

February 7, 2023
HB 2228
Oral In-Person
PROPONENT



From: Jessica Lucas, Clean Energy Business Council

Chairman Delperdang and Members of the Committee:

Thank you for allowing me to present proponent testimony on behalf of the Clean Energy Business Council a project of the Climate + Energy Project. We are pleased to come before you today to talk about HB 2228, a bill that would make critical improvements to net-metering policy across the state. Considering that many of your constituents have raised concerns about regionally uncompetitive electric rates, I'm proud to offer HB 2228 because upon enactment, it presents an immediate tool for ratepayers to access as a cost-savings measure.

So much of the work we do in the legislative process is about solving problems and eliminating barriers to businesses and consumers and that's what HB 2228 does.

Under the current set of rules, homeowners and business owners who wish to install solar on their premise are restricted from doing so in the following ways:

In the Evergy territory

- Size restrictions. For many, the size of their premise needs a system larger than the 15 kW allowance for residential homes and the 100 kW allowance for a commercial property.

In Municipal and Cooperative territory

- There is no uniform policy. Some places permit distributed generation (a term used to indicate a home being powered through solar panels). Other places its not. Even more unfortunate have been the customer scenarios where a ratepayer has installed a system only to have their municipal or cooperative provider come back with new policies that add cost to their services, rendering their investment in the solar panels no longer feasible.

As more Kansans consider solar and battery storage for their homes, we need to make sure Kansas policies enable them to make those choices. As it stands now, any residential or commercial property owner can make investments today in programmable thermostats, new windows, better installation, and upgraded HVAC systems. These investments often sharply reduce the amount of energy consumed, thus lowering a ratepayers bill.

There is no penalty for doing this; in fact, we celebrate energy efficiency investments and encourage people to use less. No premise owner making energy efficient investments will be told by their utility that they can't install a programmable thermostat or a new HVAC system.

They won't receive a letter saying that since they've reduced their usage they are now subject to a "revenue recovery fee."

But these kind of things are happening to solar users across the state. In Evergy's territory, if they have a larger home or business, they can't net-meter for the system size they need. In other parts of the state, they may not have the choice at all.

Solar users shouldn't be punished by prohibitive additional fees or restrictions.

Members of the Clean Energy Business Council are here today to speak to the things they've encountered in the marketplace and will share those situations.

I want to draw your attention to information that Legislative Research compiled last year to compare net-metering policies across the country. As you listen to opponent testimony that will say HB 2228 will disrupt systems and perhaps imperil the viability of electric utilities, please note that Kansas has some of the most restrictive policies on net-metering in comparison to the entire country.

To put a finer point on that – other states with friendlier solar policies than Kansas also has lower rates! We can afford to make changes to our existing policies without compromising electric utilities profit-making.

We believe this legislation is an appropriate measure to adopt to provide certainty in the marketplace, uniform access no matter your zip code, and long-term stability for the life-cycle of the solar system investment.

That being said, we also recognize that our utility counterparts have concerns. It's my hope that through this legislative process, and with your support, we can find common ground that gives Kansans greater access and choice to distributed generation technology, removes barriers in the marketplace, and ensures that the Kansas business owners before you today can say YES to their customers solar plans more often than they have to say NO because of limitations of Kansas policies.



December 8, 2022

To: Melissa Renick, Assistant Director for Research

From: Kate Smeltzer, Research Analyst

Re: 50-State Survey of Net Metering Regulation

STATE LAWS ON NET METERING

This memorandum reviews state statutes and rules and regulations concerning net metering and net meter capping. As of 2022, 41 states, including the District of Columbia, American Samoa, U.S. Virgin Islands, and Puerto Rico, all offer net metering. In 17 of those states, net metering activity is capped, with limits of up to 5.0 percent of peak electricity demand.

What is Net Metering?

Net metering is a system in which renewable energy generators are connected to a public utility power grid, and any extra electricity accumulated will be transferred to the grid, which in turn allows customers of that particular utility to offset the cost of the power they draw from the utility.

What is Net Meter Capping?

Net meter capping limits the total amount of net metering that can be implemented in a state or through a utility service or territory and further limits the retail payments for each kilowatt-hour (kWh) generated. Capping further limits the amount of electricity that utilities are required to purchase back from customers.

How is Net Meter Capping Configured?

