I

108TH CONGRESS
1ST SESSION

H. R. 1423

To amend the Internal Revenue Code of 1986 to expand the energy credit to include investment in property which produces energy from certain renewable sources and expenditures for cool roofing, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MARCH 25, 2003

Mr. ENGEL (for himself and Mr. TERRY) introduced the following bill; which was referred to the Committee on Ways and Means, and in addition to the Committee on Energy and Commerce, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

---

A BILL

To amend the Internal Revenue Code of 1986 to expand the energy credit to include investment in property which produces energy from certain renewable sources and expenditures for cool roofing, and for other purposes.

Be it enacted by the Senate and House of Representatives of the United States of America in Congress assembled,

SECTION 1. SHORT TITLE.

This Act may be cited as the ''Preserving Our World's Energy and Resources Act of 2003''.

SEC. 2. ENERGY CREDIT FOR INVESTMENTS IN CERTAIN RENEWABLE RESOURCE PROPERTY AND COOL ROOF PROPERTY.

(a) ENERGY PROPERTY USED IN BUSINESS.—

(1) IN GENERAL.—Subparagraph (A) of section 48(a)(3) of the Internal Revenue Code of 1986 (defining energy property) is amended by striking ''or'' at the end of clause (i) and by inserting after clause (ii) the following new clauses:

''(iii) equipment which uses wind to generate electricity, or

''(iv) cool roof property,''.

(2) ENERGY PERCENTAGE.—Paragraph (2) of section 48(a) of such Code (relating to energy percentage) is amended—

(A) in subparagraph (A) by striking ''The'' and inserting ''Except as provided in subparagraph (B), the'', and

(B) by redesignating subparagraph (B) as subparagraph (C) and by inserting after subparagraph (A) the following new subparagraph:

''(B) EXCEPTION.—The energy percentage for the following properties is—

''(i) 25 percent for equipment which uses solar energy to generate electricity,

''(ii) 25 percent for equipment which uses wind to generate electricity,

''(iii) 25 percent for equipment which uses energy derived from geothermal deposits and which is described in paragraph (3)(A)(ii), and

''(iv) 30 percent for cool roof property.''.

(3) COOL ROOF PROPERTY DEFINED.—Subsection (a) of section 48 of such Code (relating to energy credit) is amended by redesignating paragraphs (4) and (5) as paragraphs (5) and (6), respectively, and by inserting after paragraph (3) the following new paragraph:

''(4) COOL ROOF PROPERTY.—For purposes of this subsection, the term 'cool roof property' means property which is used as a roof or roof coating and which has a solar reflectance index (as determined by the Lawrence Berkeley National Laboratory) of 65 percent or greater.''.

(4) CREDIT ALLOWABLE AGAINST REGULAR AND MINIMUM TAX.—

(A) IN GENERAL.—Section 38(c) of such Code (relating to limitation based on amount of tax) is amended by redesignating paragraph (3)

as paragraph (4) and inserting after paragraph (2) the following:

''(3) SPECIAL RULES FOR ENERGY CREDIT RELATING TO EQUIPMENT WHICH USES WIND TO GENERATE ELECTRICITY AND COOL ROOF PROPERTY.—

''(A) IN GENERAL.—In the case of the portion of the energy credit relating to equipment which uses wind to generate electricity and cool roof property—

''(i) this section and section 39 shall be applied separately with respect to such portion of the credit, and

''(ii) in applying paragraph (1) to such portion of the credit—

''(I) subparagraphs (A) and (B) thereof shall not apply, and

''(II) the limitation under paragraph (1) (as modified by subclause (I)) shall be reduced by the credit allowed under subsection (a) for the taxable year (other than such portion).

''(B) PORTION OF ENERGY CREDIT RELATING TO EQUIPMENT WHICH USES WIND TO GENERATE ELECTRICITY AND COOL ROOF PROP-

ERTY.—For purposes of this subsection, the portion of energy credit relating to equipment which uses wind to generate electricity and cool roof property means the credit allowable under subsection (a) by reason of clauses (iii) and (iv) of section 48(a)(3)(A).''.

(B) CONFORMING AMENDMENT.—Subclause (II) of section 38(c)(2)(A)(ii) of such Code is amended by inserting ''or the portion of energy credit relating to equipment which uses wind to generate electricity and cool roof property'' after ''employment credit''.

