

**ENERGY AMENDMENTS**

2012 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Mark B. Madsen**

House Sponsor: Michael E. Noel

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**LONG TITLE**

**General Description:**

This bill enacts provisions within the Energy Resource Procurement Act.

**Highlighted Provisions:**

This bill:

- ▶ enacts provisions relating to renewable energy facilities;
- ▶ authorizes an electric corporation to enter into a contract to supply electric service from one or more renewable energy facilities, under certain circumstances; and
- ▶ requires Public Service Commission approval of contracts for electric service from renewable energy facilities.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**54-17-801**, Utah Code Annotated 1953

**54-17-802**, Utah Code Annotated 1953

**54-17-803**, Utah Code Annotated 1953

**54-17-804**, Utah Code Annotated 1953

**54-17-805**, Utah Code Annotated 1953

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

30 Section 1. Section **54-17-801** is enacted to read:

31 **Part 8. Renewable Energy Contracts**

32 **54-17-801. Definitions.**

33 As used in this part:

34 (1) "Contract customer" means a person who executes or will execute a renewable  
35 energy contract with a qualified utility.

36 (2) "Qualified utility" means an electric corporation that serves more than 200,000  
37 retail customers in the state.

38 (3) "Renewable energy contract" means a contract under this section for the delivery of  
39 electricity from one or more renewable energy facilities to a contract customer requiring the use  
40 of a qualified utility's transmission or distribution system to deliver the electricity from a  
41 renewable energy facility to the contract customer.

42 (4) "Renewable energy facility":

43 (a) except as provided in Subsection (4)(b), has the same meaning as renewable energy  
44 source defined in Section 54-17-601; and

45 (b) does not include an electric generating facility whose costs have been included in a  
46 qualified utility's rates as a facility providing electric service to the qualified utility's system.

47 Section 2. Section **54-17-802** is enacted to read:

48 **54-17-802. Contracts for the purchase of electricity from a renewable energy**  
49 **facility.**

50 (1) Within a reasonable time after receiving a request from a contract customer and  
51 subject to reasonable credit requirements, a qualified utility shall enter into a renewable energy  
52 contract with the requesting contract customer to supply some or all of the contract customer's  
53 electric service from one or more renewable energy facilities selected by the contract customer.

54 (2) Subject to a contract customer agreeing to pay the qualified utility for all  
55 incremental costs associated with metering facilities, communication facilities, and  
56 administration, a renewable energy contract may provide for electricity to be delivered to a  
57 contract customer:

58 (a) from one renewable energy facility to a contract customer's single metered delivery  
59 location;

60 (b) from multiple renewable energy facilities to a contract customer's single metered  
61 delivery location; or

62 (c) from one or more renewable energy facilities to a single contract customer's  
63 multiple metered delivery locations.

64 (3) (a) A single contract customer may aggregate multiple metered delivery locations to  
65 satisfy the minimum megawatt limit under Subsection (4).

66 (b) Multiple contract customers may not aggregate their separate metered delivery  
67 locations to satisfy the minimum megawatt limit under Subsection (4).

68 (4) The amount of electricity provided to a contract customer under a renewable energy  
69 contract may not be less than 2.0 megawatts.

70 (5) The amount of electricity provided in any hour to a contract customer under a  
71 renewable energy contract may not exceed the contract customer's metered kilowatt-hour load  
72 in that hour at the metered delivery locations under the contract.

73 (6) A renewable energy contract that meets the requirements of Subsection (4) may  
74 provide for one or more increases in the amount of electricity to be provided under the contract  
75 even though the amount of electricity to be provided by the increase is less than the minimum  
76 amount required under Subsection (4).

77 (7) The total amount of electricity to be generated by renewable energy facilities and  
78 delivered to contract customers at any one time under all renewable energy contracts may not  
79 exceed 300 megawatts, unless the commission approves in advance a higher amount.

80 (8) Electricity generated by a renewable energy facility and delivered to a contract  
81 customer under a renewable energy contract may not be included in a net metering program  
82 under Chapter 15, Net Metering of Electricity.

83 Section 3. Section **54-17-803** is enacted to read:

84 **54-17-803. Ownership of a renewable energy facility -- Joint ownership --**  
85 **Ownership of environmental attributes.**

86 (1) A renewable energy facility may be owned:

87 (a) by a person who will be a contract customer receiving electricity from the  
88 renewable energy facility;

89 (b) by a qualified utility;

90 (c) by a person other than a contract customer or qualified utility; or

91 (d) jointly by any combination of Subsections (1)(a), (b), and (c), whether in equal  
92 shares or otherwise.

