

**54-17-304 Order to proceed.**

- (1)
  - (a) In the event of a change in circumstances or projected costs, an affected electrical utility may seek a commission review and determination of whether the affected electrical utility should proceed with the implementation of an approved significant energy resource decision.
  - (b) In making a determination under this Subsection (1), the commission shall use the standards identified in Subsection 54-17-302(3)(c).
  - (c) Before making a determination under this Subsection (1) the commission:
    - (i) may hold a public hearing; and
    - (ii) shall provide an opportunity for public comment.
- (2) Unless the commission determines that additional time is warranted and is in the public interest, within 60 days of the day on which the affected electrical utility files a request for commission review and determination under this section, the commission shall:
  - (a) issue an order:
    - (i) determining that the affected electrical utility should proceed with the implementation of the significant energy resource decision;
    - (ii) making findings as to the total projected costs for construction or acquisition of the approved significant energy resource; and
    - (iii) stating the basis upon which the findings described in Subsection (2)(a)(ii) are made; or
  - (b) issue an order determining that the affected electrical utility should not proceed with the implementation of the significant energy resource decision.
- (3) If the commission determines that the affected electrical utility should proceed with the implementation of the approved significant energy resource decision, the commission shall, in a general rate case or other appropriate commission proceeding, include in the affected electrical utility's retail electric rates the state's share of costs:
  - (a) relevant to that proceeding;
  - (b) incurred by the affected electrical utility in constructing or acquiring the approved significant energy resource; and
  - (c) up to the projected costs as specified in the commission's order issued under Subsection (2)(a).
- (4) If the commission determines that the affected electrical utility should not proceed with the implementation of the approved significant energy resource decision, the commission shall, in a general rate case or other appropriate commission proceeding, include in the affected electrical utility's retail electric rates the state's share of costs:
  - (a) relevant to that proceeding; and
  - (b) incurred by the affected electrical utility in constructing or acquiring the approved significant energy resource before issuance of a determination not to proceed, including any prudently incurred costs of terminating the approved significant energy resource decision.
- (5) A commission order under this section not to proceed with the implementation of a significant energy resource may not prejudice:
  - (a) the right of an affected electrical utility to:
    - (i) continue to implement the significant energy resource decision; and
    - (ii) seek recovery of costs incurred after a determination not to proceed in a future rate proceeding; or
  - (b) the right of any other party to support or oppose recovery of costs sought under Subsection (5)(a)(ii).

(6) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the commission shall make rules regarding the process for the commission's review and determination on a request for an order to proceed under this section.

Amended by Chapter 382, 2008 General Session