

HB0238S02 compared with HB0238S03

18 None

19 **Other Special Clauses:**

20 None

21 **Utah Code Sections Affected:**

22 AMENDS:

24 ~~{10-19-201, as last amended by Laws of Utah 2024, Chapter 53}~~

25 ~~{10-19-202, as last amended by Laws of Utah 2024, Chapter 53}~~

26 ~~{54-17-902, as last amended by Laws of Utah 2024, Chapters 53, 211}~~

27 ~~{54-17-904, as last amended by Laws of Utah 2024, Chapter 53}~~

23 **54-17-905**, as last amended by Laws of Utah 2024, Chapter 53

29 ~~{54-17-909, as enacted by Laws of Utah 2019, Chapter 471}~~

24 ENACTS:

25 **54-27-101**, Utah Code Annotated 1953

26 **54-27-102**, Utah Code Annotated 1953

27 **54-27-103**, Utah Code Annotated 1953

28 **54-27-104**, Utah Code Annotated 1953

29 **54-27-105**, Utah Code Annotated 1953

30

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

38 ~~{Section 1. Section 10-19-201 is amended to read: }~~

39 **10-19-201. Target amount of qualifying electricity -- Renewable energy certificate -- Cost-effectiveness.**

41 (1)

[(a) To the extent that it is cost-effective to do so, beginning in 2025 the-] The portion of annual retail electric sales in this state of each municipal electric utility [shall consist of qualifying electricity or renewable energy certificates in an amount equal to at least 20% of adjusted retail electric sales.] consisting of renewable energy shall be determined by the municipal electric utility in accordance with the state energy policy established in Section 79-6-31.

47 [(b) The amount under Subsection (1)(a) is computed based upon adjusted retail 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.]

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- 50 [~~(e) Notwithstanding Subsections (1)(a) and (b) an increase in the annual target from one year to the~~
next is limited to the greater of:]
- 52 [~~(i) 17,500 megawatt-hours; or]~~
- 53 [~~(ii) 20% of the prior year's amount under Subsections (1)(a) and (b).]~~
- 54 [~~(2) Cost-effectiveness under Subsection (1) is determined using any criteria applicable to the municipal~~
electric utility's acquisition of a significant energy resource established by the municipality's
legislative body.]
- 57 [~~(3)~~ (2) This section does not require a municipal electric utility to:
- 58 (a) substitute qualifying electricity for electricity from a generation source owned or contractually
committed, or from a contractual commitment for a power purchase;
- 60 (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 municipal electric
utility; or
- 63 (c) acquire qualifying electricity in excess of its adjusted retail electric sales.
- 64 [~~(4) A municipal electrical corporation may combine the following to meet Subsection (1):]~~
- 65 [~~(a) qualifying electricity from a clean energy source owned by the municipal electric utility;]~~
- 67 [~~(b) qualifying electricity acquired by the municipal electric utility through trade, power purchase, or~~
other transfer; and]
- 69 [~~(c) a bundled or unbundled renewable energy certificate, including a banked renewable energy~~
certificate.]
- 71 [~~(5) To meet Subsection (1), a municipal electric utility may also count:]~~
- 72 [~~(a) qualifying electricity generated or acquired or renewable energy certificates acquired for a program~~
permitting the municipal electric utility's customers to voluntarily contribute to a renewable energy
source; and]
- 75 [~~(b) electricity allocated to this state that is produced by a hydroelectric facility becoming operational~~
after December 31, 2007, if the hydroelectric facility is located in any state in which the municipal
electric utility, or the interlocal entity with which the municipal electric utility has a contract,
provides electric service.]

79 {Section 2. ~~Section 10-19-202 is amended to read: }~~

80 **10-19-202. Renewable energy certificate -- Use to satisfy other requirements.**

81

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(1) A municipal electric utility may buy, sell, trade, or otherwise transfer a renewable energy certificate issued or recognized under Section 54-17-603.

83 (2) For ~~[the purpose of satisfying Subsection 10-19-201(1) and]~~the issuance of a renewable energy certificate under Section 54-17-603:

85 (a) a clean energy source located in this state that derives its energy from solar photovoltaic and solar thermal energy shall be credited for 2.4 kilowatt-hours of qualifying electricity for each 1.0 kilowatt-hour generated; and

88 (b) if two or more municipal electric utilities jointly own a renewable energy resource, each municipal electric utility shall be credited with 1.0 kilowatt-hour of qualifying electricity for 1.0 kilowatt-hour of the renewable energy resource allocated to the municipal electric utility by contract, unless the contract otherwise provides.

