

54-17-201 Solicitation process required -- Exception.

- (1)
 - (a) An affected electrical utility shall comply with this chapter to acquire or construct a significant energy resource after February 25, 2005.
 - (b) Notwithstanding Subsection (1)(a), this chapter does not apply to a significant energy resource for which the affected electrical utility has issued a solicitation before February 25, 2005.
- (2)
 - (a) Except as provided in Subsection (3), to acquire or construct a significant energy resource, an affected electrical utility shall conduct a solicitation process that is approved by the commission.
 - (b) To obtain the approval of the commission of a solicitation process, the affected electrical utility shall file with the commission a request for approval that includes:
 - (i) a description of the solicitation process the affected electrical utility will use;
 - (ii) a complete proposed solicitation; and
 - (iii) any other information the commission requires by rule made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act.
 - (c) In ruling on the request for approval of a solicitation process, the commission shall determine whether the solicitation process:
 - (i) complies with this chapter and rules made in accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act; and
 - (ii) is in the public interest taking into consideration:
 - (A) whether it will most likely result in the acquisition, production, and delivery of electricity at the lowest reasonable cost to the retail customers of an affected electrical utility located in this state;
 - (B) long-term and short-term impacts;
 - (C) risk;
 - (D) reliability;
 - (E) financial impacts on the affected electrical utility; and
 - (F) other factors determined by the commission to be relevant.
 - (d) Before approving a solicitation process under this section the commission:
 - (i) may hold a public hearing; and
 - (ii) shall provide an opportunity for public comment.
 - (e) As part of its review of a solicitation process, the commission may provide the affected electrical utility guidance on any additions or changes to its proposed solicitation process.
 - (f) Unless the commission determines that additional time to analyze a solicitation process is warranted and is in the public interest, within 60 days of the day on which the affected electrical utility files a request for approval of the solicitation process, the commission shall:
 - (i) approve a proposed solicitation process;
 - (ii) suggest modifications to a proposed solicitation process; or
 - (iii) reject a proposed solicitation process.
- (3) Notwithstanding Subsection (2), an affected electrical utility may acquire or construct a significant energy resource without conducting a solicitation process if it obtains a waiver of the solicitation requirement in accordance with Section 54-17-501.
- (4) In accordance with the commission's authority under Subsection 54-12-2(2), the commission shall determine:

- (a) whether this chapter or another competitive bidding procedure shall apply to a purchase of a significant energy resource by an affected electrical utility from a small power producer or cogenerator; and
- (b) if this chapter applies as provided in Subsection (4)(a), the manner in which this chapter applies to a purchase of a significant energy resource by an affected electrical utility from a small power producer or cogenerator.

Amended by Chapter 374, 2008 General Session
Amended by Chapter 382, 2008 General Session