

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

- (1) A renewable energy facility may be owned:
 - (a) by a person who will be a contract customer receiving electricity from the renewable 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 renewable 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 renewable energy facility all of the qualified utility's costs associated with its ownership of the renewable 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 renewable 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 renewable 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 renewable 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 renewable 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 renewable energy facility; and
 - (c) the qualified utility's contract with the owner of the electricity to be sold from the renewable 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 renewable energy facility shall remain the property of the renewable energy facility's owner, except to the extent that a contract to which the owner is a party provides otherwise.

Enacted by Chapter 182, 2012 General Session