

1 AN ACT relating to solar energy.

2 ***Be it enacted by the General Assembly of the Commonwealth of Kentucky:***

3 ➔Section 1. KRS 278.010 is amended to read as follows:

4 As used in KRS 278.010 to 278.450, 278.541 to 278.544, 278.546 to 278.5462, and  
5 278.990, unless the context otherwise requires:

- 6 (1) "Corporation" includes private, quasipublic, and public corporations, and all boards,  
7 agencies, and instrumentalities thereof, associations, joint-stock companies, and  
8 business trusts;
- 9 (2) "Person" includes natural persons, partnerships, corporations, and two (2) or more  
10 persons having a joint or common interest;
- 11 (3) "Utility" means any person, ~~except:~~ a regional wastewater commission established  
12 pursuant to KRS 65.8905; ***a participating third party subject to a power purchase***  
13 ***agreement;*** and, for purposes of paragraphs (a), (b), (c), (d), and (f) of this  
14 subsection, a city;~~[-]~~ who owns, controls, operates, or manages any facility used or  
15 to be used for or in connection with:
- 16 (a) The generation, production, transmission, or distribution of electricity to or for  
17 the public, for compensation, for lights, heat, power, or other uses;
- 18 (b) The production, manufacture, storage, distribution, sale, or furnishing of  
19 natural or manufactured gas, or a mixture of same, to or for the public, for  
20 compensation, for light, heat, power, or other uses;
- 21 (c) The transporting or conveying of gas, crude oil, or other fluid substance by  
22 pipeline to or for the public, for compensation;
- 23 (d) The diverting, developing, pumping, impounding, distributing, or furnishing  
24 of water to or for the public, for compensation;
- 25 (e) The transmission or conveyance over wire, in air, or otherwise, of any  
26 message by telephone or telegraph for the public, for compensation; or
- 27 (f) The collection, transmission, or treatment of sewage for the public, for

1 compensation, if the facility is a subdivision collection, transmission, or  
2 treatment facility plant that is affixed to real property and is located in a  
3 county containing a city of the first class or is a sewage collection,  
4 transmission, or treatment facility that is affixed to real property, that is  
5 located in any other county, and that is not subject to regulation by a  
6 metropolitan sewer district or any sanitation district created pursuant to KRS  
7 Chapter 220;

8 (4) "Retail electric supplier" means any person, firm, corporation, association, or  
9 cooperative corporation, excluding municipal corporations and a participating  
10 third party under a power purchase agreement, engaged in the furnishing of retail  
11 electric service;

12 (5) "Certified territory" shall mean the areas as certified by and pursuant to KRS  
13 278.017;

14 (6) "Existing distribution line" shall mean an electric line which on June 16, 1972, is  
15 being or has been substantially used to supply retail electric service and includes all  
16 lines from the distribution substation to the electric consuming facility but does not  
17 include any transmission facilities used primarily to transfer energy in bulk;

18 (7) "Retail electric service" means electric service furnished to a consumer for ultimate  
19 consumption, but does not include wholesale electric energy furnished by an electric  
20 supplier to another electric supplier for resale;

21 (8) "Electric-consuming facilities" means everything that utilizes electric energy from a  
22 central station source;

23 (9) "Generation and transmission cooperative" or "G&T" means a utility formed under  
24 KRS Chapter 279 that provides electric generation and transmission services;

25 (10) "Distribution cooperative" means a utility formed under KRS Chapter 279 that  
26 provides retail electric service;

27 (11) "Facility" includes all property, means, and instrumentalities owned, operated,

1 leased, licensed, used, furnished, or supplied for, by, or in connection with the  
2 business of any utility;

3 (12) "Rate" means any individual or joint fare, toll, charge, rental, or other compensation  
4 for service rendered or to be rendered by any utility, and any rule, regulation,  
5 practice, act, requirement, or privilege in any way relating to such fare, toll, charge,  
6 rental, or other compensation, and any schedule or tariff or part of a schedule or  
7 tariff thereof;

8 (13) "Service" includes any practice or requirement in any way relating to the service of  
9 any utility, including the voltage of electricity, the heat units and pressure of gas, the  
10 purity, pressure, and quantity of water, and in general the quality, quantity, and  
11 pressure of any commodity or product used or to be used for or in connection with  
12 the business of any utility, but does not include Voice over Internet Protocol (VoIP)  
13 service;

14 (14) "Adequate service" means having sufficient capacity to meet the maximum  
15 estimated requirements of the customer to be served during the year following the  
16 commencement of permanent service and to meet the maximum estimated  
17 requirements of other actual customers to be supplied from the same lines or  
18 facilities during such year and to assure such customers of reasonable continuity of  
19 service;

20 (15) "Commission" means the Public Service Commission of Kentucky;

21 (16) "Commissioner" means one (1) of the members of the commission;

22 (17) "Demand-side management" means any conservation, load management, or other  
23 utility activity intended to influence the level or pattern of customer usage or  
24 demand, including home energy assistance programs;

