

Part 6

Carbon Emission Reductions for Electrical Corporations

54-17-601 Definitions.

As used in this part:

- (1) "Adjusted retail electric sales" means the total kilowatt-hours of retail electric sales of an electrical corporation to customers in this state in a calendar year, reduced by:
 - (a) the amount of those kilowatt-hours attributable to electricity generated or purchased in that calendar year from qualifying zero carbon emissions generation and qualifying carbon sequestration generation;
 - (b) the amount of those kilowatt-hours attributable to electricity generated or purchased in that calendar year from generation located within the geographic boundary of the Western Electricity Coordinating Council that derives its energy from one or more of the following but that does not satisfy the definition of a renewable energy source or that otherwise has not been used to satisfy Subsection 54-17-602(1):
 - (i) wind energy;
 - (ii) solar photovoltaic and solar thermal energy;
 - (iii) wave, tidal, and ocean thermal energy;
 - (iv) except for combustion of wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass byproducts, including:
 - (A) organic waste;
 - (B) forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce wildfire risk;
 - (C) agricultural residues;
 - (D) dedicated energy crops; and
 - (E) landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters, or municipal solid waste;
 - (v) geothermal energy;
 - (vi) hydroelectric energy; or
 - (vii) waste gas and waste heat capture or recovery; and
 - (c) the number of kilowatt-hours attributable to reductions in retail sales in that calendar year from demand side management as defined in Section 54-7-12.8, with the kilowatt-hours for an electrical corporation whose rates are regulated by the commission and adjusted by the commission to exclude kilowatt-hours for which a renewable energy certificate is issued under Subsection 54-17-603(4)(b).
- (2) "Amount of kilowatt-hours attributable to electricity generated or purchased in that calendar year from qualifying carbon sequestration generation," for qualifying carbon sequestration generation, means the kilowatt-hours supplied by a facility during the calendar year multiplied by the ratio of the amount of carbon dioxide captured from the facility and sequestered to the sum of the amount of carbon dioxide captured from the facility and sequestered plus the amount of carbon dioxide emitted from the facility during the same calendar year.
- (3) "Banked renewable energy certificate" means a bundled or unbundled renewable energy certificate that is:
 - (a) not used in a calendar year to comply with this part or with a renewable energy program in another state; and
 - (b) carried forward into a subsequent year.

- (4) "Bundled renewable energy certificate" means a renewable energy certificate for qualifying electricity that is acquired:
 - (a) by an electrical corporation by a trade, purchase, or other transfer of electricity that includes the renewable energy attributes of, or certificate that is issued for, the electricity; or
 - (b) by an electrical corporation by generating the electricity for which the renewable energy certificate is issued.
- (5) "Electrical corporation":
 - (a) is as defined in Section 54-2-1; and
 - (b) does not include a person generating electricity that is not for sale to the public.
- (6) "Qualifying carbon sequestration generation" means a fossil-fueled generating facility located within the geographic boundary of the Western Electricity Coordinating Council that:
 - (a) becomes operational or is retrofitted on or after January 1, 2008; and
 - (b) reduces carbon dioxide emissions into the atmosphere through permanent geological sequestration or through another verifiably permanent reduction in carbon dioxide emissions through the use of technology.
- (7) "Qualifying electricity" means electricity generated on or after January 1, 1995 from a renewable energy source if:
 - (a)
 - (i) the renewable energy source is located within the geographic boundary of the Western Electricity Coordinating Council; or
 - (ii) the qualifying electricity is delivered to the transmission system of an electrical corporation or a delivery point designated by the electrical corporation for the purpose of subsequent delivery to the electrical corporation; and
 - (b) the renewable energy attributes of the electricity are not traded, sold, transferred, or otherwise used to satisfy another state's renewable energy program.
- (8) "Qualifying zero carbon emissions generation":
 - (a) means a generation facility located within the geographic boundary of the Western Electricity Coordinating Council that:
 - (i) becomes operational on or after January 1, 2008; and
 - (ii) does not produce carbon as a byproduct of the generation process;
 - (b) includes generation powered by nuclear fuel; and
 - (c) does not include renewable energy sources used to satisfy the requirement established under Subsection 54-17-602(1).
- (9) "Renewable energy certificate" means a certificate issued under Section 54-17-603.
- (10) "Renewable energy source" means:
 - (a) an electric generation facility or generation capability or upgrade that becomes operational on or after January 1, 1995 that derives its energy from one or more of the following:
 - (i) wind energy;
 - (ii) solar photovoltaic and solar thermal energy;
 - (iii) wave, tidal, and ocean thermal energy;
 - (iv) except for combustion of wood that has been treated with chemical preservatives such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass byproducts, including:
 - (A) organic waste;
 - (B) forest or rangeland woody debris from harvesting or thinning conducted to improve forest or rangeland ecological health and to reduce wildfire risk;
 - (C) agricultural residues;
 - (D) dedicated energy crops; and