92 (3) A renewable energy certificate:

93 ~~[(a) may be used only once to satisfy Subsection 10-19-201(1);]~~

94 ~~[(b)] (a) [may be used to satisfy Subsection 10-19-201(1) and]~~ together with the qualifying electricity on which the renewable energy certificate is based, may be used to satisfy any federal renewable energy requirement; and

97 ~~[(c)] (b)~~ may not be used if it has been used to satisfy any other state's renewable energy requirement.

99 ~~{Section 3. Section 54-17-902 is amended to read: }~~

100 **54-17-902. Definitions.**

As used in this part:

102 (1)

(a) "Auxiliary services" means those services necessary to safely and reliably:

103 (i) interconnect and transmit electric power from any clean energy resource constructed or acquired for a community clean energy program; and

105 (ii) integrate and supplement electric power from any clean energy resource.

106 (b) "Auxiliary services" shall include applicable Federal Energy Regulatory Commission requirements governing transmission and interconnection services.

108 (2) "Clean electric energy supply" means incremental clean energy resources that are developed to meet the annual electric energy consumption of participating customers within a participating community.

111 (3) "Clean energy resource" means:

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(a) electric energy generated by a source that is naturally replenished and includes one or more of the following:

114

(i) wind;

115

(ii) solar photovoltaic or thermal solar technology;

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(iii) a geothermal resource; or

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(iv) a hydroelectric plant including a pumped storage hydropower facility;

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(b) use of an energy efficient and sustainable technology the commission has approved for implementation that:

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(i) increases efficient energy usage;

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(ii) is capable of being used for demand response;

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(iii) facilitates the use and development of clean generation resources through electrical grid management or energy storage; or

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(iv) uses carbon capture utilization and sequestration; or

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(c) energy derived from nuclear fuel.

126

(4) "Commission" means the Public Service Commission created in Section 54-1-1.

127

(5) "Community clean energy program" means the program approved by the commission under Section 54-17-904 that allows a qualified utility to provide electric service from one or more clean energy resources to a participating customer within a participating community.

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(6) "County" means the unincorporated area of a county.

132

(7) "Division" means the Division of Public Utilities created in Section 54-4a-1.

133

~~(8)~~

~~(a) "Initial opt-out period" means the period of time immediately after the community clean energy program's commencement, as established by the commission by rule made pursuant to Section 54-17-909, during which a participating customer may elect to leave the program without penalty.]~~

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~~[(b) "Initial opt-out period" may not be shorter than three typical billing cycles of the qualified utility.]~~

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~~[(9)]~~ (8) "Municipality" means a city or a town as defined in Section 10-1-104.

140

~~[(10)]~~ (9) "Office" means the Office of Consumer Services created in Section 54-10a-101.

141

~~[(11)]~~ (10) "Ongoing costs" means the costs allocated to the state for transmission and distribution facilities, retail services, and generation assets that are not replaced assets.

143

~~[(12)]~~ (11) "Participating community" means a municipality or a county:

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(a) whose residents are served by a qualified utility; and

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- 145 (b) the municipality or county meets the requirements in Section 54-17-903.
- 146 ~~[(13)]~~ (12) "Participating customer" means:
- 147 (a) a customer of a qualified utility located within the boundary of a municipality or county where a
community clean energy program has been approved by the commission; and
- 150 (b) the customer has ~~[not exercised the right to not]~~ affirmatively elected to participate in the
community clean energy program as provided in Section 54-17-905.
- 152 ~~[(14)]~~ (13) "Qualified utility" means the same as that term is defined in Section 54-17-801.
- 153 ~~[(15)]~~ (14) "Replaced asset" means an existing thermal energy resource:
- 154 (a) that was built or acquired, in whole or in part, by a qualified utility to serve the qualified utility's
customers, including customers within a participating community;
- 156 (b) that was built or acquired prior to commission approval and the effective date of the community
clean energy program; and
- 158 (c) to the extent the asset is no longer used to serve participating customers.
- 159 ~~{Section 4. Section 54-17-904 is amended to read: }~~
- 160 **54-17-904. Authority of commission to approve a community clean energy program.**
- 162 (1) After the commission has adopted administrative rules as required under Section 54-17-909, a
qualified utility may file an application with the commission for approval of a community clean
energy program.
- 165 (2) The application shall include:
- 166 (a) the names of each municipality and county to be served by the community clean energy program;
- 168 (b) a map of the geographic boundaries of each municipality and county;
- 169 (c) the number of customers served by the qualified utility within those boundaries;
- 170 (d) projected rates for participating customers that take into account:
- 171 (i) the estimated number of customers expected to elect to participate in the program;
- 172 (ii) the quantifiable costs and benefits to the qualified utility and all of the qualified utility's customers
in their capacity as ratepayers of the qualified utility, excluding costs or benefits that do not directly
affect the qualified utility, including as applicable:
- 176 (A) replaced assets;
- 177 (B) auxiliary services; and
- 178 (C) new clean energy resources used to serve the community clean energy program; and
- 180 (iii) the ongoing costs at the time of the application;