The most common way for states to configure their net metering cap is based on a percentage of the utility or state's peak demand, capacity, or load in any specified year. Alternatively, some states specify caps based on a fixed number of megawatts (MW), percent of customer peak demand or aggregated customer monthly demand, or by a trigger mechanism.

How do Aggregate Caps Differ from Individual Caps?

Some states cap net-metering on an aggregate basis, limiting how much total energy can be sold back to utilities. Other states cap net-metering on an individual basis, limiting how much energy can be sold back to utilities.

Net Metering Regulations in Kansas

Current Regulations

In May 2009, the Net Metering and Easy Connection Act (NMECA) was enacted (KSA 6-1263 through 6-1271). The Act established net metering for customers of the state's investor-owned utilities (IOUs) such as Evergy and Empire District.

In July 2010, the Kansas Corporation Commission implemented rules (KAR 82-17-1 through 82-17-25) to apply the adopted statutes. IOUs are authorized and required to offer net metering agreements and bi-directional meters to customers until the rated generating capacity of all net-metered systems in the state meet the cap of 1.0 percent of the utility's peak demand during the previous year.

Net Metering Regulations in Other States

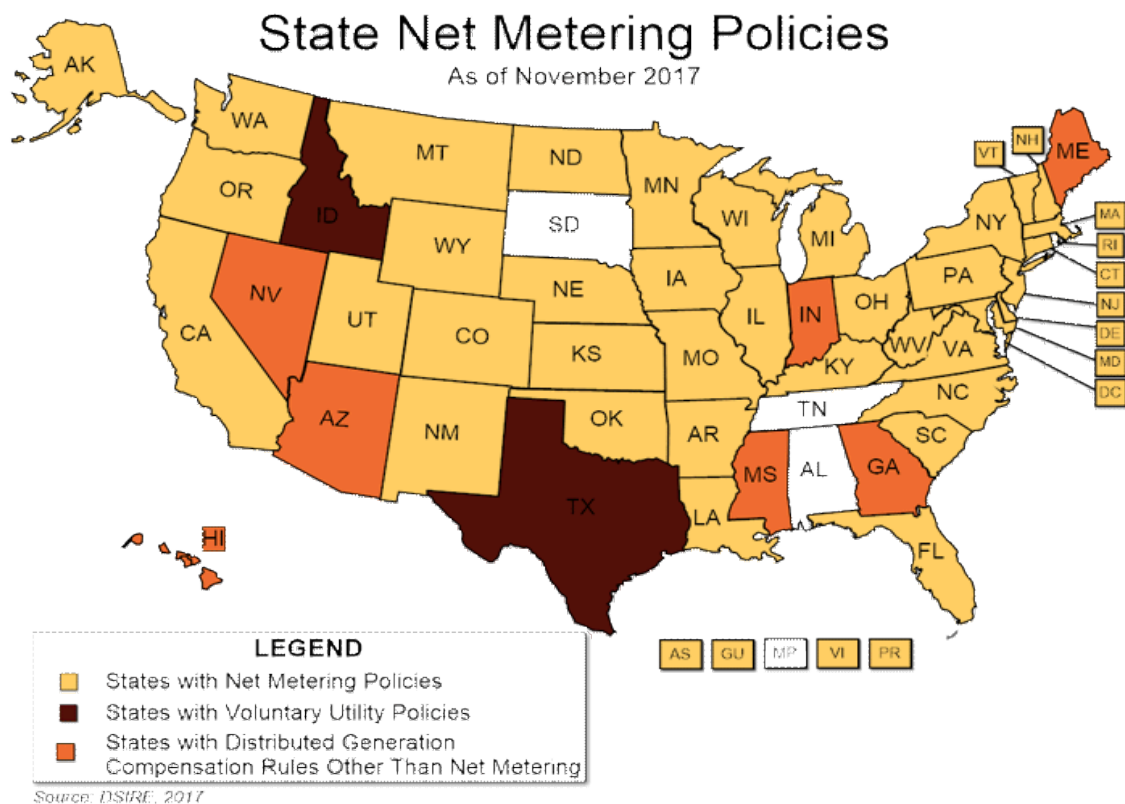


Illustration 1: State Net Metering Policies Map (<https://www.ncsl.org/research/energy/net-metering-policy-overview-and-state-legislative-updates.aspx>)

Alaska

The net metering cap is set to 1.5 percent of the utility's average load by the Regulatory Commission of Alaska. Alaska's net-metering regulations began in 2010 and apply to renewable energy systems of 25 kilowatts (kW) or less and require larger utility companies to purchase up to 1.5 percent of the utility's average load from participating customers. Alaska also allows monthly roll-over of accrued energy credits.

