

LEGISLATURE OF NEBRASKA

ONE HUNDREDTH LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 629

Introduced by Dierks, 40; Dubas, 34; Erdman, 47; Karpisek, 32;
McDonald, 41; Preister, 5; Wallman, 30

Read first time January 17, 2007

Committee: Agriculture

A BILL

1 FOR AN ACT relating to rural economic development and energy;
2 and to adopt the Rural Community-Based Energy Development
3 Act.

4 Be it enacted by the people of the State of Nebraska,

1 Section 1. Sections 1 to 6 of this act shall be known and
2 may be cited as the Rural Community-Based Energy Development Act.

3 Sec. 2. It is the intent of the Legislature to
4 create new rural economic development opportunities through rural
5 community-based energy development.

6 Sec. 3. For purposes of the Rural Community-Based Energy
7 Development Act:

8 (1) C-BED project or community-based energy development
9 project means a new wind energy project that:

10 (a) (i) For a C-BED project that consists of more than two
11 turbines, has no single qualified owner owning more than fifteen
12 percent of the project and with at least thirty-three percent of
13 the power purchase agreement payments flowing to the qualified
14 owner; or

15 (ii) For a C-BED project consisting of one or two
16 turbines, is owned by one or more qualified owners with at least
17 thirty-three percent of the power purchase agreement payments
18 flowing to a qualified owner; and

19 (b) Has a resolution of support adopted (i) by the county
20 board of each county in which the C-BED project is to be located or

21 (ii) by the tribal council for a C-BED project located within the
22 boundaries of an Indian reservation;

23 (2) C-BED tariff or tariff means a community-based energy
24 development tariff;

25 (3) Net present value rate means a rate equal to the net

1 present value of the nominal payments to a C-BED project divided by
2 the total expected energy production of the C-BED project over the
3 life of its power purchase agreement; and

4 (4) Qualified owner means:

5 (a) A Nebraska resident;

6 (b) A limited liability company that is organized under
7 the Limited Liability Company Act and that is made up of members
8 who are Nebraska residents;

9 (c) A Nebraska nonprofit corporation organized under the
10 Nebraska Nonprofit Corporation Act;

11 (d) A Nebraska cooperative association, other than
12 a rural electric cooperative association or generation and
13 transmission cooperative;

14 (e) A political subdivision or unit of local government,
15 including, but not limited to, a school district or public or
16 private postsecondary educational institution, or any other local
17 or regional governmental organization such as a board, commission,
18 or association, but excluding a municipal electric utility or
19 municipal power agency; or

20 (f) A tribal council.

21 Sec. 4. (1) A C-BED tariff shall have a rate schedule
22 that allows for a rate of three cents per kilowatt hour net
23 present value rate over the twenty-year life of the power purchase
24 agreement. The rate schedule shall provide for a rate that is
25 higher in the first ten years of the power purchase agreement than

1 in the last ten years. The discount rate required to calculate the
2 net present value shall be the public utility's normal discount
3 rate used for its other business purposes.

4 (2) A C-BED project developer and a public utility shall
5 negotiate the rate and power purchase agreement terms consistent
6 with the tariff.

7 (3) At the discretion of a C-BED project developer, the
8 C-BED project developer and a public utility may negotiate a power
9 purchase agreement with terms different from the tariff.

10 (4) A qualified owner, or any combination of qualified
11 owners, may develop a community-based energy development project
12 with an equity partner that is not a qualified owner.

13 (5) A C-BED project that is operating under a power
14 purchase agreement under a tariff is not eligible for net energy
15 billing or for production incentives.

16 Sec. 5. A public power district shall:

17 (a) Consider mechanisms to encourage the aggregation of
18 C-BED projects; and

19 (b)(i) Require any qualified owner to provide sufficient
20 security to secure performance under the power purchase agreement
21 and (ii) prohibit the transfer of a C-BED project to any person
22 other than a qualified owner during the initial twenty years of the
23 power purchase agreement.

24 Sec. 6. (1) A public utility that needs to construct
25 new generation infrastructure or purchase the output from new

1 generation wind energy in order to comply with a renewable
2 portfolio standard requirement shall take reasonable steps to
3 determine if one or more C-BED projects are available that (a) can
4 be safely integrated into and operated within the public utility's
5 grid without causing any adverse or unsafe consequences; and (b) is
6 consistent with the public utility's resource needs as identified
7 in its most recent resource plan, to fulfill some or all of the
8 identified need at minimal impact to customer rates.

9 (2) Each public utility shall include in its resource
10 plan a description of its efforts to purchase energy from
11 C-BED projects, including a list of the C-BED projects under a
12 power purchase agreement and the amount of C-BED project energy
13 purchased.

14 (3) Nothing in this section shall be construed to
15 obligate a public utility to enter into a power purchase agreement
16 under a C-BED tariff.

17 Sec. 7. To the extent feasible, a C-BED project developer
18 shall provide, in writing, an opportunity to invest in the C-BED
19 project to each property owner on whose property a high-voltage
20 transmission line is constructed that will transmit the energy
21 generated by the C-BED project to market if the property is located
22 and the owner resides in the county where the C-BED project is
23 located.