93 (2) A qualified utility may be a joint owner of a renewable energy facility only if:

94 (a) the qualified utility consents to being a joint owner; and

95 (b) the joint ownership agreement requires the qualified utility to recover from contract  
96 customers receiving electricity from the renewable energy facility all of the qualified utility's  
97 costs associated with its ownership of the renewable energy facility, including administrative,  
98 acquisition, operation, and maintenance costs, unless the commission, in an order issued in a  
99 separate regulatory proceeding:

100 (i) authorizes the qualified utility to recover some of those costs from customers other  
101 than contract customers;

102 (ii) determines that the rate to be paid for electricity from the renewable energy facility  
103 by customers other than contract customers is cost effective; and

104 (iii) approves the inclusion of the rate determined under Subsection (2)(b)(ii) in general  
105 rates or through a commission approved cost recovery mechanism.

106 (3) To the extent that any electricity from a renewable energy facility to be delivered to  
107 a contract customer is owned by a person other than the contract customer:

108 (a) the qualified utility shall, by contract with the owner of the electricity to be sold  
109 from the renewable energy facility, purchase electricity for resale to one or more contract  
110 customers;

111 (b) the qualified utility shall sell that electricity to the contract customer or customers  
112 under renewable energy contracts with the same duration and pricing as the contract between  
113 the qualified utility and the owner of the electricity to be sold from the renewable energy

114 facility; and

115 (c) the qualified utility's contract with the owner of the electricity to be sold from the  
116 renewable energy facility shall provide that the qualified utility's obligation to purchase  
117 electricity under that contract ceases if the contract customer defaults in its obligation to  
118 purchase and pay for the electricity under the contract with the qualified utility.

119 (4) The right to any environmental attribute associated with a renewable energy facility  
120 shall remain the property of the renewable energy facility's owner, except to the extent that a  
121 contract to which the owner is a party provides otherwise.

122 Section 4. Section **54-17-804** is enacted to read:

123 **54-17-804. Exemption from certificate of convenience and necessity requirements.**

124 (1) A qualified utility is not required to comply with Section 54-4-25 with respect to a  
125 renewable energy facility that is the subject of a renewable energy contract if:

126 (a) each contract necessary for the commission to determine compliance with this part  
127 is filed with the commission; and

128 (b) the commission determines that each contract relating to the renewable energy  
129 facility complies with this part.

130 (2) In making its determination under Subsection (1)(b), the commission may process  
131 and consider together multiple renewable energy contracts between the same contract customer  
132 and the qualified utility providing for the delivery of electricity from a renewable energy  
133 facility to the contract customer's multiple metered delivery locations.

134 Section 5. Section **54-17-805** is enacted to read:

135 **54-17-805. Costs associated with delivering electricity from a renewable energy**  
136 **facility to a contract customer.**

137 (1) To the extent that a renewable energy contract provides for the delivery of  
138 electricity from a renewable energy facility owned by the contract customer, the renewable  
139 energy contract shall require the contract customer to pay for the use of the qualified utility's  
140 transmission or distribution facilities at the qualified utility's applicable rates, which may  
141 include transmission costs at the qualified utility's applicable rate approved by the Federal

142 Energy Regulatory Commission.

143 (2) To the extent that a renewable energy contract provides for the delivery of  
144 electricity from a renewable energy facility owned by a person other than the qualified utility or  
145 the contract customer, the renewable energy contract shall require the contract customer to bear  
146 all reasonably identifiable costs that the qualified utility incurs in delivering the electricity from  
147 the renewable energy facility to the contract customer, including all costs to procure and deliver  
148 electricity and for billing, administrative, and related activities, as determined by the  
149 commission.

150 (3) A qualified utility that enters a renewable energy contract shall charge a contract  
151 customer for all metered electric service delivered to the contract customer, including  
152 generation, transmission, and distribution service, at the qualified utility's applicable tariff  
153 rates, excluding:

154 (a) any kilowatt hours of electricity delivered from the renewable energy facility, based  
155 on the time of delivery, adjusted for transmission losses;

156 (b) any kilowatts of electricity delivered from the renewable energy facility that  
157 coincide with the contract customer's monthly metered kilowatt demand measurement, adjusted  
158 for transmission losses;

159 (c) any transmission and distribution service that the contract customer pays for under  
160 Subsection (1) or (2); and

161 (d) any transmission service that the contract customer provides under Subsection (2)  
162 to deliver generation from the renewable energy facility.