**(P. del S. 1064)**

**LAW**

To amend Articles 4 and 9 of Law 114-2007, as amended, known as the "Law of the Net Metering Program in the Electric Power Authority", in order to reformulate the term provided to conduct a study on net metering and distributed energy; and for other purposes.

**EXPLANATORY STATEMENT**

Act 17-2019, as amended, known as the "Energy Public Policy Act," established the public policy that created the guiding parameters for Puerto Rico's energy system to be a resilient, reliable, robust energy system with fair and reasonable rates. On the other hand, the net metering program established by Law 114-2007, as amended, created the net metering program, with the purpose of encouraging residential and commercial customers to install photovoltaic equipment. Through the net metering program, the customer would receive compensation for the excess electricity generated by their equipment and, through a credit, they would only pay for the net electricity supplied by the Puerto Rico Electric Power Authority (hereinafter, "PREPA") or the Electric Service Company (hereinafter, "CSE").

In the tri-monthly reports that LUMA is obliged to deliver with the Energy Bureau, it is observed how, in recent years, distributed solar energy generation has reached more than 370 MW and each month more than 2,000 systems are being connected to the electricity grid. These systems have the potential to contribute around 52,000 GWh monthly. This dynamic reflects the great importance and value that our citizens place on solar energy generation, particularly in a situation where there is a weakened, unreliable and poorly operated power grid.

Rooftop solar provides resilience and self-sufficiency for tens of thousands of consumers, while contributing to the reduction of public expenditure in the purchase of imported fossil fuels, the costs of which depend on fluctuations in both the relationship between supply and demand, as well as speculation in financial markets. This reduction in the purchase of fossil fuels also results in an economic benefit to the various classes of consumers who still depend on the generation system provided by PREPA, AES and Ecoeléctrica, and the transmission and distribution currently operated by LUMA Energy (hereinafter, "LUMA").

For the various classes of consumers (citizens, businesses, NGOs and companies, among others) who can invest in the installation of photovoltaic systems, these systems have become a viable and essential alternative to mitigate the problems of instability and high costs of an electricity system sustained by the burning of fossil fuels. For people who rely on medical equipment to manage chronic health conditions and maintain a certain quality of life, power backup systems supported by battery-powered solar panel systems can literally save their lives.

The organization CAMBIO, in collaboration with the IEEFA, in its Study of the Integration of Distributed Solar Resources in Puerto Rico, carried out a modeling that shows the feasibility of reaching 75% distributed renewable energy within 15 years and that this transformation would result in a more resilient, reliable and affordable system. This modeling also demonstrates that there would have to be no operational changes or improvements to the grid to maintain system reliability until the amount of distributed renewable energy reaches at least 25% of the country's energy consumption.

Net metering is key for consumers to have the right to take advantage of clean, local energy to be self-sufficient while providing benefits to the electric grid.

The rapid growth of rooftop solar power generation in recent years is in line with public energy policy. Unfortunately, this growth has been largely driven by the energy needs of the various classes of consumers, by the instability and high costs of our energy system, and by the encouragement to compensate energy prosumers through the net metering program. The net metering program plays a key role in the implementation of the public policy objectives established in Law 17-2019, including "facilitating the interconnection of distributed energy to the electricity grid" and "making it possible for the energy service consumer to become a prosumer." At the moment, there are no other incentives available to the various groups of consumers who choose to install solar systems.

It should be crystal clear that reducing the credit that prosumers receive for the energy their systems generate can be interpreted as another effort to impose a "sun tax", which has been and must be resoundingly rejected. This type of taxation would contribute to the deterioration of the struggling market that is trying to grow and delay the country's economic recovery.

This Legislative Assembly encourages the continuous development of policies that evaluate and implement different renewable energy alternatives. Therefore, any effort to weaken the net metering program would be counterproductive for the country. Too many factors are inducing the government's poor electricity system, and the reliability of the power grid has worsened since LUMA was contracted. Thus, practically the only alternative left to the various groups of consumers is the installation of solar systems, with and without battery systems. Therefore, it would be very unfair to undermine their ability to install photovoltaic systems in a situation of high system instability, high fuel prices, among others.

So it is our responsibility to promote the transformation of our electricity system and promote any initiative that aims to avoid: excessive dependence on fossil fuels, environmental pollution and increasing the effects of climate change. Every day, more jurisdictions are moving to the production of energy through renewable sources and therefore more programs are created to encourage it. That is why it is imperative that the reconstruction and modernization of our electric grid be promoted and that the federal funds allocated for this are used correctly. That being the case, we need to ensure that a substantial portion of these federal funds are used to increase grid capacity through systems that generate electricity from renewable energy sources and to interconnect them with the transmission and distribution grid. This does not represent an increase in the client's costs or the implementation of new taxes.