- (E) landfill gas or biogas produced from organic matter, wastewater, anaerobic digesters, or municipal solid waste;
- (v) geothermal energy located outside the state;
- (vi) waste gas and waste heat capture or recovery whether or not it is renewable, including methane gas from:
 - (A) an abandoned coal mine; or
 - (B) a coal degassing operation associated with a state-approved mine permit;
- (vii) efficiency upgrades to a hydroelectric facility, without regard to the date upon which the facility became operational, if the upgrades become operational on or after January 1, 1995;
- (viii) compressed air, if:
 - (A) the compressed air is taken from compressed air energy storage; and
 - (B) the energy used to compress the air is a renewable energy source; or
- (ix) municipal solid waste;
- (b) any of the following:
 - (i) up to 50 average megawatts of electricity per year per electrical corporation from a certified low-impact hydroelectric facility, without regard to the date upon which the facility becomes operational, if the facility is certified as a low-impact hydroelectric facility on or after January 1, 1995, by a national certification organization;
 - (ii) geothermal energy if located within the state, without regard to the date upon which the facility becomes operational; or
 - (iii) hydroelectric energy if located within the state, without regard to the date upon which the facility becomes operational;
- (c) hydrogen gas derived from any source of energy described in Subsection (10)(a) or (b);
- (d) if an electric generation facility employs multiple energy sources, that portion of the electricity generated that is attributable to energy sources described in Subsections (10)(a) through (c); and
- (e) any of the following located in the state and owned by a user of energy:
 - (i) a demand side management measure, as defined by Subsection 54-7-12.8(1), with the quantity of renewable energy certificates to which the user is entitled determined by the equivalent energy saved by the measure;
 - (ii) a solar thermal system that reduces the consumption of fossil fuels, with the quantity of renewable energy certificates to which the user is entitled determined by the equivalent kilowatt-hours saved, except to the extent the commission determines otherwise with respect to net-metered energy;
 - (iii) a solar photovoltaic system that reduces the consumption of fossil fuels with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the system, except to the extent the commission determines otherwise with respect to net-metered energy;
 - (iv) a hydroelectric or geothermal facility with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the facility, except to the extent the commission determines otherwise with respect to net-metered energy;
 - (v) a waste gas or waste heat capture or recovery system, other than from a combined cycle combustion turbine that does not use waste gas or waste heat, with the quantity of renewable energy certificates to which the user is entitled determined by the total production of the system, except to the extent the commission determines otherwise with respect to net-metered energy; and
 - (vi) the station use of solar thermal energy, solar photovoltaic energy, hydroelectric energy, geothermal energy, waste gas, or waste heat capture and recovery.

- (11) "Unbundled renewable energy certificate" means a renewable energy certificate associated with:
- (a) qualifying electricity that is acquired by an electrical corporation or other person by trade, purchase, or other transfer without acquiring the electricity for which the certificate was issued; or
 - (b) activities listed in Subsection (10)(e).

Amended by Chapter 119, 2010 General Session

Amended by Chapter 125, 2010 General Session

Amended by Chapter 268, 2010 General Session

54-17-602 Target amount of qualifying electricity -- Renewable energy certificate -- Cost-effectiveness -- Cooperatives.