25 (18) "Affiliate" means a person that controls or that is controlled by, or is under common  
26 control with, a utility;

27 (19) "Control" means the power to direct the management or policies of a person through

- 1 ownership, by contract, or otherwise;
- 2 (20) "CAM" means a cost allocation manual which is an indexed compilation and  
3 documentation of a company's cost allocation policies and related procedures;
- 4 (21) "Nonregulated activity" means the provision of competitive retail gas or electric  
5 services or other products or services over which the commission exerts no  
6 regulatory authority;
- 7 (22) "Nonregulated" means that which is not subject to regulation by the commission;
- 8 (23) "Regulated activity" means a service provided by a utility or other person, the rates  
9 and charges of which are regulated by the commission;
- 10 (24) "USoA" means uniform system of accounts which is a system of accounts for public  
11 utilities established by the FERC and adopted by the commission;
- 12 (25) "Arm's length" means the standard of conduct under which unrelated parties, each  
13 party acting in its own best interest, would negotiate and carry out a particular  
14 transaction;
- 15 (26) "Subsidize" means the recovery of costs or the transfer of value from one (1) class  
16 of customer, activity, or business unit that is attributable to another;
- 17 (27) "Solicit" means to engage in or offer for sale a good or service, either directly or  
18 indirectly and irrespective of place or audience;
- 19 (28) "USDA" means the United States Department of Agriculture;
- 20 (29) "FERC" means the Federal Energy Regulatory Commission;
- 21 (30) "SEC" means the Securities and Exchange Commission;
- 22 (31) "Commercial mobile radio services" has the same meaning as in 47 C.F.R. sec. 20.3  
23 and includes the term "wireless" and service provided by any wireless real time two  
24 (2) way voice communication device, including radio-telephone communications  
25 used in cellular telephone service, personal communications service, and the  
26 functional or competitive equivalent of a radio-telephone communications line used  
27 in cellular telephone service, a personal communications service, or a network radio

1 access line; ~~and~~

2 (32) "Voice over Internet Protocol" or "VoIP" has the same meaning as in federal law;

3 **(33) "Participating third party" means an eligible customer generator that:**

4 **(a) Is not constructed, owned, or under the control of a utility regulated by KRS**

5 **Chapter 278;**

6 **(b) Produces electric energy from solar or wind exclusively; and**

7 **(c) Allows the customers in the certified territory of the retail electric supplier,**

8 **including public schools and local governments, to lease or buy a portion,**

9 **share, or all of that facility's solar or wind installations to interconnect to**

10 **the retail electric supplier under a power purchase agreement and create a**

11 **net metering arrangement; and**

12 **(34) "Power purchase agreement" means an agreement, for a term of years as**

13 **defined by the commission, between an electric utility and the participating third**

14 **party that is located in the electric utility's certified territory, for the sale of**

15 **electricity, generation capacity, or ancillary products.**

16 ➔Section 2. KRS 278.465 is amended to read as follows:

17 As used in KRS 278.465 to 278.468:

18 (1) "Eligible customer-generator" means:

19 **(a)** A customer of a retail electric supplier who owns and operates an electric  
 20 generating facility that is located on the customer's premises, for the primary  
 21 purpose of supplying all or part of the customer's own electricity  
 22 requirements; **or**

23 **(b) A participating third party as defined in subsection (33) of Section 1 of this**  
 24 **Act.**

25 (2) "Eligible electric generating facility" means an electric generating facility that:

26 (a) Is connected in parallel with the electric distribution system;

27 (b) Generates electricity using:

- 1           1.    Solar energy;
- 2           2.    Wind energy;
- 3           3.    Biomass or biogas energy; or
- 4           4.    Hydro energy; and
- 5           (c)   *Except for a participating third party,* has a rated capacity of not greater than
- 6           thirty (30) kilowatts.

7   (3) "Kilowatt hour" means a measure of electricity defined as a unit of work of energy,  
8   measured as one (1) kilowatt of power expended for one (1) hour.

9   (4) "Net metering" means measuring the difference between the electricity supplied by  
10   the electric grid and the electricity generated by an eligible customer-generator that  
11   is fed back to the electric grid over a billing period.

12   ➔Section 3. KRS 278.466 is amended to read as follows:

13   (1) Each retail electric supplier shall make net metering available to any eligible  
14   customer-generator that the supplier currently serves or solicits for service.