In line with the previous one, this Legislative Assembly considers it meritorious to amend Law 114-2007, as amended, so that the letter of the Law is consistent with the legislative intention, that customers who install their photovoltaic systems are fairly compensated for the energy they contribute to the electricity grid.

**DECREE BY THE LEGISLATIVE ASSEMBLY OF PUERTO RICO:**

Section 1.- Article 4 of Law 114-2007, as amended, known as the "Law of the Net Metering Program in the Electric Power Authority", is amended to read as follows:

"Article 4.- Applicable tariff.

a) Study on Net Metering and Distributed Energy. — The Energy Bureau is directed to conduct a study through an independent formal procedure, with the participation of interested parties and the general public, in which it will evaluate and consider the costs and benefits associated with: (1) the net metering program, (2) distributed generation technologies, (3) smaller-scale solar energy, and (4) energy storage systems. Such study shall commence no earlier than January 2030, shall be subject to public comment, and shall take into consideration the following factors: power generation costs, value of capacity, transmission and distribution costs, avoided losses in the system, and avoided costs of environmental compliance, among other factors determined by the Bureau to be relevant and appropriate. Upon completion of such study, the Bureau may make any determination relating to the net metering program taking into consideration the results of such study, provided that the current net metering policy continues while the study is conducted, and for a period of not less than 12 months after the Energy Bureau makes any decision to change the net metering policy. Once the results of such study are integrated into the net metering program or tariff, the study shall remain in effect for not less than three (3) years and until the Bureau, *motu proprio* or at the request of a party, determines that it is appropriate to initiate a formal review procedure for this study.

(b) Determination of the applicable tariff.—In the event that the Energy Bureau chooses to establish new corresponding values of distributed energy and energy storage systems in accordance with the study described in the preceding paragraph, the credit for energy exported by net-metered customers shall be equal to the value of such energy in accordance with the tariff applicable to the customer. and any charges applicable to net metering customers will be based on their net usage for a period of at least 12 additional months prior to the Energy Bureau applying any changes to such values. The rate applicable to net metering customers, including the rate or mechanism by which the customer will be compensated for the energy supplied to the electric grid, will be determined exclusively by the Energy Bureau as part of the rate review procedure for electric service provided for in Law 57-2014, or through a separate administrative procedure. when it deems it necessary or convenient. Any determination regarding the net metering program shall be effective within the term provided by the Bureau. Any customer who, on the date on which the Bureau issues its final determination, has a net metering contract or who has notified the Bureau of the certification of the distributed generator installed by the licensed and registered engineer or by the licensed and collegiate electrical expert, will automatically be considered as a “*grandfathered* net metering customer" under the rate in effect prior to the Bureau's final determination. In such cases, the net metering customer shall be entitled to the fee or compensation mechanism in effect at that time for a term not less than twenty (20) years, counted from the date of such final determination relating to the net metering. However, the net metering customer shall have the right and option to elect to avail themselves of the new tariff or clearing mechanism approved by the Bureau.

c) . . .

..."

Section 2.- Subsection (c) of Article 9 of Law 114-2007, as amended, known as the "Law of the Net Metering Program in the Electric Power Authority", is amended to read as follows:

"Article 9. – Public Policy on Interconnection.

...

(a) ...

(b) ...

(c) The fact that the *feeder* exceeds its capacity shall not constitute an impediment to the interconnection of photovoltaic or renewable energy systems with generating capacity not exceeding 25 kilowatts. In these cases, the necessary improvements and/or changes to the feeder will be at the expense of the requesting company.

(d) ...

..."

Section 3.- Compliance Clause.

The Energy Bureau is hereby authorized to approve or amend such regulations as may be necessary to fulfill the purpose of this Act.

Section 4.- Severability.

If any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, subsection or part of this Act is nullified or declared unconstitutional, the resolution, opinion or judgment rendered to that effect shall not affect, prejudice or invalidate the remainder of this Act. The effect of such judgment shall be limited to the clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, subsection or part thereof that has been so annulled or declared unconstitutional. If the application to any person or circumstance of any clause, paragraph, subparagraph, sentence, word, letter, article, provision, section, subsection, title, chapter, subchapter, subsection or part of this Act shall be invalidated or declared unconstitutional, the resolution, opinion or judgment to that effect rendered shall not affect or invalidate the application of the remainder of this Act to those persons or circumstances in which it may be validly applied. It is the express and unequivocal will of this Legislative Assembly that the courts shall enforce the provisions and application of this Act to the fullest extent possible, even if any part of it is set aside, annulled, invalidated, prejudiced or declared unconstitutional, or even if its application to any person or circumstance is set aside, invalid or declared unconstitutional. This Legislature would have passed this Act regardless of the severability determination that the Court may make.

Section 5.- Survival.

This Act shall enter into force immediately upon its adoption.