(b) RENEWABLE RESOURCE AND COOL ROOF PROPERTY.—

(1) IN GENERAL.—Subpart A of part IV of subchapter A of chapter 1 of such Code (relating to nonrefundable personal credits) is amended by inserting after section 25B the following new section:

''SEC. 25C. CERTAIN RENEWABLE RESOURCE AND COOL ROOF PROPERTY.

''(a) ALLOWANCE OF CREDIT.—In the case of an individual, there shall be allowed as a credit against the tax imposed by this chapter for the taxable year an amount equal to the amount paid or incurred by the taxpayer for

qualified renewable resource property and qualified cool roof property installed during such taxable year.

''(b) LIMITATION.—

''(1) LIMITATION BASED ON AMOUNT OF TAX.—The credit allowed under subsection (a) for any taxable year shall not exceed the excess of—

''(A) the sum of the regular tax liability (as defined in section 26(b)) plus the tax imposed by section 55, over

''(B) the sum of the credits allowable under this subpart (other than this section) and section 27 for the taxable year.

''(2) CARRYFORWARD OF UNUSED CREDIT.—If the credit allowable under subsection (a) exceeds the limitation imposed by paragraph (1) for such taxable year, such excess shall be carried to the succeeding taxable year and added to the credit allowable under subsection (a) for such taxable year.

''(c) DEFINITIONS.—For purposes of this section—

''(1) QUALIFIED RENEWABLE RESOURCE PROPERTY.—The term 'qualified renewable resource property' means—

''(A) equipment which uses solar energy to generate electricity,

''(B) equipment which uses wind to generate electricity, and

''(C) equipment which uses energy derived from geothermal deposits to generate electricity and which is described in section 48(a)(3)(A)(ii).

''(2) COOL ROOF PROPERTY.—The term 'cool roof property' means property which is used as a roof or roof coating and which has a solar reflectance index (as determined by the Lawrence Berkeley National Laboratory) of 65 percent or greater.

''(3) LABOR COSTS.—Expenditures for labor costs properly allocable to the onsite preparation, assembly, or original installation of the property described in paragraph (1) or (2) and for wiring to interconnect such property to the dwelling unit shall be taken into account for purposes of this section.

''(4) ENERGY STORAGE MEDIUM.—Expenditures which are properly allocable to a swimming pool, hot tub, or any other energy storage medium which has a function other than the function of such storage shall not be taken into account for purposes of this section.

''(d) SPECIAL RULES.—For purposes of this section—

''(1) PROPERTY MUST BE INSTALLED ON PRINCIPAL RESIDENCE.—Property shall not be treated as described in subsection (c) unless—

''(A) such property is installed in or on a dwelling—

''(i) located in the United States, and

''(ii) owned and used by the taxpayer as the taxpayer's principal residence (within the meaning of section 121),

''(B) the original use of such property commences with the taxpayer, and

''(C) such property reasonably can be expected to remain in use for at least 5 years.

''(2) DOLLAR AMOUNTS IN CASE OF JOINT OCCUPANCY.—In the case of any dwelling unit which is jointly occupied and used during any calendar year as a residence by 2 or more individuals the following shall apply:

''(A) The amount of the credit allowable under subsection (a) by reason of expenditures for qualified renewable resource property and qualified cool roof property made during such calendar year by any of such individuals with respect to such dwelling unit shall be determined by treating all of such individuals as 1

taxpayer whose taxable year is such calendar year.

''(B) There shall be allowable with respect to such expenditures to each of such individuals, a credit under subsection (a) for the taxable year in which such calendar year ends in an amount which bears the same ratio to the amount determined under subparagraph (A) as the amount of such expenditures made by such individual during such calendar year bears to the aggregate of such expenditures made by all of such individuals during such calendar year.

''(3) TENANT-STOCKHOLDER IN COOPERATIVE HOUSING CORPORATION.—In the case of an individual who is a tenant-stockholder (as defined in section 216) in a cooperative housing corporation (as defined in such section), such individual shall be treated as having paid his tenant-stockholder's proportionate share (as defined in section 216(b)(3)) of the cost of qualified renewable resource property and qualified cool roof property made by such corporation.

''(4) CONDOMINIUMS.—

''(A) IN GENERAL.—In the case of an individual who is a member of a condominium man-

agement association with respect to a condominium which he owns, such individual shall be treated as having paid his proportionate share of the cost of qualified renewable resource property and qualified cool roof property made by such association.