- (1)
- (a) To the extent that it is cost effective to do so, beginning in 2025 the annual retail electric sales in this state of each electrical corporation shall consist of qualifying electricity or renewable energy certificates in an amount equal to at least 20% of adjusted retail electric sales.
 - (b) The amount under Subsection (1)(a) is computed based upon adjusted retail electric sales for the calendar year commencing 36 months before the first day of the year for which the target calculated under Subsection (1)(a) applies.
 - (c) Notwithstanding Subsections (1)(a) and (b), an increase in the annual target from one year to the next may not exceed the greater of:
 - (i) 17,500 megawatt-hours; or
 - (ii) 20% of the prior year's amount under Subsections (1)(a) and (b).
- (2)
- (a) Cost-effectiveness under Subsection (1) for other than a cooperative association is determined in comparison to other viable resource options using the criteria provided by Subsection 54-17-201(2)(c)(ii).
 - (b) For an electrical corporation that is a cooperative association, cost-effectiveness is determined using criteria applicable to the cooperative association's acquisition of a significant energy resource established by the cooperative association's board of directors.
- (3) This section does not require an electrical corporation to:
- (a) substitute qualifying electricity for electricity from a generation source owned or contractually committed, or from a contractual commitment for a power purchase;
 - (b) enter into any additional electric sales commitment or any other arrangement for the sale or other disposition of electricity that is not already, or would not be, entered into by the electrical corporation; or
 - (c) acquire qualifying electricity in excess of its adjusted retail electric sales.
- (4) For the purpose of Subsection (1), an electrical corporation may combine the following:
- (a) qualifying electricity from a renewable energy source owned by the electrical corporation;
 - (b) qualifying electricity acquired by the electrical corporation through trade, power purchase, or other transfer; and
 - (c) a bundled or unbundled renewable energy certificate, including a banked renewable energy certificate.
- (5) For an electrical corporation whose rates the commission regulates, the following rules concerning renewable energy certificates apply:
- (a) a banked renewable energy certificate with an older issuance date shall be used before any other banked renewable energy certificate issued at a later date is used; and

- (b) the total of all unbundled renewable energy certificates, including unbundled banked renewable energy certificates, may not exceed 20% of the amount of the annual target provided for in Subsection (1).
- (6) An electrical corporation that is a cooperative association may count towards Subsection (1) any of the following:
 - (a) electric production allocated to this state from hydroelectric facilities becoming operational after December 31, 2007 if the facilities are located in any state in which the cooperative association, or a generation and transmission cooperative with which the cooperative association has a contract, provides electric service;
 - (b) qualifying electricity generated or acquired or renewable energy certificates acquired for a program that permits a retail customer to voluntarily contribute to a renewable energy source; and
 - (c) notwithstanding Subsection 54-17-601(7), an unbundled renewable energy certificate purchased from a renewable energy source located outside the geographic boundary of the Western Electricity Coordinating Council if the electricity on which the unbundled renewable energy certificate is based would be considered qualifying electricity if the renewable energy source was located within the geographic boundary of the Western Electricity Coordinating Council.
- (7) The use of the renewable attributes associated with qualifying electricity to satisfy any federal renewable energy requirement does not preclude the electricity from being qualifying electricity for the purpose of this chapter.

Enacted by Chapter 374, 2008 General Session

54-17-603 Renewable energy certificate -- Issuance -- Use to satisfy other requirements.

- (1) The commission shall establish a process for issuance or recognition of a renewable energy certificate.
- (2) The commission process under Subsection (1) shall provide for the issuance, monitoring, accounting, transfer, and use of a renewable energy certificate, including in electronic form.
- (3) The commission may:
 - (a) consult with another state or a federal agency and any regional system or trading program to fulfill Subsection (1); and
 - (b) allow use of a renewable energy certificate that is issued, monitored, accounted for, or transferred by or through a regional system or trading program, including the Western Renewable Energy Generation Information System, to fulfill this part's provisions.
- (4) A renewable energy certificate shall be issued for:
 - (a) qualifying electricity generated on and after January 1, 1995; and
 - (b) the activities of an energy user described in Subsections 10-19-102(11)(e) and 54-17-601(10)(e) on and after January 1, 1995.
- (5) The person requesting a renewable energy certificate shall affirm that the renewable energy attributes of the electricity have not been traded, sold, transferred, or otherwise used to satisfy another state's renewable energy requirements.
- (6)
 - (a) For the purpose of satisfying Subsection 54-17-602(1) and the issuance of a renewable energy certificate under this section, a renewable energy source located in this state that derives its energy from solar photovoltaic or solar thermal energy shall be credited for 2.4 kilowatt-hours of qualifying electricity for each 1.0 kilowatt-hour generated.

