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SENATE BILL 418

57TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2025

INTRODUCED BY

Michael Padilla

AN ACT

RELATING TO PUBLIC UTILITIES; PERMITTING THE GENERATION AND
DISTRIBUTION OF SELF-SOURCED POWER; CREATING THE QUALIFIED
MICROGRID INCOME TAX CREDIT.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

SECTION 1. A new section of Chapter 62 NMSA 1978 is
enacted to read:

"[NEW MATERIAL] SELF-SOURCED POWER GENERATION.--

A. Persons and entities located within the state
may receive electricity service using a qualified microgrid
that may also deliver electricity to equipment, lines and
facilities operated by a public utility or a distribution
cooperative; provided that the person or entity and the public
utility or distribution cooperative enter into an electric
service agreement.

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1 B. Nothing in this section shall prevent a public
2 utility or distribution cooperative from acquiring self-source
3 generation resources and dedicating those resources to retail
4 services, wholesale services or self-generation services, or
5 any combination of those services, and rates established for
6 those services shall take into account the public interest and
7 need, reliability and affordability.

8 C. Energy generated and sold from a self-source
9 generation resource built to serve in whole or in part a
10 qualified microgrid shall not be considered retail sales as
11 contemplated under Sections 62-15-34 and 62-16-4 NMSA 1978,
12 whether serving the qualified microgrid or purchased in part by
13 the utility.

14 D. A person who only provides self-source
15 generation sales from a self-source generation resource shall
16 not be considered a public utility or a distribution
17 cooperative.

18 E. As used in this section:

19 (1) "qualified microgrid" means a permanent or
20 temporary electrical system that:

21 (a) incorporates a microgrid controller;

22 (b) includes a self-source generation
23 resource that is capable of generating not less than twenty
24 megawatts; and

25 (c) is capable of operating

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1 independently and disconnected from the grid;

2 (2) "self-source generation resource" means a
3 permanent or temporary electricity generating resource that is
4 dedicated to primarily serving the persons connected either
5 directly or indirectly through affiliates to the construction
6 and installation of a qualified microgrid; and

7 (3) "self-source generation sales" means sales
8 of electricity to persons or utilities generated from a self-
9 source generation resource."

10 SECTION 2. A new section of the Income Tax Act is enacted
11 to read:

12 "[NEW MATERIAL] CREDIT--QUALIFIED MICROGRID INCOME TAX
13 CREDIT.--

14 A. A taxpayer who is not a dependent of another
15 individual and who constructs and installs a qualified
16 microgrid in an underserved community in New Mexico prior to
17 January 1, 2031 may claim a credit against the taxpayer's tax
18 liability imposed pursuant to the Income Tax Act; provided that
19 a taxpayer shall not be eligible to claim the credit if the
20 taxpayer is allowed a credit for any of the costs for which a
21 credit is allowed pursuant to another section of the Income Tax
22 Act. The credit authorized pursuant to this section may be
23 referred to as the "qualified microgrid income tax credit".

24 B. The amount of the tax credit shall be in an
25 amount equal to the costs to construct and install the

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1 qualified microgrid, not to exceed one hundred thousand dollars
2 (\$100,000) per qualified microgrid constructed and installed.

3 C. A taxpayer shall apply for certification of
4 eligibility for the tax credit from the energy, minerals and
5 natural resources department on forms and in the manner
6 prescribed by that department within twelve months following
7 the calendar year in which the qualified microgrid is
8 installed. Except as provided in Subsections G and H of this
9 section, only one tax credit shall be certified per taxpayer
10 per taxable year. If the energy, minerals and natural
11 resources department determines that the taxpayer meets the
12 requirements of this section, that department shall issue a
13 dated certificate of eligibility to the taxpayer providing the
14 amount of tax credit for which the taxpayer is eligible and the
15 taxable years in which the credit may be claimed. The energy,
16 minerals and natural resources department may promulgate rules
17 governing the procedure for administering the provisions of
18 this subsection. The energy, minerals and natural resources
19 department shall provide the department with the certificates
20 of eligibility issued pursuant to this subsection in an
21 electronic format at regularly agreed upon intervals.

22 D. Applications for certification of the credit
23 shall be made no later than one year from the date on which the
24 qualified microgrid is installed.

25 E. A certificate of eligibility for the credit may

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1 be sold, exchanged or otherwise transferred to another taxpayer
2 for the full value of the credit. The parties to such a
3 transaction shall notify the department of the sale, exchange
4 or transfer within ten days of the sale, exchange or transfer
5 in an electronic format prescribed by the department.

6 F. That portion of the tax credit that exceeds a
7 taxpayer's income tax liability in the taxable year in which
8 the credit is claimed may be carried forward for twenty
9 consecutive taxable years until the amount is exhausted.

10 G. Married individuals filing separate returns for
11 a taxable year for which they could have filed a joint return
12 may each claim only one-half of the tax credit that would have
13 been claimed on a joint return.

14 H. A taxpayer may be allocated the right to claim a
15 qualified microgrid income tax credit in proportion to the
16 taxpayer's ownership interest if the taxpayer owns an interest
17 in a business entity that is taxed for federal income tax
18 purposes as a partnership or limited liability company and that
19 business entity has met all of the requirements to be eligible
20 for the credit. The total credit claimed by all members of the
21 partnership or limited liability company shall not exceed the
22 allowable credit pursuant to this section.

23 I. A taxpayer allowed to claim a tax credit
24 pursuant to this section shall claim the tax credit in a manner
25 required by the department. The credit shall be claimed within

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1 one taxable year of the end of the year in which the energy,
2 minerals and natural resources department certifies the credit.

3 J. The credit provided by this section shall be
4 included in the tax expenditure budget pursuant to Section
5 7-1-84 NMSA 1978, including the total annual aggregate cost of
6 the credit.

7 K. As used in this section:

8 (1) "qualified microgrid" means a permanent or
9 temporary electrical system that:

10 (a) incorporates a microgrid controller;

11 (b) includes a self-source generation
12 resource that is capable of generating not less than twenty
13 megawatts; and

14 (c) is capable of operating
15 independently and disconnected from the grid;

16 (2) "self-source generation resource" means a
17 permanent or temporary electricity generating resource that is
18 dedicated to primarily serving the persons connected either
19 directly or indirectly through affiliates to the construction
20 and installation of a qualified microgrid; and

21 (3) "underserved community" means an area in
22 the state, including a county, municipality or neighborhood, or
23 a subset of such an area, where the median income of the area
24 is at or near the federal poverty level."

25 SECTION 3. APPLICABILITY.--The provisions of Section 2 of
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1 this act apply to taxable years beginning on or after January
2 1, 2025.

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