

Effective 7/1/2021

79-6-402 In-state generator need -- Merchant electric transmission line.

- (1) As used in this section:
 - (a) "Capacity allocation process" means the process outlined by the Federal Energy Regulatory Commission in its final policy statement dated January 17, 2013, "Allocation of Capacity on New Merchant Transmission Projects and New Cost-Based, Participant-Funded Transmission Projects, Priority Rights to New Participant-Funded Transmission," 142 F.E.R.C. P61,038 (2013).
 - (b) "Certificate of in-state need" means a certificate issued by the office in accordance with this section identifying an in-state generator that meets the requirements and qualifications of this section.
 - (c) "Expression of need" means a document prepared and submitted to the office by an in-state merchant generator that describes or otherwise documents the transmission needs of the in-state merchant generator in conformance with the requirements of this section.
 - (d) "In-state merchant generator" means an electric power provider that generates power in Utah and does not provide service to retail customers within the boundaries of Utah.
 - (e) "Merchant electric transmission line" means a transmission line that does not provide electricity to retail customers within the boundaries of Utah.
 - (f) "Office" means the Office of Energy Development established in Section 79-6-401.
 - (g) "Open solicitation notice" means a document prepared and submitted to the office by a merchant electric transmission line regarding the commencement of the line's open solicitation in compliance with 142 F.E.R.C. P61,038 (2013).
- (2) As part of the capacity allocation process, a merchant electric transmission line shall file an open solicitation notice with the office containing a description of the merchant electric transmission line, including:
 - (a) the proposed capacity;
 - (b) the location of potential interconnection for in-state merchant generators;
 - (c) the planned date for commencement of construction; and
 - (d) the planned commercial operations date.
- (3) Upon receipt of the open solicitation notice, the office shall:
 - (a) publish the notice on the Utah Public Notice Website created under Section 63A-16-601;
 - (b) include in the notice contact information; and
 - (c) provide the deadline date for submission of an expression of need.
- (4)
 - (a) In response to the open solicitation notice published by the office, and no later than 30 days after publication of the notice, an in-state merchant generator may submit an expression of need to the office.
 - (b) An expression of need submitted under Subsection (4)(a) shall include:
 - (i) a description of the in-state merchant generator; and
 - (ii) a schedule of transmission capacity requirement provided in megawatts, by point of receipt and point of delivery and by operating year.
- (5) No later than 60 days after notice is published under Subsection (3), the office shall prepare a certificate of in-state need identifying the in-state merchant generators.
- (6) Within five days of preparing the certificate of in-state need, the office shall:
 - (a) publish the certificate on the Utah Public Notice Website created under Section 63A-16-601; and
 - (b) provide the certificate to the merchant electric transmission line for consideration in the capacity allocation process.

- (7) The merchant electric transmission line shall:
 - (a) provide the Federal Energy Regulatory Commission with a copy of the certificate of in-state need; and
 - (b) certify that the certificate is being provided to the Federal Energy Regulatory Commission in accordance with the requirements of this section, including a citation to this section.
- (8) At the conclusion of the capacity allocation process, and unless prohibited by a contractual obligation of confidentiality, the merchant electric transmission line shall report to the office whether a merchant in-state generator reflected on the certificate of in-state need has entered into a transmission service agreement with the merchant electric transmission line.
- (9) This section may not be interpreted to:
 - (a) create an obligation of a merchant electric transmission line to pay for, or construct any portion of, the transmission line on behalf of an in-state merchant generator; or
 - (b) preempt, supersede, or otherwise conflict with Federal Energy Regulatory Commission rules and regulations applicable to a commercial transmission agreement, including agreements, or terms of agreements, as to cost, terms, transmission capacity, or key rates.
- (10) Subsections (2) through (9) do not apply to a project entity as defined in Section 11-13-103.

Amended by Chapter 84, 2021 General Session

Renumbered and Amended by Chapter 280, 2021 General Session

Amended by Chapter 345, 2021 General Session