Arkansas

Net metering is offered through Entergy Arkansas LLC., and customers are not capped. Residential customers are eligible for net metering if they have a generator capacity of up to 25 kW, and non-residential customers are eligible if they have a generator capacity of up to 20 megawatts (MW). Arkansas also allows roll-over of accrued energy credits until the end of the billing year.

California

As of 2010, the net metering cap is set to 5.0 percent. Customers, both homeowners and business owners, are able to receive bill credits for excess electricity as long as the customer's system has generation capacity of less than 1,000 kW.

Colorado

Colorado does not cap net metering. Colorado passed the country's first renewable energy standard in 2004, permitting the Colorado Public Utilities Commission to adopt standards for net metering and grid interconnection in 2005. The current policy allows customers to receive a credit for every kWh their solar panels produce at the same price residential customers are charged for electricity, up to 120.0 percent of electricity demand for IOUs or capped at 10 kW for residential, municipal and cooperative utilities. Credits for excess production of energy can roll-over into the next month's bill.

Connecticut

Net metering is not capped. Excess energy credits are rolled over into the next month and at the end of the year (March 31), each utility pays the customer for net excess generation.

Delaware

Delaware allows net metering with an aggregated cap of 5.0 percent. The maximum capacity of a net-metered system for residential customer is 25 kW; 100 kW for farm customers on residential rates; 2 MW per meter for non-residential customers of Delmarva Power and Light; and 500 kW per meter for non-residential customers of Delaware Electric Co-Op, Inc. and municipal utilities. Delaware allows monthly roll-over until the end of the year (March 31), during which any banked credits will expire.

District of Columbia

The total amount of net metering is not capped; however, individual energy generation systems must be sized to provide no more than 160 percent of the customer's previous 12-month usage. This system capacity limit will increase by 20 percentage points per year through 2024, when the cap will be 200 percent of the customer's previous 12-month usage. Energy credits roll-over indefinitely.

Florida

Per Florida Administrative Code Rule 25-6.065, net metering is not capped; however, individual generation system must have a capacity of 2 MW or less. Municipal utilities and electric cooperatives are able to set their own credit rates for net metering.

Illinois

As of 2022, each investor-owned utility and retail supplier must provide net-metering and dual metering until the load of its net-metering and dual metering customers equal five percent of the total peak demand supplied by the utility during the previous year. Eligible renewable generators with capacity of 40 kW or less receive a one-to-one retail credit rate. Customers with generators with capacity between 40 kW and 2 MW receive credits equal to the utility's avoided cost for their excess generation, and "time of use" customers, otherwise known as real-time pricing, are compensated at time-of-use rates.

Iowa

The Iowa Utilities Board approved new net metering programs for MidAmerican Energy and Alliant Energy in 2017. Through these programs, generation system size limits were increased from 500 kW to 1 MW. Customers under either program are not allowed to net meter more than 100 percent of their total load.

According to the N.C. Clean Energy Technology Center at N.C. State University, Senate File 583, which will take effect in 2027 or when statewide generation reaches 5.0 percent of total generation, creates a new optional inflow-outflow billing system for customer-owned generation. Each utility will decide to offer net billing or an inflow-outflow billing method to all new customers participating in renewable energy generation such as solar.

Kentucky

Net metering is capped at 1.0 percent of the utility's single-hour peak load during the customer's previous year.

Louisiana

Net metering is not capped. In September 2019, the Louisiana Public Service Commission approved changes made to the state's rules regarding distributed generation facilities. Customers with residential systems must have generators with capacity of 25 kW or less, and customers with commercial systems must have generators with capacity of 300 kW or less.

Maine

Net metering is not capped. Since 2020, Maine's Net Energy Billing Program has allowed utility customers, including businesses and municipalities, to participate and financially benefit from locally owned and operated renewable energy generators like solar panels. In addition, the Maine Public Utilities Chapter 313 rule controls net energy billing in Maine. This Chapter was created to incorporate the State's policy, which encourages electricity generation through small independently owned sources, thus allowing customers to produce electricity for their own use. To participate in net-metered programs, customers must have renewable generators less than 5 MW in size or contribute in a larger shared project such as a community solar subscription.

