

Senator Scott D. McCoy proposes the following substitute bill:

RENEWABLE ENERGY PROVISIONS

2008 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Scott D. McCoy

House Sponsor: _____

LONG TITLE

General Description:

This bill addresses renewable energy standards for regulated electrical corporations.

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires certain electrical corporations to provide specified amounts of electricity from renewable energy sources;
- ▶ provides exemptions from the requirements to provide a specified amount of electricity from renewable energy sources;
- ▶ provides for the issuance and use of renewable energy certificates;
- ▶ requires the submission of an implementation plan by an electrical corporation;
- ▶ addresses the recovery of costs of compliance;
- ▶ requires the submission of compliance reports; and
- ▶ provides for alternative compliance payments in lieu of using renewable energy

sources.

Monies Appropriated in this Bill:

None

Other Special Clauses:



26 None

27 **Utah Code Sections Affected:**

28 ENACTS:

29 **54-18-101**, Utah Code Annotated 1953

30 **54-18-102**, Utah Code Annotated 1953

31 **54-18-103**, Utah Code Annotated 1953

32 **54-18-201**, Utah Code Annotated 1953

33 **54-18-202**, Utah Code Annotated 1953

34 **54-18-203**, Utah Code Annotated 1953

35 **54-18-204**, Utah Code Annotated 1953

36 **54-18-205**, Utah Code Annotated 1953

37 **54-18-206**, Utah Code Annotated 1953

38 **54-18-207**, Utah Code Annotated 1953

39 **54-18-208**, Utah Code Annotated 1953

40 **54-18-209**, Utah Code Annotated 1953

41 **54-18-210**, Utah Code Annotated 1953



43 *Be it enacted by the Legislature of the state of Utah:*

44 Section 1. Section **54-18-101** is enacted to read:

45 **CHAPTER 18. RENEWABLE ENERGY STANDARDS ACT**

46 **Part 1. General Provisions**

47 **54-18-101. Title.**

48 This chapter is known as the "Renewable Energy Standards Act."

49 Section 2. Section **54-18-102** is enacted to read:

50 **54-18-102. Definitions.**

51 As used in this chapter:

52 (1) "Banked renewable energy certificate" means a bundled or unbundled renewable
53 energy certificate that is not used by an electrical corporation to comply with a renewable
54 portfolio standard in a calendar year and that is carried forward for the purpose of complying
55 with Section 54-18-201 in a subsequent year.

56 (2) "Biomass" or "biomass byproducts":

- 57 (a) includes:
- 58 (i) organic human or animal waste;
- 59 (ii) forest or rangeland woody debris from harvesting or thinning conducted to improve
60 forest or rangeland ecological health and to reduce wildfire risk;
- 61 (iii) agricultural residues;
- 62 (iv) dedicated energy crops; and
- 63 (v) landfill gas or biogas produced from organic matter, wastewater, anaerobic
64 digesters, or municipal solid waste; and
- 65 (b) does not include:
- 66 (i) spent pulping liquor;
- 67 (ii) the following if directly combusted to generate electricity:
- 68 (A) municipal solid waste; or
- 69 (B) wood that has been treated with chemical preservatives such as creosote,
70 pentachlorophenol, or chromated copper arsenate.
- 71 (3) "Bundled renewable energy certificate" means a renewable energy certificate for
72 qualifying electricity that is acquired:
- 73 (a) by an electrical corporation by a trade, purchase, or other transfer of qualifying
74 electricity that includes the certificate that is issued for the qualifying electricity; or
- 75 (b) by an electrical corporation by generation of the electricity for which the certificate
76 is issued.
- 77 (4) "Compliance year" means the calendar year for which the electrical corporation is
78 required to comply with Section 54-18-201.
- 79 (5) "Qualifying electricity" means electricity generated on or after January 1, 1995
80 from a renewable energy source if:
- 81 (a) (i) the renewable energy source is located within the geographic boundary of the
82 Western Electricity Coordinating Council; or
- 83 (ii) the qualifying electricity is delivered to the transmission system of the electrical
84 corporation or a delivery point designated by the electrical corporation for the purpose of
85 subsequent delivery to the electrical corporation; and
- 86 (b) the renewable energy attributes of the electricity are not traded, sold, transferred, or
87 otherwise used to satisfy another state's renewable energy program.