- (b) Notwithstanding Subsection (6)(a), the acquisition or construction by an electrical corporation of a renewable energy source that derives its energy from solar photovoltaic or solar thermal energy shall comply with the cost-effectiveness criteria of Subsection 54-17-201(2)(c)(ii).
- (7) A renewable energy certificate issued under this section:
 - (a) does not expire; and
 - (b) may be banked.
- (8) The commission may recognize a renewable energy certificate that is issued, monitored, accounted for, or transferred by or through another state or a regional system or trading program, including the Western Renewable Energy Generation Information System, if the renewable energy certificate is for qualifying electricity.
- (9) A renewable energy certificate:
 - (a) may be used only once to satisfy Subsection 54-17-602(1);
 - (b) may be used for the purpose of Subsection 54-17-602(1) and the qualifying electricity on which the renewable energy certificate is based may be used to satisfy any federal renewable energy requirement; and
 - (c) may not be used if it has been used to satisfy any other state's renewable energy requirement.
- (10) The commission shall establish procedures and reasonable rates permitting an electrical corporation that is a purchasing utility under Section 54-12-2 to acquire or retain a renewable energy certificate associated with the purchase of power from an independent energy producer.

Amended by Chapter 140, 2009 General Session

54-17-604 Plans and reports.

- (1) An electrical corporation shall develop and maintain a plan for implementing Subsection 54-17-602(1), consistent with the cost-effectiveness criteria of Subsection 54-17-201(2)(c)(ii).
- (2)
 - (a) A progress report concerning a plan under Subsection (1) for other than a cooperative association shall be filed with the commission by January 1 of each of the years 2010, 2015, 2020, and 2024.
 - (b) For an electrical corporation that is a cooperative association, a progress report shall be filed with the cooperative association's board of directors by January 1 of each of the years 2010, 2015, 2020, and 2024.
- (3) The progress report under Subsection (2) shall contain:
 - (a) the actual and projected amount of qualifying electricity through 2025;
 - (b) the source of qualifying electricity;
 - (c)
 - (i) an analysis of the cost-effectiveness of renewable energy sources for other than a cooperative association; or
 - (ii) an estimate of the cost of achieving the target for an electrical corporation that is a cooperative association;
 - (d) a discussion of conditions impacting the renewable energy source and qualifying electricity markets;
 - (e) any recommendation for a suggested legislative or program change; and
 - (f) for other than a cooperative association, any other information requested by the commission or considered relevant by the electrical corporation.

- (4) The plan and progress report required by Subsections (1) and (2) may include procedures that will be used by the electrical corporation to identify and select any renewable energy resource and qualifying electricity that satisfy the criteria of Subsection 54-17-201(2)(c)(ii).
- (5) By July 1, 2026, each electrical corporation shall file a final progress report demonstrating:
 - (a) how Subsection 54-17-602(1) is satisfied for the year 2025; or
 - (b) the reason why Subsection 54-17-602(1) is not satisfied for the year 2025, if it is not satisfied.
- (6) By January 1 of each of the years 2011, 2016, 2021, and 2025, the Division of Public Utilities shall submit to the Legislature a report containing a summary of any progress report filed under Subsections (2) through (5).
- (7) The summary required by Subsection (6) shall include any recommendation for legislative changes.
- (8)
 - (a) By July 1, 2027, the commission shall submit to the Legislature a report summarizing the final progress reports and recommending any legislative changes.
 - (b) The 2027 summary may contain a recommendation to the Legislature concerning any action to be taken with respect to an electrical corporation that does not satisfy Subsection 54-17-602(1) for 2025.
 - (c) The commission shall provide an opportunity for public comment and take evidence before recommending any action to be taken with respect to an electrical corporation that does not satisfy Subsection 54-17-602(1) for 2025.
- (9) If a recommendation containing a penalty for failure to satisfy Subsection 54-17-602(1) is made under Subsection (8), the proposal shall require that any amount paid by an electrical corporation as a penalty be utilized to fund demand-side management for the retail customers of the electrical corporation paying the penalty.
- (10) A penalty may not be proposed under this section if an electrical corporation's failure to satisfy Subsection 54-17-602(1) is due to:
 - (a) a lack of cost-effective means to satisfy the requirement; or
 - (b) force majeure.
- (11) By July 1, 2026, an electrical corporation that is a cooperative association shall file a final progress report demonstrating:
 - (a) how Subsection 54-17-602(1) is satisfied for the year 2025; or
 - (b) the reason why Subsection 54-17-602(1) is not satisfied for the year 2025 if it is not satisfied.
- (12) The plan and any progress report file under this section by an electrical corporation that is cooperative association shall be publicly available at the cooperative association's office or posted on the cooperative association's website.

