

Part 8

Renewable Energy Contracts

54-17-801 Definitions.

As used in this part:

- (1) "Clean energy contract" means a contract under this part for the delivery of electricity from one or more clean energy facilities to a contract customer requiring the use of a qualified utility's transmission or distribution system to deliver the electricity from a clean energy facility to the contract customer.
- (2)
 - (a) "Clean energy facility" means a clean energy source as defined in Section 54-17-601 that:
 - (i) is located in the state; or
 - (ii)
 - (A) is located outside the state; and
 - (B) provides energy from baseload clean resources.
 - (b) "Clean energy facility" does not include an electric generating facility for which the electric generating facility's costs are included in a qualified utility's rates as a facility that provides electric service to the qualified utility's system.
- (3) "Clean energy tariff" means a tariff offered by a qualified utility that allows the qualified utility to procure clean generation on behalf of and to serve its customers.
- (4) "Contract customer" means a person who executes or will execute a clean energy contract with a qualified utility.
- (5) "Qualified utility" means an electric corporation that serves more than 200,000 retail customers in the state.

Amended by Chapter 53, 2024 General Session

54-17-802 Contracts for the purchase of electricity from a clean energy facility.

- (1) Within a reasonable time after receiving a request from a contract customer and subject to reasonable credit requirements, a qualified utility shall enter into a clean energy contract with the requesting contract customer to supply some or all of the contract customer's electric service from one or more clean energy facilities selected by the contract customer.
- (2) Subject to a contract customer agreeing to pay the qualified utility for all incremental costs associated with metering facilities, communication facilities, and administration, a clean energy contract may provide for electricity to be delivered to a contract customer:
 - (a) from one clean energy facility to a contract customer's single metered delivery location;
 - (b) from multiple clean energy facilities to a contract customer's single metered delivery location;or
 - (c) from one or more clean energy facilities to a single contract customer's multiple metered delivery locations.
- (3)
 - (a) A single contract customer may aggregate multiple metered delivery locations to satisfy the minimum megawatt limit under Subsection (4).
 - (b) Multiple contract customers may not aggregate their separate metered delivery locations to satisfy the minimum megawatt limit under Subsection (4).
- (4) The amount of electricity provided to a contract customer under a clean energy contract may not be less than 2.0 megawatts.

- (5) The amount of electricity provided in any hour to a contract customer under a clean energy contract may not exceed the contract customer's metered kilowatt-hour load in that hour at the metered delivery locations under the contract.
- (6) A clean energy contract that meets the requirements of Subsection (4) may provide for one or more increases in the amount of electricity to be provided under the contract even though the amount of electricity to be provided by the increase is less than the minimum amount required under Subsection (4).
- (7) The total amount of electricity to be generated by clean energy facilities and delivered to contract customers at any one time under all clean energy contracts may not exceed 300 megawatts, unless the commission approves in advance a higher amount.
- (8) Electricity generated by a clean energy facility and delivered to a contract customer under a clean energy contract may not be included in a net metering program under Chapter 15, Net Metering of Electricity.

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54-17-803 Ownership of a clean energy facility -- Joint ownership -- Ownership of environmental attributes.

- (1) A clean energy facility may be owned:
 - (a) by a person who will be a contract customer receiving electricity from the clean energy facility;
 - (b) by a qualified utility;
 - (c) by a person other than a contract customer or qualified utility; or
 - (d) jointly by any combination of Subsections (1)(a), (b), and (c), whether in equal shares or otherwise.
- (2) A qualified utility may be a joint owner of a clean energy facility only if:
 - (a) the qualified utility consents to being a joint owner; and
 - (b) the joint ownership agreement requires the qualified utility to recover from contract customers receiving electricity from the clean energy facility all of the qualified utility's costs associated with its ownership of the clean energy facility, including administrative, acquisition, operation, and maintenance costs, unless the commission, in an order issued in a separate regulatory proceeding:
 - (i) authorizes the qualified utility to recover some of those costs from customers other than contract customers;
 - (ii) determines that the rate to be paid for electricity from the clean energy facility by customers other than contract customers is cost effective; and
 - (iii) approves the inclusion of the rate determined under Subsection (2)(b)(ii) in general rates or through a commission approved cost recovery mechanism.
- (3) To the extent that any electricity from a clean energy facility to be delivered to a contract customer is owned by a person other than the contract customer:
 - (a) the qualified utility shall, by contract with the owner of the electricity to be sold from the clean energy facility, purchase electricity for resale to one or more contract customers;
 - (b) the qualified utility shall sell that electricity to the contract customer or customers under clean energy contracts with the same duration and pricing as the contract between the qualified utility and the owner of the electricity to be sold from the clean energy facility; and
 - (c) the qualified utility's contract with the owner of the electricity to be sold from the clean energy facility shall provide that the qualified utility's obligation to purchase electricity under that contract ceases if the contract customer defaults in its obligation to purchase and pay for the electricity under the contract with the qualified utility.

