any third party.

Section 7. — Regulations and Education. — (22 L.P.R.A. § 1017)

The Energy Public Policy Program shall develop and implement educational campaigns on a regular basis directed to advising consumers on the benefits of net metering, energy efficiency, energy conservation, demand response, energy consumption, and the different technologies available in the market for energy generation from renewable sources.

The following message shall be included in every bill sent to customers:

‘The installation of equipment to generate energy from renewable sources may help to reduce your electricity bill and PREPA, through its commercial office or the Internet, or the transmission and distribution network Contractor shall provide you with information on how you may qualify to enroll in the net metering program. Furthermore, tax benefits are available to incentivize the purchase of this equipment. Additional information about this equipment is available at the Energy Public Policy Program.’

The electricity bill shall include this message at least two inches from where the total amount of the bill appears, and shall be written in a font which is the same size as the largest font used in any text appearing on the bill.

Section 8. — Reports. — (22 L.P.R.A. § 1018)

The Electric Power Authority, its successor, or the transmission and distribution network Contractor shall file with the Energy Bureau and the Legislative Assembly semiannual progress reports on the interconnection of renewable systems to the grid including, but not limited to the average interconnection times of the distributed generation systems, the number of backlogged cases pending approval, and the percentage of compliance with the Renewable Portfolio Standard corresponding to the distributed renewable energy. The reports may include recommendations on additional legislation needed to achieve the objectives of the program.

Section 9. — Public Policy on Interconnection. — (22 L.P.R.A. § 1019)

It shall be the public policy of the Government of Puerto Rico to ensure that the procedures for the interconnection of distributed generators to the electric power system are effective in terms of costs and processing time, in order to promote the development of these types of projects and incentivize economic activity through the reduction of energy costs in the residential, commercial, and industrial sectors. For such reason, it is hereby established that the procedures for the interconnection of distributed generators with a generating capacity of up to five (5) megawatts (MW) which shall participate in the Net Metering Program, shall use as a model the Small
Generator Interconnection Procedures (SGIP) and the Small Generator Interconnection Agreement (SGIA), provided in Order No. 2006 of the Federal Energy Regulatory Commission (FERC), as amended, and any other future amendments thereto that are adopted by the Energy Bureau. The interconnection procedures shall be uniform in all regions.

Using the provisions of the SGIP as a model, the Electric Power Authority or the transmission and distribution network Contractor shall approve expedited processes so that distributed generators with a generating capacity of less than one megawatt (1MW) may connect to the grid, provided, that the technical features of the distributed generator to be interconnected and the existing conditions of the electric power grid thus allow. Provided, that for the interconnection of generators with a generating capacity of more than five hundred kilowatts (500KW) but less than one megawatt (1MW), the Bureau may require the necessary reliability studies.

An engineer or an expert electrician, both members of their professional associations and admitted to the practice of their profession, shall certify that the electrical installation of the distributed generation system meets the specifications required by the interconnection regulations, and that the same was completed in accordance with the laws, regulations, and rules applicable to the interconnection of distributed generation to the transmission and distribution system. Once said certification is submitted to the Authority, its successor, or the transmission and distribution network Contractor, the proponent shall interconnect and operate his distributed generation system with the electrical system provided that the generation capacity of said system does not exceed 25 kilowatts.

The Authority, its successor, or the transmission and distribution network Contractor shall evaluate the application for interconnection as established in the interconnection regulations. Such evaluation, however, shall not exceed ninety (90) days from the filing thereof as established in the regulations approved by the Energy Bureau. In the event of noncompliance with the term provided, the application for interconnection shall be automatically approved until the Authority, its successor, or the transmission and distribution network Contractor, as appropriate, provides the grounds for denying the interconnection or deems necessary to implement additional technical requirements and/or improvements to the electric power distribution system. In these cases, the applicant shall be entitled to challenge such a determination or findings through any of the processes provided through regulations on review resources or procedures relating to the interconnection of a distributed generator approved by the Energy Bureau.

Nothing prevents the subsequent review of the correction of the certification issued by an electrical engineer or an expert electrician, both members of their professional associations and admitted to the practice of their profession.

However, in the case of interconnected photovoltaic or renewable energy generation systems whose generation capacity does not exceed 25 kilowatts, the following shall apply:

(a) Photovoltaic or renewable energy generation systems registered in the renewables registry of Act No. 82-2010, whose generation capacity does not exceed 25 kilowatts shall be interconnected automatically to the transmission and distribution network. The systems shall begin operating automatically once a professional engineer or an expert electrician, both members of their professional associations and admitted to the practice of their profession and who are certified photovoltaic or renewable energy system installers, certifies the compliance thereof with the regulatory technical requirements for interconnection to the distribution network. It shall not be
necessary to submit an application for interconnection in order for the systems identified herein to be deemed interconnected and to activate net metering.