Enacted by Chapter 374, 2008 General Session

54-17-605 Recovery of costs for renewable energy activities.

- (1) In accordance with other law, the commission shall include in the retail electric rates of an electrical corporation whose rates the commission regulates the state's share of any of the costs listed in Subsection (2) that are relevant to the proceeding in which the commission is considering the electrical corporation's rates:
 - (a) if the costs are prudently incurred by the electrical corporation in connection with:
 - (i) the acquisition of a renewable energy certificate;
 - (ii) the acquisition of qualifying electricity for which a renewable energy certificate will be issued after the acquisition; and
 - (iii) the acquisition, construction, and use of a renewable energy source; and

- (b) to the extent any qualifying electricity or renewable energy source under Subsection (1)(a) satisfies the cost-effectiveness criteria of Subsection 54-17-201(2)(c)(ii).
- (2) The following are costs that may be recoverable under Subsection (1):
- (a) a cost of siting, acquisition of property rights, equipment, design, licensing, permitting, construction, owning, operating, or otherwise acquiring a renewable energy source and any associated asset, including transmission;
 - (b) a cost to acquire qualifying electricity through trade, power purchase, or other transfer;
 - (c) a cost to acquire a bundled or unbundled renewable energy certificate, if any net revenue from the sale of a renewable energy certificate allocable to this state is also included in rates;
 - (d) a cost to interconnect a renewable energy source to the electrical corporation's transmission and distribution system;
 - (e) a cost associated with using a physical or financial asset to integrate, firm, or shape a renewable energy source on a firm annual basis to meet a retail electricity need; and
 - (f) any cost associated with transmission and delivery of qualifying electricity to a retail electricity consumer.
- (3)
- (a) The commission may allow an electrical corporation to use an adjustment mechanism or reasonable method other than a rate case under Sections 54-4-4 and 54-7-12 to allow recovery of costs identified in Subsection (2).
 - (b) If the commission allows the use of an adjustment mechanism, both the costs and any associated benefit shall be reflected in the mechanism, to the extent practicable.
 - (c) This Subsection (3) creates no presumption for or against the use of an adjustment mechanism.
- (4)
- (a) The commission may permit an electrical corporation to include in its retail electric rates the state's share of costs prudently incurred by the electrical corporation in connection with a renewable energy source, whether or not the renewable energy source ultimately becomes operational, including costs of:
 - (i) siting;
 - (ii) property acquisition;
 - (iii) equipment;
 - (iv) design;
 - (v) licensing;
 - (vi) permitting; and
 - (vii) other reasonable items related to the renewable energy source.
 - (b) Subsection (4)(a) creates no presumption concerning the prudence or recoverability of the costs identified.
 - (c) To the extent deferral is consistent with other applicable law, the commission may allow an electrical corporation to defer costs recoverable under Subsection (4)(a) until the recovery of the deferred costs can be considered in a rate proceeding or an adjustment mechanism created under Subsection (3).
 - (d) An application to defer costs shall be filed within 60 days after the day on which the electrical corporation determines that the renewable energy source project is impaired under generally accepted accounting principles and will not become operational.
 - (e) Notwithstanding the opportunity to defer costs under Subsection (4)(c), a cost incurred by an electrical corporation for siting, property acquisition, equipment, design, licensing, and permitting of a renewable energy source that the electrical corporation proposes to construct

shall be included in the electrical corporation's project costs for the purpose of evaluating the project's cost-effectiveness.

- (f) A deferred cost under Subsection (4)(a) may not be added to, or otherwise considered in the evaluation of, the cost of a project proposed by any person other than the electrical corporation for the purpose of evaluating that person's proposal.

Enacted by Chapter 374, 2008 General Session

54-17-606 Commission rules.

The commission shall make rules as necessary to implement this part.

Enacted by Chapter 374, 2008 General Session

54-17-607 Procedure and appeals under this chapter.

- (1) The governing authority, as defined in Section 54-15-102, has primary jurisdiction concerning issues of interpretation, implementation, and administration of this chapter.
- (2) An appeal of a commission order under this chapter is governed by Chapter 7, Hearings, Practice, and Procedure.

Enacted by Chapter 374, 2008 General Session