''(B) CONDOMINIUM MANAGEMENT ASSOCIATION.—For purposes of this paragraph, the term 'condominium management association' means an organization which meets the requirements of paragraph (1) of section 528(c) (other than subparagraph (E) thereof) with respect to a condominium project substantially all of the units of which are used as residences.

''(5) MANUFACTURED HOMES INCLUDED.—For purposes of this section, the term 'dwelling' includes a manufactured home which conforms to Federal Manufactured Home Construction and Safety Standards (24 C.F.R. 3280).

''(6) JOINT OWNERSHIP OF ITEMS OF SOLAR OR WIND ENERGY PROPERTY.—

''(A) IN GENERAL.—Any expenditure otherwise qualifying as an expenditure described in paragraph (1) or (2) of subsection (c) shall not be treated as failing to so qualify merely be-

cause such expenditure was made with respect to 2 or more dwelling units.

''(B) LIMITS APPLIED SEPARATELY.—In the case of any expenditure described in subparagraph (A), the amount of the credit allowable under subsection (a) shall (subject to paragraph (1)) be computed separately with respect to the amount of the expenditure made for each dwelling unit.

''(7) ALLOCATION IN CERTAIN CASES.—If less than 80 percent of the use of an item is for nonbusiness residential purposes, only that portion of the expenditures for such item which is properly allocable to use for nonbusiness residential purposes shall be taken into account. For purposes of this paragraph, use for a swimming pool shall be treated as use which is not for residential purposes.

''(8) WHEN EXPENDITURE MADE; AMOUNT OF EXPENDITURE.—

''(A) IN GENERAL.—Except as provided in subparagraph (B), an expenditure with respect to an item shall be treated as made when the original installation of the item is completed.

''(B) EXPENDITURES PART OF BUILDING CONSTRUCTION.—In the case of an expenditure

in connection with the construction or reconstruction of a structure, such expenditure shall be treated as made when the original use of the constructed or reconstructed structure by the taxpayer begins.

''(C) AMOUNT.—The amount of any expenditure shall be the cost thereof.

''(9) REDUCTION OF CREDIT FOR GRANTS, TAX-EXEMPT BONDS, AND SUBSIDIZED ENERGY FINANCING.—The rules of section 29(b)(3) shall apply for purposes of this section.

''(e) BASIS ADJUSTMENT.—For purposes of this subtitle, if a credit is allowed under this section for any expenditure with respect to any property, the increase in the basis of such property which would (but for this subsection) result from such expenditure shall be reduced by the amount of the credit so allowed.''.

(c) CONFORMING AMENDMENTS.—

(1) Subsection (c) of section 23 of such Code is amended by striking ''sections 24'' and inserting ''sections 24, 25C,''.

(2) Subparagraph (C) of section 25(e)(1) of such Code is amended by inserting ''25C'' after ''25B,''.

(3) Paragraph (1) of section 26(a) of such Code is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(4) Section 904(h) of such Code is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(5) Subsection (d) of section 1400C of such Code is amended by striking ''and 25B'' and inserting ''25B, and 25C''.

(6) Subsection (a) of section 1016 of such Code is amended by striking ''and'' at the end of paragraph (27), by striking the period at the end of paragraph (28) and inserting ''; and'', and by adding at the end the following:

''(29) to the extent provided in section 25C(e), in the case of amounts with respect to which a credit has been allowed under section 25C.''.

(7) The table of sections for subpart A of part IV of subchapter A of chapter 1 of such Code is amended by inserting after the item relating to section 25B the following new item:

''Sec. 25C. Certain renewable resource and cool roof property.''.

(d) EFFECTIVE DATE.—The amendments made by this section shall apply to taxable years ending on or after the date of the enactment of this Act.

SEC. 3. NET METERING.

Part II of the Federal Power Act is amended by adding the following new section at the end thereof:

"SEC. 215. NET METERING.

"(a) DEFINITIONS.—As used in this section:

"(1) The term 'customer-generator' means the owner or operator of an electric generation unit qualified for net metering under this section.

"(2) The term 'net metering' means measuring the difference between the electricity supplied to a customer-generator and the electricity generated by a customer-generator that is delivered to a local distribution section system at the same point of interconnection during an applicable billing period.