88 (6) "Renewable energy source" means:

89 (a) an electric generation facility or generation capability or upgrade that becomes
90 operational on or after January 1, 1995 that derives its energy from one or more of the
91 following:

92 (i) wind energy;

93 (ii) solar photovoltaic and solar thermal energy;

94 (iii) wave, tidal, and ocean thermal energy;

95 (iv) geothermal energy; and

96 (v) electricity attributable to efficiency upgrades to a hydroelectric facility, without
97 regard to the date upon which the facility became operational, if the upgrades become
98 operational on or after January 1, 1995;

99 (b) any of the following:

100 (i) electricity from a certified low-impact hydroelectric facility, without regard to the
101 date upon which the facility becomes operational, if the facility is certified as a low-impact
102 hydroelectric facility on or after January 1, 1995, by a national certification organization; and

103 (ii) electricity produced by a generation unit with a nameplate capacity of not more
104 than 15 megawatts that converts heat from exhaust stacks or pipes that would otherwise be lost
105 to electricity and that does not combust additional fossil fuel, except for energy produced by a
106 system using energy, lost or otherwise, from a process whose primary purpose is the generation
107 of electricity, including any process involving engine-driven generation or pumped
108 hydroelectricity generation;

109 (c) hydrogen gas derived from any source of energy described in Subsection (6)(a) or
110 (b); and

111 (d) if an electric generation facility employs multiple energy sources, that portion of the
112 electricity generated that is attributable to energy sources described in Subsections (6)(a)
113 through (c).

114 (7) "Retail electricity customer" means a person who purchases electricity for
115 consumption, not resale, whether the electricity is used domestically, commercially,
116 industrially, or otherwise.

117 (8) "Retail electricity sales" means the total amount of electricity sold to an electrical
118 corporation's retail electricity customers.

119 (9) "Unbundled renewable energy certificate" means a renewable energy certificate for
120 qualifying electricity that is acquired by an electrical corporation by trade, purchase, or other
121 transfer without acquiring the electricity for which the certificate was issued if the qualifying
122 electricity for which the certificate is issued is located within the geographic boundary of the
123 Western Electricity Coordinating Council.

124 Section 3. Section **54-18-103** is enacted to read:

125 **54-18-103. Application of chapter.**

126 This chapter does not apply to a:

- 127 (1) distribution electrical cooperative;
- 128 (2) cooperative association; or
- 129 (3) municipal electrical utility.

130 Section 4. Section **54-18-201** is enacted to read:

131 **Part 2. Qualifying Electricity Requirements**

132 **54-18-201. Percentage of qualifying electricity.**

133 (1) For an electrical corporation whose retail electricity sales exceed 3% of all retail
134 electricity sales in the state on May 5, 2008, the electrical corporation shall:

135 (a) provide at least 5% of electricity sold to its retail electricity customers in this state
136 from qualifying electricity in the compliance years of 2012 through 2015;

137 (b) provide at least 15% of electricity sold to its retail electricity customers in this state
138 from qualifying electricity in the compliance years of 2016 through 2019;

139 (c) provide at least 20% of electricity sold to its retail electricity customers in this state
140 from qualifying electricity in the compliance years of 2020 through 2024;

141 (d) provide at least 25% of electricity sold to its retail electricity customers in this state
142 from qualifying electricity for each compliance year beginning on or after January 1, 2025; and

143 (e) (i) provide at least 4% of the qualifying electricity required to be provided in
144 Subsections (1)(a) through (d) from solar electric generation technologies, with half of that
145 amount derived from solar-electric generation technologies located on the site where the
146 electricity is used; and

147 (ii) provide at least 2% of electricity sold to its retail electricity customers from solar
148 electric generation technologies in 2020 and every year thereafter.