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

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

- (1) A qualified utility is not required to comply with Section 54-4-25 with respect to a clean energy facility that is the subject of a clean energy contract if:
 - (a) each contract necessary for the commission to determine compliance with this part is filed with the commission; and
 - (b) the commission determines that each contract relating to the clean energy facility complies with this part.
- (2) In making its determination under Subsection (1)(b), the commission may process and consider together multiple clean energy contracts between the same contract customer and the qualified utility providing for the delivery of electricity from a clean energy facility to the contract customer's multiple metered delivery locations.

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54-17-805 Costs associated with delivering electricity from a clean energy facility to a contract customer.

- (1) To the extent that a clean energy contract provides for the delivery of electricity from a clean energy facility owned by the contract customer, the clean energy contract shall require the contract customer to pay for the use of the qualified utility's transmission or distribution facilities at the qualified utility's applicable rates, which may include transmission costs at the qualified utility's applicable rate approved by the Federal Energy Regulatory Commission.
- (2) To the extent that a clean energy contract provides for the delivery of electricity from a clean energy facility owned by a person other than the qualified utility or the contract customer, the clean energy contract shall require the contract customer to bear all reasonably identifiable costs that the qualified utility incurs in delivering the electricity from the clean energy facility to the contract customer, including all costs to procure and deliver electricity and for billing, administrative, and related activities, as determined by the commission.
- (3) A qualified utility that enters a clean energy contract shall charge a contract customer for all metered electric service delivered to the contract customer, including generation, transmission, and distribution service, at the qualified utility's applicable tariff rates, excluding:
 - (a) any kilowatt hours of electricity delivered from the clean energy facility, based on the time of delivery, adjusted for transmission losses;
 - (b) any kilowatts of electricity delivered from the clean energy facility that coincide with the contract customer's monthly metered kilowatt demand measurement, adjusted for transmission losses;
 - (c) any transmission and distribution service that the contract customer pays for under Subsection (1) or (2); and
 - (d) any transmission service that the contract customer provides under Subsection (2) to deliver generation from the clean energy facility.

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54-17-806 Qualified utility clean energy tariff.

- (1) The commission may authorize a qualified utility to implement a clean energy tariff in accordance with this section if the commission determines the tariff that the qualified utility proposes is reasonable and in the public interest.
- (2) The commission may authorize a tariff under Subsection (1) to apply to:
 - (a) a qualified utility customer with an aggregated electrical load of at least five megawatts; or
 - (b) a combination of qualified utility customers who are separately metered if:
 - (i) the aggregated electrical load of the qualified utility customers is at least five megawatts; and
 - (ii) each of the qualified utility customers is located within a project area, as defined in Section 11-58-102.
- (3) A customer who agrees to take service that is subject to the clean energy tariff under this section shall pay:
 - (a) the customer's normal tariff rate;
 - (b) an incremental charge in an amount equal to the difference between the cost to the qualified utility to supply clean generation to the clean energy tariff customer and the qualified utility's avoided costs as defined in Subsection 54-2-1(1), or a different methodology recommended by the qualified utility; and
 - (c) an administrative fee in an amount approved by the commission.
- (4) The commission shall allow a qualified utility to recover the qualified utility's prudently incurred cost of clean generation procured pursuant to the tariff established in this section that is not otherwise recovered from the proceeds of the tariff paid by customers agreeing to service that is subject to the clean energy tariff.

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54-17-807 Solar photovoltaic or thermal solar energy facilities.

- (1) As used in this section, "acquire" means to purchase, construct, or purchase the output from a photovoltaic or thermal solar energy resource.
- (2)
 - (a) In accordance with this section, a qualified utility may file an application with the commission for approval to acquire a photovoltaic or thermal solar energy resource using rate recovery based on a competitive market price, except as provided in Subsection (2)(b).
 - (b) A qualified utility may not, under this section, acquire a photovoltaic or thermal solar energy resource with a generating capacity that is two megawatts or less per meter if that resource is located on the customer's side of the meter.
- (3) The energy resource acquired pursuant to this section may be owned solely or jointly by a qualified utility or another entity:
 - (a) to provide clean energy to a contract customer as provided in Section 54-17-803;
 - (b) to serve energy to a qualified utility customer as provided in Section 54-17-806;
 - (c) to serve energy to any customers of the qualified utility if the proposed energy resource's nameplate capacity does not exceed 300 megawatts or, if applicable, the quantity of capacity that is the subject of a contract for the purchase of electricity does not exceed 300 megawatts, so long as the qualified utility proceeds under and complies with Part 4, Voluntary Request for Resource Decision Review; or
 - (d) to serve energy to any customers of the qualified utility if the proposed energy resource's nameplate capacity exceeds 300 megawatts or, if applicable, the quantity of capacity that is the subject of a contract for the purchase of electricity exceeds 300 megawatts, so long as the qualified utility complies with this chapter.