(b) The net metering for these generation systems shall be reflected in the customer’s monthly bill not later than thirty (30) days after the receipt of notice of the certification of the distributed generator installed by an engineer or an expert electrician, both members of their professional associations and admitted to the practice of their profession.

(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) None of the provisions of this Section prevent the subsequent review of the correction of the certification of the distributed generator.

However, photovoltaic generation systems established in accordance with the parameters of EO-2017-064, ‘to provide electric power to homes through photovoltaic generation systems and batteries, and accelerate the recovery of the Puerto Rico electric power system after Hurricane Maria,’ shall be deemed to be automatically approved to operate and participate in the Net Metering Program, provided that the provisions of EO-2017-064 are complied with during the effectiveness thereof. However, residential photovoltaic energy storage systems built pursuant to the aforementioned Executive Order do not have to meet the remote operation and battery status monitoring requirements to be deemed automatically approved to operate and participate in the Net Metering Program.

Residential customers that hold an Interconnection Agreement prior to February 2017 shall not have to renew it, and such agreement shall remain in effect provided that the electric power service contract for the property where the distributed generation system is located remains in effect.

Section 10. — Rulemaking Authority. — (22 L.P.R.A. § 1020)

The Electric Power Authority is hereby directed to adopt or modify regulations as needed for the faithful compliance with this Act in accordance with the standards and technical requirements established by the Energy Bureau. Said regulations shall be promulgated within a term not to exceed one hundred eighty (180) days after the approval of this Act.

The Electric Power Authority shall be required to promulgate regulations for the interconnection of distributed generators with a generating capacity of less than one megawatt (1MW), as well as regulations for the interconnection of distributed generators with a generating capacity between one megawatt (1MW) and five megawatts (5MW) to be connected to sub-transmission facilities. Such regulations shall be consistent with the public policy on interconnection set forth in Section 9 of this Act and shall ensure the reliability and safety of the electric power system. Said regulations for the interconnection of distributed generators shall be promulgated within a non-extendable term of one hundred eighty (180) days after the effective date of this Act. Furthermore, PREPA shall amend any other regulations in effect that govern or are related to the Net Metering Program to conform it to the provisions of this Act and the terms and procedures to be included in the regulations for the interconnection of distributed generators.
In the event that the Electric Power Authority fails to promulgate or modify the regulations for the interconnection of distributed generators on or before one hundred eighty (180) days after the approval of this Act, the evaluation and approval process of applications for interconnection of distributed generators shall be established by the Energy Bureau, following the best practices of the industry. Such process shall have the purpose of reducing administrative steps while safeguarding the reliability and safety of Puerto Rico’s electric power grid, and ensuring compliance with the public policy on energy of the Government of Puerto Rico.

Any amendment proposed by the Authority, its successor, or the transmission and distribution network Contractor to the regulations for the interconnection of distributed generators must be submitted to the Energy Bureau in order to hold public hearings as established in this Act. Any amendment proposed by the Bureau to the regulations for the interconnection of distributed generators shall follow the process established in this Section.

The Bureau shall be required to hold public hearings prior to the approval of any amendment to the regulations for the interconnection of distributed generators. Such public hearings shall not be held within less than thirty (30) days after the publication of the public notice of the proposed amendment to the regulations for the interconnection of distributed generators. Thirty (30) days after the public hearing process has concluded, the Bureau shall issue its determination about whether or not the amendment to the regulations for interconnection shall be accepted. Once the decision of the Bureau becomes final and binding, the Bureau shall amend the regulations for the interconnection of distributed generators in accordance with those amendments adopted pursuant to such decision.

Section 11. — Recourse and Review Process before the Energy Commission. — (22 L.P.R.A. § 1020b)

The Energy Commission shall establish through regulations the rules for the recourse or review process that customers may bring before said Commission if they are not satisfied with a determination of PREPA regarding the interconnection of a distributed generator.

Section 12. — Effectiveness. — This Act shall take effect immediately after its approval.

Note. This compilation was prepared by the Puerto Rico Office of Management and Budget staff who have striven to ensure it is complete and accurate. However, this is not an official compilation and may not be completely free of error. It contains all amendments incorporated for reading purposes only. For accuracy and exactitude please refer to the act original text and the collection of Laws of Puerto Rico Annotated LPRA. The state links acts are property of Legislative Services Office of Puerto Rico. The federal links acts are property of US Government Publishing Office GPO. Compiled by the Office of Management and Budget Library.

See also the Original version Act, as approved by the Legislature of Puerto Rico.