149 (2) For an electrical corporation whose retail electricity sales exceed 3% of all retail

150 electricity sales in the state after May 5, 2008, the electrical corporation shall:

151 (a) beginning with the first compliance year that starts at least four years after the year
152 in which the electrical corporation first exceeds 3% of all retail sales in the state, provide at
153 least 5% of electricity sold to its retail electricity customers in this state from qualifying
154 electricity;

155 (b) beginning with the first compliance year that starts at least ten years after the year
156 in which the electrical corporation first exceeds 3% of all retail sales in the state, provide at
157 least 15% of electricity sold to its retail electricity customers in this state from qualifying
158 electricity;

159 (c) beginning with the first compliance year that starts at least 15 years after the year in
160 which the electrical corporation first exceeds 3% of all retail sales in the state, provide at least
161 20% of electricity sold to its retail electricity customers in this state from qualifying electricity;
162 and

163 (d) beginning with the first compliance year that starts at least 20 years after the year in
164 which the electrical corporation first exceeds 3% of all retail sales in the state, provide at least
165 25% of electricity sold to its retail electricity customers in this state from qualifying electricity.

166 Section 5. Section **54-18-202** is enacted to read:

167 **54-18-202. Exemptions from qualifying electricity requirement.**

168 An electrical corporation is exempt from Section 54-18-201 if:

169 (1) compliance with Section 54-18-201 would require the electrical corporation to
170 acquire electricity in excess of the electrical corporation's projected electricity requirement in
171 any calendar year; and

172 (2) acquiring the additional electricity would require the utility to substitute qualifying
173 electricity for electricity derived from an energy source other than coal, natural gas, or
174 petroleum.

175 Section 6. Section **54-18-203** is enacted to read:

176 **54-18-203. Renewable energy certificates.**

177 (1) The commission shall establish a process for issuance or recognition of a renewable
178 energy certificate that may be used by an electrical corporation as one method of satisfying
179 Section 54-18-201.

180 (2) The commission process under Subsection (1) shall provide for the issuance,

181 monitoring, accounting, transfer, and use of a renewable energy certificate, including in
182 electronic form.

183 (3) The commission may consult with another state or a federal agency and any
184 regional system or trading program to fulfil Subsection (1).

185 (4) A renewable energy certificate shall be issued for qualifying electricity generated
186 after January 1, 2008.

187 (5) The person requesting a renewable energy certificate shall affirm that the renewable
188 energy attributes of the electricity have not been traded, sold, transferred, or otherwise used to
189 satisfy another state's renewable energy requirements.

190 (6) A renewable energy certificate issued under this section:

191 (a) may be banked for up to three years; and

192 (b) shall be used or banked in the year in which the electricity upon which the
193 certificate is based is generated.

194 (7) The commission may recognize a renewable energy certificate that is issued,
195 monitored, accounted for, or transferred by or through a regional system or trading program,
196 including the Western Renewable Energy Generation Information System, if the renewable
197 energy certificate is for qualifying electricity.

198 (8) A renewable energy certificate:

199 (a) may be used only once to satisfy Section 54-18-201; and

200 (b) may not be used if it has been used to satisfy any other state's renewable energy
201 requirement.

202 (9) A banked renewable energy certificate shall be used before any other renewable
203 energy certificate is used.

204 (10) A banked renewable energy certificate shall be used before another banked
205 renewable energy certificate having a more recent issuance date is used.

206 (11) (a) An unbundled renewable energy certificate may not be used to meet more than
207 20% of an electrical corporation's requirement under Section 54-18-201 for any compliance
208 year.