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- 181 (e) the agreement entered into with the qualified utility under Section 54-17-903;
- 182 (f) a proposed plan established by the participating community addressing low-income programs and
assistance;
- 184 (g) a proposed solicitation process for the acquisition of clean energy resources as provided in Section
54-17-908; [~~and~~]
- 186 (h) the number of customers that have elected to participate in the community clean energy program;
and
- 188 [~~(h)~~] (i) any other information the commission may require by rule.
- 189 (3) The commission may approve an application for a community clean energy program if the
commission finds:
- 191 (a) the application meets all of the requirements in this section and administrative rules adopted by the
commission in accordance with Sections 54-17-908 and 54-17-909 to implement this part; and
- 194 (b) the community clean energy program is in the public interest.
- 195 (4) The rates approved by the commission for participating customers:
- 196 (a) shall be based on the factors included in Subsection (2)(d), the actual number of customers that have
elected to participate under Subsection (2)(h), and any other factor determined by the commission to
be in the public interest;
- 199 (b) may not result in any shift of costs or benefits to any nonparticipating customer, or any other
customer of the qualified utility beyond the participating community boundaries; and
- 202 (c) shall take into account any quantifiable benefits to the qualified utility, and the qualified utility's
customers, including participating customers in their capacity as ratepayers of the qualified utility,
excluding costs or benefits that do not directly affect the qualified utility's costs of service.
- 206 (5)
- (a) Each municipality or county included in the application shall be a party to the regulatory proceeding.
- 208 (b) A municipality or county identified in the application shall provide information to all relevant
parties in accordance with the commission's rules for discovery, notwithstanding Title 63G, Chapter
2, Government Records Access and Management Act.
- 212 (6) The community clean energy program may not be implemented until after the municipality or
county adopts the ordinance required in Section 54-17-903.

32 Section 1. Section **54-17-905** is amended to read:

33 **54-17-905. Customer participation -- Election not to participate.**

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- 216 (1)
- (a) After commission approval of a community clean energy program and adoption of the ordinance by the participating community as required in Section 54-17-903, a qualified utility shall provide notice to each of its customers within the participating community that includes:
- 220 (i) the ~~{[projected]}~~ rates and terms of participation in the community clean energy program approved by the commission;
- 222 (ii) an estimated comparison to otherwise applicable existing rates;
- 223 (iii) an explanation that the customer may elect to ~~{[not]}~~ participate in the community clean energy program by notifying the qualified utility ~~{ in the manner and within the time period determined by the commission }~~;
- 43 (iv) a simple method, such as checking a box or signing a statement, for the customer to indicate on the notice the customer's election to not participate in the community clean energy program;
- 46 (v) instructions for submitting the notice to the qualified utility to opt out of the community clean energy program; and
- 226 ~~[(iv)]~~ (vi) any other information required by the commission.
- 49 (b) The notice required under Subsection (1)(a) shall prominently display the information described in Subsections (1)(a)(iv) and (v).
- 227 ~~[(b)]~~ (c) The qualified utility shall provide the notice required under Subsection (1)(a) to each customer:
- 229 (i) no less than twice within the ~~{[period of]}~~ 60~~{-day}~~ ~~{[days immediately preceding the date required to opt out of the community clean energy program]}~~ ~~period as determined by the commission~~;
- and
- 232 (ii) separately from the customer's monthly billing.
- 233 ~~[(e)]~~ (d) The qualified utility shall provide the information required under Subsection (1)(a) in person to each customer with an electric load of one megawatt or greater measured at a single meter.
- 236 (2)
- (a) ~~{[An existing customer of the qualified utility may elect to not participate in the community clean energy program and continue to pay applicable existing rates by]}~~ ~~{[]}~~
- 61 (i) submitting the notice described in Subsection (1)(a) to the qualified utility; or
- 62 (ii) giving notice to the qualified utility in the manner and within the time period determined by the commission. ~~{[} A customer of the qualified utility within a participating community may~~