15   *(2) The commission shall review and approve or deny a purchase power agreement*  
16   *under net metering if the agreement:*

17   *(a) Is not longer than a term of years as defined by the commission; and*

18   *(b) Does not precipitate the need for a rate increase for customers of the retail*  
19   *electric supplier to recover the cost of the agreement.*

20   *(3) After notice, a power purchase agreement may be renewed by the participating*  
21   *third party.*~~[If the cumulative generating capacity of net metering systems reaches~~  
22   ~~one percent (1%) of a supplier's single hour peak load during the previous year, the~~  
23   ~~obligation of the supplier to offer net metering to a new customer-generator may be~~  
24   ~~limited by the commission.]~~

25   *(4)*~~*(2)*~~ Each retail electric supplier serving a customer with eligible electric  
26   generating facilities shall use a standard kilowatt-hour meter capable of registering  
27   the flow of electricity in two (2) directions. Any additional meter, meters, or

1 distribution upgrades needed to monitor the flow in each direction shall be installed  
2 at the customer-generator's expense. If additional meters are installed, the net  
3 metering calculation shall yield the same result as when a single meter is used. The  
4 commission may promulgate administrative regulations or open an  
5 administrative case to establish additional rules and requirements for  
6 participating third parties with a power purchase agreement with the retail  
7 electric supplier to ensure proper two (2) way measurement of and credit for  
8 electric generation and proper allocation of credits to persons that have leased or  
9 purchased portions or shares of the participating third party's electric generating  
10 installations.

11 ~~(5)~~~~(3)~~ The amount of electricity billed to the eligible customer-generator using net  
12 metering shall be calculated by taking the difference between the electricity  
13 supplied by the retail electric supplier to the customer and the electricity generated  
14 and fed back by the customer. If time-of-day or time-of-use metering is used, the  
15 electricity fed back to the electric grid by the eligible customer-generator shall be  
16 net-metered and accounted for at the specific time it is fed back to the electric grid  
17 in accordance with the time-of-day or time-of-use billing agreement currently in  
18 place.

19 ~~(6)~~~~(4)~~ Each net metering contract or tariff, including those in a power purchase  
20 agreement, shall be identical, with respect to energy rates, rate structure, and  
21 monthly charges, to the contract or tariff to which the same customer would be  
22 assigned if the customer were not an eligible customer-generator.

23 ~~(7)~~~~(5)~~ The following rules shall apply to the billing of net electricity:

- 24 (a) The net electricity produced or consumed during a billing period shall be read,  
25 recorded, and measured in accordance with metering practices prescribed by  
26 the commission;
- 27 (b) If the electricity supplied by the retail electric supplier exceeds the electricity

1 generated and fed back to the supplier during the billing period, the customer-  
2 generator shall be billed for the net electricity supplied in accordance with  
3 subsections ~~(5)(3)~~ and ~~(6)(4)~~ of this section;

4 (c) If the electricity fed back to the retail electric supplier by the customer-  
5 generator exceeds the electricity supplied by the supplier during a billing  
6 period, the customer-generator shall be credited for the excess kilowatt hours  
7 in accordance with subsections ~~(5)(3)~~ and ~~(6)(4)~~ of this section. This  
8 electricity credit shall appear on the customer-generator's next bill. Credits  
9 shall carry forward for the life of the customer-generator's account;

10 (d) If a customer-generator closes his account, no cash refund for residual  
11 generation-related credits shall be paid; and

12 (e) Excess electricity credits are not transferable between customers or locations.

13 ~~(8)(6)~~ Electric generating systems and interconnecting equipment used by eligible  
14 customer-generators shall meet all applicable safety and power quality standards  
15 established by the National Electrical Code (NEC), Institute of Electrical and  
16 Electronics Engineers (IEEE), and accredited testing laboratories such as  
17 Underwriters Laboratories.

18 ~~(9)(7)~~ An eligible customer-generator installation, ***including one that is owned by a***  
19 ***participating third party***, is transferable to other persons or service locations upon  
20 notification to the retail electric supplier and verification that the installation is in  
21 compliance with the applicable safety and power quality standards in KRS 278.467  
22 and in subsection ~~(8)(6)~~ of this section.

23 ~~(10)(8)~~ Any upgrade of the interconnection between the retail electric supplier and the  
24 customer-generator that is required by commission-approved tariffs for the purpose  
25 of allowing net metering shall be made at the expense of the customer-generator.

26 ➔Section 4. KRS 278.467 is amended to read as follows:

27 (1) The commission shall have original jurisdiction over any dispute between a retail

1 electric supplier and an eligible customer-generator, regarding power purchase  
2 agreements, net metering rates, service, standards, performance of contracts, and  
3 testing of net meters.

4 (2) No later than one hundred eighty (180) days from July 15, 2008, the Public Service  
5 Commission shall develop interconnection and net metering guidelines for all retail  
6 electric suppliers operating in the Commonwealth. The guidelines shall meet the  
7 requirements of KRS 278.466~~(8)~~~~(6)~~.

8 (3) No later than ninety (90) days from the issuance by the Public Service Commission  
9 of the guidelines required under subsection (2) of this section, each retail electric  
10 supplier shall file with the commission a net metering tariff and application forms to  
11 comply with those guidelines. All retail electric suppliers shall make their net  
12 metering tariff and interconnection practices easily available to the public by  
13 posting the tariff and practices on their Web sites.