209 (b) Subsection (11)(a) does not apply to an unbundled renewable energy certificate
210 issued for electricity generated in Utah from a renewable energy source that is part of a net
211 metering program under Chapter 15, Net Metering of Electricity.

212 (12) The qualifying electricity on which a renewable energy certificate is based may be
213 used to satisfy any federal renewable energy requirement, in addition to Section 54-18-201.

214 (13) (a) The commission shall make rules governing the issuance, tracking, and
215 verification of solar renewable energy certificates.

216 (b) Rules made under Subsection (13)(a) shall accommodate the creation and
217 verification of eligible solar energy sources that become operational on or after the effective
218 date of the rules.

219 Section 7. Section **54-18-204** is enacted to read:

220 **54-18-204. Demonstrating compliance with percentage of qualifying electricity**
221 **requirement.**

222 Compliance with Section 54-18-201 shall be demonstrated by:

223 (1) using a bundled, unbundled, or banked renewable energy certificate; or

224 (2) making an alternate compliance payment described in Section 54-18-209.

225 Section 8. Section **54-18-205** is enacted to read:

226 **54-18-205. Implementation plans.**

227 (1) An electrical corporation shall file an implementation plan that complies with this
228 section at a time established by the commission by rule.

229 (2) An updated implementation plan shall be filed within two years after the day on
230 which an implementation plan is filed under Subsection (1).

231 (3) An implementation plan shall contain:

232 (a) an annual target for the acquisition and use of qualifying electricity; and

233 (b) the estimated cost of meeting the annual target, including:

234 (i) transmission costs;

235 (ii) costs of firming, shaping, and integrating qualifying electricity;

236 (iii) the cost of acquiring any necessary renewable energy certificate; and

237 (iv) the cost of making an alternate compliance payment.

238 (4) The commission shall act on a plan received under this section within six months
239 after the day on which the plan is filed.

240 (5) With respect to an implementation plan filed under this section, the commission
241 may:

242 (a) approve the plan;

243 (b) reject the plan; or

244 (c) approve the plan with conditions.

245 (6) An implementation plan filed under this section may include procedures the
246 electrical corporation will use to determine whether the acquisition of qualifying electricity or
247 any renewable energy certificate is consistent with the commission's standards concerning
248 cost-effectiveness of resources under Subsection 54-17-201(2)(c)(ii).

249 (7) The commission may make rules concerning the preparation, filing, and approval of
250 an implementation plan filed under this section, which shall include an opportunity for public
251 comment on each implementation plan.

252 Section 9. Section **54-18-206** is enacted to read:

253 **54-18-206. Exemption -- Cost of compliance.**

254 (1) An electrical corporation is not subject to Section 54-18-201 if the retail rate impact
255 of complying with Section 54-18-201 exceeds 1-1/2% of the total electric bill annually for each
256 retail electricity customer.

257 (2) The retail rate impact under Subsection (1) is measured with reference to the retail
258 rate for a non-qualifying source of electricity at the time the determination required by
259 Subsection (1) is made.

260 Section 10. Section **54-18-207** is enacted to read:

261 **54-18-207. Cost recovery.**

262 (1) A prudently incurred cost associated with complying with Section 54-18-201 is
263 recoverable in an electrical corporation's rates, including a cost for:

264 (a) interconnection; and

265 (b) the use of physical or financial assets to integrate, firm, or shape a renewable
266 energy source on a firm annual basis to meet retail electricity needs.

267 (2) The commission may allow an electrical corporation to use an adjustment
268 mechanism or reasonable method other than a rate case under Sections 54-4-4 and 54-7-12 to
269 allow recovery under this section.

270 Section 11. Section **54-18-208** is enacted to read:

271 **54-18-208. Compliance reports.**

272 (1) An electrical corporation shall submit a compliance report to the commission for
273 each compliance year reporting the electrical corporation's compliance, or failure to comply,

274 with Section 54-18-201.