"(3) The terms 'electric generation unit qualified for net metering' and 'qualified generation unit' mean an electric energy generation unit that meets the requirements of paragraph (5) and each of the following requirements:

"(A) The unit is a fuel cell or uses as its energy source either solar, wind, or biomass.

"(B) The unit has a generating capacity of not more than 100 kilowatts.

"(C) The unit is located on premises that are owned, operated, leased, or otherwise controlled by the customer-generator.

''(D) The unit operates in parallel with the retail electric supplier.

''(E) The unit is intended primarily to offset part or all of the customer-generator's requirements for electric energy.

''(4) The term 'retail electric supplier' means any person that sells electric energy to the ultimate consumer thereof.

''(5) The term 'local distribution system' means any system for the distribution section of electric energy to the ultimate consumer thereof, whether or not the owner or operator of such system is also a retail electric supplier.

''(b) ADOPTION.—Not later than one year after the enactment of this section, each retail electric supplier shall comply with each of the following requirements and notify all of its retail customers of such requirements not less frequently than quarterly:

''(1) The supplier shall offer to arrange (either directly or through a local distribution company or other third party) to make available, on a first-come-first-served basis, to each of its retail customers that has installed an energy generation unit that is intended for net metering and that notifies the supplier of its generating capacity an electric energy

meter that is capable of net metering if the customer-generator's existing electrical meter cannot perform that function.

''(2) Rates and charges and contract terms and conditions for the sale of electric energy to customer-generators shall be the same as the rates and charges and contract terms and conditions that would be applicable if the customer-generator did not own or operate a qualified generation unit and use a net metering system.

Any retail electric supplier or local distribution company may, at its own expense, install one or more additional electric energy meters to monitor the flow of electricity in either direction or to reflect the time of generation or both. Whenever a customer-generator with a net metering system uses any energy generation system entitled to credits under a Federal minimum renewable energy generation requirement, the total amount of energy generated by that system shall be treated as generated by the retail electric supplier for purposes of such requirement.

''(c) NET ENERGY MEASUREMENT AND BILLING.—Each retail electric supplier subject to subsection (b) shall calculate the net energy measurement for a customer using a net metering system in the following manner:

''(1) The retail electric supplier shall measure the net electricity produced or consumed during the billing period using the metering referred to in paragraph (1) or (2) of subsection (b).

''(2) If the electricity supplied by the retail electric supplier exceeds the electricity generated by the customer-generator during the billing period, the customer-generator shall be billed for the net electricity supplied by the retail electric supplier in accordance with normal metering practices.

''(3) If electricity generated by the customer-generator exceeds the electricity supplied by the retail electric supplier, the customer-generator—

''(A) shall be billed for the appropriate customer charges for that billing period;

''(B) shall be credited for the excess electric energy generated during the billing period, with this credit appearing on the bill for the following billing period (except for a billing period that ends in the next calendar year); and

''(C) shall not be charged for transmission losses.

If the customer-generator is using a meter that reflects the time of generation (a 'real time meter'), the credit shall be based on the retail rates for sale

by the retail electric supplier at the time of such generation. At the beginning of each calendar year, any remaining unused kilowatt-hour credit accumulated by a customer-generator during the previous year may be sold by the customer-generator to any electric supplier that agrees to purchase such credit. In the absence of any such purchase, the credit shall be assigned (at no cost) to the retail electric supplier that supplied electric energy to such customer-generator at the end of the previous year.

''(d) PERCENT LIMITATIONS.—

''(1) TWO PERCENT LIMITATION.—A local distribution company retail electric supplier shall not be required to provide local distribution service with respect to additional customer-generators after the date during any calendar year on which the total generating capacity of all customer-generators with qualified generation facilities and net metering systems served by that local distribution company is equal to or in excess of 2 percent of the capacity necessary to meet the company's average forecasted aggregate customer peak demand for that calendar year.

''(2) ONE PERCENT LIMITATION.—A local distribution company retail electric supplier shall not be

required to provide local distribution service with respect to additional customer-generators using a single type of qualified energy generation system after the date during any calendar year on which the total generating capacity of all customer-generators with qualified generation facilities of that type and net metering systems served by that local distribution company is equal to or in excess of 1 percent of the capacity necessary to meet the company's average forecasted aggregate customer peak demand for that calendar year.