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~~elect to participate in the community clean energy program by giving notice to the qualified utility in the manner and within the time period determined by the commission.~~}

243 ~~{(b) After implementation of the community clean energy program:}~~}

244 ~~{(i) a customer that previously elected not to participate in the program may become a participating customer as allowed by commission rules and by giving notice to the qualified utility in the manner required by the commission; and}~~}

247 ~~{(ii){} {(b)} } {f} a{f} A~~ customer of the qualified utility that begins taking electric service within a participating community after the date of implementation of the community clean energy program~~{f shall} :~~

250 ~~{(A){} {(i)} shall}~~ be given notice as determined by the commission; and

251 ~~{(B){} {(ii)} {f} shall {f} may elect to }~~ become a participating customer ~~{unless the person elects not to participate }~~ by giving notice to the qualified utility in the manner and within the time period determined by the commission.

254 ~~{(3) A participating customer may discontinue participation in the community clean energy program by:}~~

256 ~~{(a) giving notice to the qualified utility in the manner and within the time period determined by the commission; and}~~

258 ~~{(b) paying a termination charge as determined by the commission that may include the cost of clean energy resources acquired or constructed for the community clean energy program that are not being utilized by participating customers as necessary to prevent shifting costs to other customers of the qualified utility.}~~

262 ~~{(3)}~~

~~{(a) A customer that does not opt out of the community clean energy program under Subsection (2) may later discontinue participation in the community clean energy program as allowed by the commission as described in Subsection (3)(b) or (c).}~~}

265 ~~{(b)}~~

~~{(i) During the initial opt-out period, a participating customer may elect to leave the program by giving notice to the qualified utility in the manner determined by the commission.}~~}

268 ~~{(ii) A participating customer that opts out as described in Subsection (3)(b)(i) is not subject to a termination charge.}~~}

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- {(c) After the community clean energy program's initial opt-out period, a participating customer may elect to leave the program by:}
- 272 {(i) giving notice to the qualified utility in the manner determined by the commission; and}
- 274 {(ii) paying a termination charge as determined by the commission that may include the cost of clean energy resources acquired or constructed for the community clean energy program that are not being utilized by participating customers as necessary to prevent shifting costs to other customers of the qualified utility.}}
- 278 (4)
- (a) A customer of a qualified utility that is annexed into the boundaries of a participating community after the effective date of the community clean energy program shall be given notice as provided in Subsection (1) advising the customer of the option to {opt out of the{}} ~~participate in the~~ program.
- 282 (b) A participating customer located in a portion of a county that is annexed into a municipality that is not a participating community shall continue to be included in the clean energy program if the customer remains a customer of the qualified utility.
- 285 (c) If a participating customer is annexed into a municipality that provides electric service to the municipality's residents:
- 287 (i) the customer may continue to be served by the qualified utility under the community clean energy program if the qualified utility enters into an agreement with the municipality under Section 54-3-30; or
- 290 (ii) the municipality shall pay the termination charge for each participating customer that is no longer served by the qualified utility.
- 292 (5) A residential customer that is participating in the net metering program under Title 54, Chapter 15, Net Metering of Electricity, may not be a participating customer under this part.
- 295 (6)
- (a) The cost of providing notice under Subsection (1) shall be paid by the participating communities.
- 297 (b) All other notices required under this section shall be paid for as program costs and recovered through participating customers' rates.
- 299 ~~{Section 6. Section 54-17-909 is amended to read: }~~
- 300 **54-17-909. Commission rulemaking authority.**
In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the

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commission shall adopt rules to implement this part, including:

- 303 (1) establishing [the initial opt-out period] the time period and manner for customers to elect to
participate in a community clean energy program;
- 305 (2) the terms and conditions of the agreement under Section 54-17-903;
- 306 (3) the content and filing of an application under Section 54-17-904;
- 307 (4) the notice requirements under Section 54-17-905;
- 308 (5) the standards for determining when a termination charge is applicable and the amount and timing of
a termination charge under Subsection 54-17-905(3);
- 310 (6) the content and filing requirements for the annual filing under Subsection 54-17-907(2);
- 311 (7) the solicitation requirements under Section 54-17-908; and
- 312 (8) any other requirements determined by the commission necessary to protect the public interest and to
implement this part.