Maryland

Originally enacted in 1997, Maryland law has undergone several changes, but every rule applies to all utilities (IOUs, electric cooperatives and municipal utilities). Net metering is allowed statewide until the aggregate capacity of all net-metered systems reaches 3,000 MW. This limit was raised from 1,500 MW in 2021.

Massachusetts

As of 2016, private caps on net metering were set to 7.0 percent of the customer's total peak load, and public caps were set to 8.0 percent of the customer's total peak load. Systems with capacity of 10 kW and under on a single-phase circuit and systems with capacity of 25 kW and under on a three-phase circuit are exempt from the private aggregate capacity limit.

Michigan

Currently, aggregate net-metering is capped to .5% of the utility's peak load during the previous year. Net metering was offered in Michigan until 2019, when the Distributed Generation Program was established and planned to replace net metering for the state. This new program is for customers who install specific on-site, grid-connected renewable generation, which can be no larger than 150 kW. According to the Michigan Public Service Commission, this distributed generation program is based upon the inflow/outflow billing mechanism, meaning customer's incoming and outgoing distributed generation is measured and priced separately for consistent and appropriate cost-of-service billing.

Minnesota

Minnesota's net metering law, which applies to all IOUs, municipal utilities, and electric cooperatives, was established in 1983. There is no cap on the total amount of systems eligible for net metering. However, an IOU may request the Minnesota Public Utilities Commission limit net metering once net-metered generation reaches 4.0 percent of the utility's annual sales.

Mississippi

Mississippi has a 3.0 percent aggregate cap on net metering usage. In 2015, the Mississippi Public Service Commission established an alternative method to compensate customers participating in net metering. The rule requires all IOUs in the state to allow customers to own or lease distributed energy resources to offset their on-site use and sell excess electricity to utility companies.

Missouri

Missouri has an aggregate cap of 5.0 percent on net metering. In 2007, the Easy Connection Act was established, requiring all utilities in Missouri to offer net metering and free grid interconnection to any Missouri customer who has solar, wind, or a small hydroelectric system of less than 100 kW at their home or business.

Montana

Montana's net metering law was established in 1999 and applies to all customers of IOUs. Systems with capacity of up to 50 kW are eligible as long as electricity is generated through solar, wind, or hydropower. There is no cap on net metering.

Nebraska

Net metering was established in 2009 through LB 436. Generators must have a capacity of 25 kW or less with a net metering aggregate cap of 1.0 percent.

Nevada

Nevada currently has a 80 MW aggregate cap for Assembly Bill 405. Nevada has approved generator systems up to 1 MW in capacity. Nevada originally established its net metering law in 1997, which has undergone multiple amendments. In 2017, Assembly Bill 405 further elaborated the individual rights each Nevada resident has in regard to net metering through the Nevada's Renewable Energy Bill of Rights. AB 405 established rules stating that all roof-top solar customers be placed in the same rate class as non-solar customers.

New Hampshire

All utilities selling electricity must offer net metering to eligible customers who own or operate systems with no more than 1 MW in capacity.

Additionally, customers who own combined heat and power systems that use natural gas, wood pellets, hydrogen, propane, or heating oil are also able to participate in net metering. The total aggregate statewide capacity for qualified systems is 100 MW.

New Jersey

New Jersey offers rates toward commercial, industrial, and residential customers. Net metering is not capped but the Board of Public Utilities (BPU) may limit the total annual kWh sold in the state to 5.8 percent. In 2010, Assembly Bill 3520 removed the individual system cap of 2 MW, and net metering is now limited to the amount needed to meet annual on-site demand. In 2018, the BPU was approved to limit net metering to 5.1 percent of the total annual kWh sold in the state by each electric supplier during the previous year.

New Mexico

Net metering is not capped. Net metering is offered to all “qualifying facilities” as defined by the federal Public Utility Regulatory Policies Act of 1978, which states that renewable energy systems and combined heat and power systems up to 80 MW are eligible for net metering.

New York

Currently, there is no aggregate cap set in New York. Net metering was established in 1997, and only applied to residential photovoltaic (PV, also known as solar electric) systems with capacity of up to 10 kW.

North Carolina

Individual net metering system capacity is limited to 1 MW. North Carolina does not cap aggregate net metering.