''(3) RECORDS AND NOTICE.—Each retail electric supplier shall maintain, and make available to the public, records of the total generating capacity of customer-generators of such system that are using net metering, the type of generating systems and energy source used by the electric generating systems used by such customer-generators. Each such retail electric supplier shall notify the Commission when the total generating capacity of such customer-generators is equal to or in excess of 2 percent of the capacity necessary to meet the supplier's aggregate customer peak demand during the previous calendar year and when the total generating capacity of such customer-generators using a single

type of qualified generation is equal to or in excess of 1 percent of such capacity.

''(e) SAFETY AND PERFORMANCE STANDARDS.—(1) A qualified generation unit and net metering system used by a customer-generator shall meet all applicable safety and performance and reliability standards established by the national electrical code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, or the American National Standards Institute.

''(2) The Commission, after consultation with State regulatory authorities and nonregulated local distribution systems and after notice and opportunity for comment, may adopt by regulation additional control and testing requirements for customer-generators that the Commission determines are necessary to protect public safety and system reliability.

''(3) The Commission shall, after consultation with State regulatory authorities and nonregulated local distribution systems and after notice and opportunity for comment, prohibit by regulation the imposition of additional charges by electric suppliers and local distribution systems for equipment or services for safety or performance that are additional to those necessary to meet the standards referred to in subparagraphs (A) and (B).

''(f) STATE AUTHORITY.—Nothing in this section shall preclude a State from establishing or imposing additional incentives or requirements to encourage qualified generation and net metering additional to that required under this section.''.

''(g) INTERCONNECTION STANDARDS.—(1) Within one year after the enactment of this section the Commission shall publish model standards for the physical connection between local distribution systems and qualified generation units and electric generation units that would be qualified generation units but for the fact that the unit has a generating capacity of more than 100 kilowatts (but not more than 250 kilowatts). Such model standards shall be designed to encourage the use of qualified generation units and to insure the safety and reliability of such units and the local distribution systems interconnected with such units. Within 2 years after the enactment of this section, each State shall adopt such model standards, with or without modification, and submit such standards to the Commission for approval. The Commission shall approve a modification of the model standards only if the Commission determines that such modification is consistent with the purpose of such standards and is required by reason of local conditions. If standards have not been approved under this paragraph by the Commission for any State

within 2 years after the enactment of this section, the Commission shall, by rule or order, enforce the Commission's model standards in such State until such time as State standards are approved by the Commission.

''(2) The standards under this section shall establish such measures for the safety and reliability of the affected equipment and local distribution systems as may be appropriate. Such standards shall be consistent with all applicable safety and performance standards established by the national electrical code, the Institute of Electrical and Electronics Engineers, Underwriters Laboratories, or the American National Standards Institute and with such additional safety and reliability standards as the Commission shall, by rule, prescribe. Such standards shall ensure that generation units will automatically isolate themselves from the electrical system in the event of an electrical power outage. Such standards shall permit the owner or operator of the local distribution system to interrupt or reduce deliveries of available energy from the generation unit to the system when necessary in order to construct, install, maintain, repair, replace, remove, investigate, or inspect any of its equipment or part of its system; or if it determines that curtailment, interruption, or reduction is necessary because of emergencies, forced outages, force majeure, or compliance with prudent electrical practices.

''(3) The model standards under this subsection prohibit the imposition of additional charges by local distribution systems for equipment or services for interconnection that are additional to those necessary to meet such standards.

''(h) INTERCONNECTION.—At the election of the owner or operator of the generation unit concerned, connections meeting the standards applicable under subsection (g) may be made—

''(1) by such owner or operator at such owner's or operator's expense, or

''(2) by the owner or operator of the local distribution system upon the request of the owner or operator of the generating unit and pursuant to an offer by the owner or operator of the generating unit to reimburse the local distribution system in an amount equal to the minimum cost of such connection, consistent with the procurement procedures of the State in which the unit is located, except that the work on all such connections shall be performed by qualified electrical personnel certified by a responsible body or licensed by a State or local government authority.

''(i) CONSUMER FRIENDLY CONTRACTS.—The Commission shall promulgate regulations insuring that sim-

plified contracts will be used for the interconnection of electric energy by electric energy transmission or distribution systems and generating facilities that have a power production capacity not greater than 250 kilowatts.''

○