112 Section 2. Section 2 is enacted to read:

115 **54-27-101. Definitions.**

27. Regional Transmission Organizations and Independent System Operators

As used in this chapter:

- 319 (1) "Commission" means the same as that term is defined in Section 54-2-1.
- 320 (2) "Electrical corporation" means the same as that term is defined in Section 54-2-1.
- 321 (3) "Independent system operator" means a regional transmission organization recognized by the
Federal Energy Regulatory Commission that administers electric transmission and markets.
- 324 (4) "Regional transmission organization" means an entity approved by the Federal Energy Regulatory
Commission that coordinates, controls, or monitors electricity transmission on a regional basis.
- 327 (5) "Transmission provider" means the same as that term is defined in Section 54-26-101.

126 Section 3. Section 3 is enacted to read:

127 **54-27-102. Commission participation in a regional transmission organization or independent
system operator.**

- 331 (1) The commission shall actively participate in a regional transmission organization or independent
system operator in which a transmission provider or electrical corporation serving Utah customers is
a member or market participant.
- 334 (2) Participation under Subsection (1) includes engagement in:
- 335 (a) stakeholder processes;

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336 (b) governance committees;

337 (c) technical forums; or

338 (d) market-related proceedings.

137 Section 4. Section 4 is enacted to read:

138 **54-27-103. Commission data access and analysis.**

341 (1) The commission shall obtain operational, market, and reliability data from a regional transmission organization or independent system operator.

343 (2) The commission may enter into a data-sharing agreement or confidentiality agreement to obtain the data described in Subsection (1).

345 (3) Data obtained under this section may include:

346 (a) resource sufficiency and adequacy results;

347 (b) transmission constraint modeling;

348 (c) congestion revenue rights, congestion offsets, and related settlement data;

349 (d) unit commitment or dispatch information;

350 (e) outage coordination data;

351 (f) tariff test results;

352 (g) monthly master file data;

353 (h) Western Energy Imbalance Market neutrality charges;

354 (i) out-of-market payments, including reliability run cost data;

355 (j) resource adequacy data; or

356 (k) deliverability, adequacy, or system impact studies.

357 (4) The commission may contract with an independent expert or market monitor to review and verify modeling, analyses, or cost allocations affecting a Utah generation facility or transmission facility.

158 Section 5. Section 5 is enacted to read:

159 **54-27-104. Transparency, accountability, and reporting.**

362 (1) On or before November 30 of each year, the commission shall report to the Public Utilities, Energy, and Technology Interim Committee regarding:

364 (a) whether Utah customers are paying congestion costs associated with constraints primarily outside Utah;

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- (b) whether a regional transmission organization or independent system operator test or sufficiency measure imposes disproportionate burdens on electrical corporations or transmission providers serving Utah customers;
- 369 (c) the extent to which another state or region relies on a Utah generation facility or transmission facility to satisfy a regional transmission organization or independent system operator sufficiency requirement, adequacy requirement, or deliverability requirement;
- 373 (d) whether the commission is afforded parity of access and participation with other state regulators in regional transmission organization or independent system operator governance, processes, and data availability; and
- 376 (e) a recommended statutory change or regulatory change necessary to maintain parity of access and participation and ensure continued protection of Utah customers.
- 378 (2) The commission shall include in the report described in Subsection (1) a finding on how Utah's participation in a regional transmission organization or independent system operator may have a positive impact or negative impact on Utah customers.

179 Section 6. Section 6 is enacted to read:

180 **54-27-105. Notification of lack of access or participation.**

- 383 (1) If the commission is denied access to data, a process, or participation available to another state regulatory body, or is otherwise unable to obtain information necessary to fulfill the commission's duties under this chapter, the commission shall, within 30 days after the day on which the commission is denied access or is unable to obtain the information, notify:
- 388 (a) the Legislative Management Committee; and
- 389 (b) the Public Utilities, Energy, and Technology Interim Committee.
- 390 (2) The commission's notice described in Subsection (1) shall identify the data, process, or participation that was denied or unavailable and may include a recommendation for remedying the deficiency.

191 Section 7. **Effective date.**

Effective Date.

This bill takes effect on May 6, 2026.

2-12-26 2:03 PM