North Dakota

North Dakota offers net metering to customer-owned generators that produce exclusively solar power. The aggregate net metering cap is 100 kW, but subscribers of net metering are not individually capped.

Ohio

Ohio does not limit an individual net metered energy system and does not have an explicit limit on aggregated net metering.

Oklahoma

Oklahoma originally adopted net metering in 1988, and under the adopted Public Utility Regulatory Policies Act of 1978, no limit was placed on aggregate net metering. In 2019, the Oklahoma Corporation Commission established new net metering rules that raised the individual system size limit from 100 kW to 300 kW, and removed the 25,000 kWh annual generation limit.

Oregon

Oregon state law requires all utilities to offer net metering with no cap, in accordance with Oregon Revised Statutes 757.300, as long as subscribers are not participants of Idaho Power. In 2007, the Public Utilities Commission adopted new rules raising the individual system limit from 25 kW to 2 MW for non-residents of Oregon. Residential systems are still limited to a capacity of 25 kW. There is a 0.5 percent discretionary aggregate cap of each utility's historic single-hour peak load.

Pennsylvania

Pennsylvania does not cap aggregate net metering capacity.

Rhode Island

Rhode Island has set individual subscriber net metering caps at 2.0 percent. Rhode Island permits net metering for systems up to 10 MW in capacity if such systems are designed to generate up to 100.0 percent of the electricity that a home or other facility uses. No aggregate cap is established for the state grid; however, there is a limit set for Block Island Power Company (10.0 percent) and Pascoag Utility District (3.0 percent).

South Carolina

South Carolina's net metering cap is set to 2.0 percent of each utility's peak capacity. Residential net metering subscribers are also limited to systems of 20 kW or less. Non-residents can install systems sized to 100.0 percent of electricity needs or 1 MW.

Texas

Texas does not have a statewide policy regarding net metering. Instead, Texas has several retail electric providers and many municipal utilities and electric cooperatives that offer a solar buyback program. Each program specifies their own caps and limits regarding net metering.

Utah

The cap on net metering in Utah varies by schedule. According to the N.C. Clean Energy Technology Center at N.C. State University, this schedule operates by netting energy usage in 15 minute intervals, any extra is subjected to credited compensation by the following standards:

- Schedule 1-3: 9.2 cents per kWh
- Schedule 6: 3.4 cents per kWh
- Schedule 6A: 6.6 cents per kWh
- Schedule 6B: 3.4 cents per kWh
- Schedule 8: 3.5 cents per kWh
- Schedule 10: 5.6 cents per kWh
- Schedule 15.1 (outdoor lighting): 4.9 cents per kWh
- Schedule 15.2 (traffic signals): 7.8 cents per kWh
- Schedule 23: 8.2 cents per kWh

In September 2017, the Public Service Commission (PSC) approved Rocky Mountain Power's Transition Program, Schedule 136, which functions as net billing. The system capacity limit is 25 kW for residential systems and 2 MW for non-residential systems, whether owned by the utility customer or a third party.

Vermont

Vermont does not currently have an aggregate cap. Vermont requires a Certificate of Public Good from the Vermont Public Service Board to qualify for net metering. For systems 150 kW or larger, customers must apply for a Certificate of Public Good for Interconnected Net Metered Power Systems and, in addition, must also file for the Certificate of Public Good.

Virginia

Virginia offers net metering on a first-come, first-served basis until customer-generators reach 1.0 percent of an electric distribution company's peak-load history for the previous year. Residents with net-metered systems are limited to a capacity of 20 kW or less, non-residents are limited to a capacity of 1,000 kW or less, and agricultural (aggregated capacity) is set to 500 kW.

Washington

Washington's net metering law applies to all systems up to 100 kW in capacity. Net metering is on a first-come, first-served basis until the total generated capacity of net-metered systems equals 4.0 percent of a utility's peak demand during 1996.

West Virginia

West Virginia's aggregate capacity limit is 3.0 percent of the peak demand during the previous year. West Virginia has made net metering available to all retail electricity customers. System capacity limits vary on customer and utility type.

Wisconsin

Net metering does not have an aggregate capacity limit. Customers who generate energy on net-metered systems are limited to 20 kW in capacity.

Wyoming

Net metering does not have an aggregate capacity limit. Customers with net-metered systems are limited to 25 kW in capacity.