- (4) Except as provided in Subsections (3)(c) and (d), the following do not apply to an application submitted under Subsection (2):
- (a) Part 1, General Provisions;
 - (b) Part 2, Solicitation Process;
 - (c) Part 3, Resource Plans and Significant Energy Resource Approval;
 - (d) Part 4, Voluntary Request for Resource Decision Review; and
 - (e) Section 54-17-502.
- (5) The application described in Subsection (2) shall include:
- (a) a proposed solicitation process for the energy resource;
 - (b) the criteria proposed to be used to evaluate the responses to the solicitation:
 - (i) as determined by the customer, if the energy resource is sought to serve a customer pursuant to Subsection (3)(a) or (b); or
 - (ii) as proposed by the qualified utility, if the energy resource is sought to serve the customers of the qualified utility pursuant to Subsection (3)(c) or (d); and
 - (c) any other information the commission may require.
- (6)
- (a) Before approving a solicitation process under this section for an energy resource to serve customers of the qualified utility pursuant to Subsection (3)(c) or (d), the commission shall:
 - (i) hold a public hearing; and
 - (ii) provide an opportunity for public comment.
 - (b) The commission may approve a solicitation process under this section only if the commission determines that the solicitation and evaluation processes to be used will create a level playing field in which the qualified utility and other bidders can compete fairly, including with respect to interconnection and transmission requirements imposed on bidders by the solicitation within the control of the commission and the qualified utility, excluding its federally regulated transmission function, and will otherwise serve the public interest.
- (7)
- (a) Upon completion of the solicitation process approved under Subsection (6), the qualified utility may seek approval from the commission to acquire the energy resource identified through the solicitation process as the winning bid.
 - (b) Before approving acquisition of an energy resource acquired pursuant to this section, the commission shall:
 - (i) hold a public hearing;
 - (ii) provide an opportunity for public comment;
 - (iii) determine whether the solicitation and evaluation processes complied with this section, commission rules, and the commission's order approving the solicitation process; and
 - (iv) determine whether the acquisition of the energy resource is just and reasonable, and in the public interest.
 - (c) The commission may approve a qualified utility's ownership of an energy resource or a power purchase agreement containing a purchase option under Subsection (3)(c) or (d) with rate recovery based on a competitive market price only if the commission determines that the qualified utility's bid is the lowest cost ownership option for the qualified utility.
 - (d) If the commission approves a qualified utility's acquisition of an energy resource under Subsection (3), including entering into a power purchase agreement containing a purchase option, using rate recovery based on a competitive market price:
 - (i) the prices approved by the commission shall constitute competitive market prices for purposes of this section; and

- (ii) assets owned by the qualified utility and used to provide service as approved under this section are not public utility property.
- (8) If upon completion of a solicitation process approved under Subsection (6) the qualified utility proposes not to acquire an energy resource, the qualified utility shall file with the commission a report explaining its reasons for not acquiring the lowest cost resource bid into the solicitation, along with any other information the commission requires.
- (9) Within six months after a competitive market price for a solar energy resource acquired under Subsection (3)(c) or (d) has been identified pursuant to this section, or for such longer period as the commission may determine to be in the public interest, a qualified utility may file an application with the commission seeking approval to acquire another energy resource similar to the energy resource for which a competitive market price was established without going through a new solicitation process. The commission may approve the application if the qualified utility demonstrates a need to acquire the energy resource, that the competitive market price remains reasonable, and that the acquisition is in the public interest.
- (10) No later than 180 days before the end of the term approved by the commission for an energy resource acquired under this section and owned by the qualified utility, the qualified utility shall file with the commission a request for determination of an appropriate disposition of the energy resource asset, except that the qualified utility is permitted to retain the benefits or proceeds and shall be required to assume the costs and risks of ownership of the energy resource.
- (11) The commission shall adopt rules, in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act:
 - (a) addressing the content and filing of an application under this section;
 - (b) to establish the solicitation process and criteria to be used to identify the competitive market price and select an energy resource; and
 - (c) addressing other factors determined by the commission to be relevant to protect the public interest and to implement this section.

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