275 (2) The commission shall review any compliance report submitted under this section,
276 considering:

277 (a) any renewable energy certificate or other payment used by the company or supplier
278 to satisfy Section 54-18-201, including:

279 (i) a renewable energy certificate; and

280 (ii) an alternative compliance payment;

281 (b) the timing of electricity purchases;

282 (c) the market price for electricity purchases and any unbundled renewable energy
283 certificate;

284 (d) whether action taken by the electrical corporation contributes to long term
285 development of generating capacity using renewable energy sources;

286 (e) the effect of any action taken by the electrical corporation on rates paid by retail
287 electricity consumers;

288 (f) good faith forecasting differences associated with the projected number of retail
289 electricity consumers served and the availability of electricity from renewable energy sources;

290 (g) consistency with the implementation plan filed under Section 54-18-205, as
291 approved by the commission; and

292 (h) any other factor considered relevant by the commission.

293 (3) The commission by rule may establish requirements for compliance reports
294 submitted by an electrical corporation.

295 Section 12. Section **54-18-209** is enacted to read:

296 **54-18-209. Alternative compliance payment rate.**

297 (1) For each compliance year, the commission shall establish an alternative compliance
298 payment rate for an electrical corporation for:

299 (a) qualifying electricity generally; and

300 (b) qualifying electricity that is derived from solar electric generation.

301 (2) The alternative compliance payment rate shall be expressed in dollars per megawatt
302 hour.

303 (3) The alternative compliance payment rate shall be based on the cost of:

304 (a) qualifying electricity;

305 (b) contracts that the electrical corporation acquires for future delivery of qualifying
306 electricity; and

307 (c) the number of unbundled renewable energy certificates that the electrical
308 corporation anticipates using in the compliance year to satisfy Section 54-18-201.

309 (4) An alternative compliance payment rate under this section shall be set at an amount
310 sufficiently high to encourage the purchase or generation of qualifying electricity, rather than
311 the use of alternative compliance payments to satisfy Section 54-18-201.

312 (5) The commission may require an electrical corporation to make an alternative
313 compliance payment to satisfy Section 54-18-201.

314 (6) The commission shall determine the portion of any alternative compliance payment
315 to be recovered in an electrical corporation's rates.

316 Section 13. Section **54-18-210** is enacted to read:

317 **54-18-210. Solar-electric generation rebate program.**

318 (1) An electrical corporation shall make available to its ratepayers a standard rebate or
319 performance-based incentives in consideration for a renewable energy certificate.

320 (2) A rebate or incentive under Subsection (1) shall be made on a per installed kilowatt
321 capacity basis.

322 (3) The commission shall make rules concerning the amount and distribution of the
323 rebate.

324 (4) Electricity generated by a solar-electric system qualifying for a rebate under
325 Subsection (1) is qualifying electricity that may be used by the electrical corporation to comply
326 with this chapter in accordance with rule made under Subsection 54-18-203(13).

S.B. 173 1st Sub. (Green) - Renewable Energy Provisions

Fiscal Note

2008 General Session
State of Utah

State Impact

Enactment of this bill will require an appropriations of \$87,500 from Commerce Service Fund-Public Utility Regulatory Fee restricted account to pay for additional duties that the Public Service Commission would be required to perform.

	<u>FY 2008</u> <u>Approp.</u>	<u>FY 2009</u> <u>Approp.</u>	<u>FY 2010</u> <u>Approp.</u>	<u>FY 2008</u> <u>Revenue</u>	<u>FY 2009</u> <u>Revenue</u>	<u>FY 2010</u> <u>Revenue</u>
Restricted Funds	\$0	\$87,500	\$87,500	\$0	\$0	\$0
Total	\$0	\$87,500	\$87,500	\$0	\$0	\$0

Individual, Business and/or Local Impact

Enactment of this bill likely will not result in direct, measurable costs and/or benefits for individuals, businesses, or local governments.