

1                                   **ELECTRIC ENERGY EFFICIENCY AND**  
2                                   **CONSERVATION TARIFF**

3                                   2002 GENERAL SESSION

4                                   STATE OF UTAH

5                                   **Sponsor: Leonard M. Blackham**

6   **This act modifies Public Utilities provisions to establish a process for Public Service**  
7   **Commission approval of a tariff to pay for activities or programs designed to promote**  
8   **electric energy efficiency or conservation or more efficient management of electric energy**  
9   **loads. The act provides for a hearing on the proposed tariff and authorizes the commission**  
10   **to allow a customer credit against tariff charges for implementing energy efficiency**  
11   **measures. The act makes coordinating and technical changes.**

12   This act affects sections of Utah Code Annotated 1953 as follows:

13   AMENDS:

14           **54-7-12**, as last amended by Chapter 219, Laws of Utah 2001

15   ENACTS:

16           **54-7-12.8**, Utah Code Annotated 1953

17   *Be it enacted by the Legislature of the state of Utah:*

18           Section 1. Section **54-7-12** is amended to read:

19           **54-7-12. Rate increase or decrease -- Procedure -- Effective dates -- Electrical or**  
20   **telephone cooperative.**

21           (1) As used in this section:

22           (a) "Rate decrease" means:

23           (i) any direct decrease in a rate, fare, toll, rental, or other charge of a public utility; or

24           (ii) any modification of a classification, contract, practice, or rule that decreases a rate,  
25   fare, toll, rental, or other charge of a public utility.

26           (b) "Rate increase"[-]:

27           (i) means:



28           ~~[(i)]~~ (A) any direct increase in a rate, fare, toll, rental, or other charge of a public utility;

29 or

30           ~~[(ii)]~~ (B) any modification of a classification, contract, practice, or rule that increases a  
31 rate, fare, toll, rental, or other charge of a public utility~~[-]; and~~

32           (ii) does not include a tariff under Section 54-7-12.8.

33           (2) (a) Any public utility or other party that proposes to increase or decrease rates shall file  
34 appropriate schedules with the commission setting forth the proposed rate increase or decrease.

35           (b) The commission shall, after reasonable notice, hold a hearing to determine whether the  
36 proposed rate increase or decrease, or some other rate increase or decrease, is just and reasonable.  
37 If a rate decrease is proposed by a public utility, the commission may waive a hearing unless it  
38 seeks to suspend, alter, or modify the rate decrease.

39           (c) Except as otherwise provided in Subsections (3) and (4), a proposed rate increase or  
40 decrease is not effective until after completion of the hearing and issuance of a final order by the  
41 commission concerning the proposed increase or decrease.

42           (3) The following rules apply to the implementation of any proposed rate increase or  
43 decrease filed by a utility or proposed by any other party and to the implementation of any other  
44 increase or decrease in lieu of that proposed by a utility or other party that is determined to be just  
45 and reasonable by the commission.

46           (a) On its own initiative or in response to an application by a public utility or other party,  
47 the commission, after a hearing, may allow any proposed rate increase or decrease, or a reasonable  
48 part of the rate increase or decrease, to take effect, subject to the commission's right to order a  
49 refund or surcharge, upon the filing of the utility's schedules or at any time during the pendency  
50 of the commission's hearing proceedings. The evidence presented in the hearing held pursuant to  
51 this subsection need not encompass all issues that may be considered in a rate case hearing held  
52 pursuant to Subsection (2)(b), but shall establish an adequate prima facie showing that the interim  
53 rate increase or decrease is justified.

54           (b) (i) If the commission completes a hearing concerning a utility's revenue requirement  
55 before the expiration of 240 days from the date the rate increase or decrease proposal is filed, the  
56 commission may issue a final order within that period establishing the utility's revenue requirement  
57 and fixing the utility's interim allowable rates before the commission determines the allocation of  
58 the increase or decrease among categories of customers and classes of service.

59 (ii) If the commission in the commission's final order on a utility's revenue requirement  
60 finds that the interim increase order under Subsection (3)(a) exceeds the increase finally ordered,  
61 the commission shall order the utility to refund the excess to customers. If the commission in the  
62 commission's final order on a utility's revenue requirement finds that the interim decrease order  
63 under Subsection (3)(a) exceeds the decrease finally ordered, the commission shall order a  
64 surcharge to customers to recover the excess decrease.

65 (c) If the commission fails to enter the commission's order granting or revising a revenue  
66 increase within 240 days after the utility's schedules are filed, the rate increase proposed by the  
67 utility is final and the commission may not order a refund of any amount already collected by the  
68 utility under its filed rate increase.

69 (d) (i) When a public utility files a proposed rate increase based upon an increased cost to  
70 the utility for fuel or energy purchased or obtained from independent contractors, other  
71 independent suppliers, or any supplier whose prices are regulated by a governmental agency, the  
72 commission shall issue a tentative order with respect to the proposed increase within ten days after  
73 the proposal is filed, unless it issues a final order with respect to the rate increase within 20 days  
74 after the proposal is filed.

75 (ii) The commission shall hold a public hearing within 30 days after it issues the tentative  
76 order to determine if the proposed rate increase is just and reasonable.

77 (4) (a) Notwithstanding any other provisions of this title, any schedule, classification,  
78 practice, or rule filed by a public utility with the commission that does not result in any rate  
79 increase shall take effect 30 days after the date of filing or within any lesser time the commission  
80 may grant, subject to its authority after a hearing to suspend, alter, or modify that schedule,  
81 classification, practice, or rule.

82 (b) When the commission suspends a schedule, classification, practice, or rule, the  
83 commission shall hold a hearing on the schedule, classification, practice, or rule before issuing its  
84 final order.

85 (c) For purposes of this Subsection (4), any schedule, classification, practice, or rule that  
86 introduces a service or product not previously offered may not result in a rate increase.

87 (5) (a) Notwithstanding any other provision of this title, whenever a public utility files with  
88 the commission any schedule, classification, practice, or rule that does not result in an increase in  
89 any rate, fare, toll, rental, or charge, the schedule, classification, practice, or rule shall take effect

90 30 days after the date of filing or at any earlier time the commission may grant, subject to the  
91 authority of the commission, after a hearing, to suspend, alter, or modify the schedule,  
92 classification, practice, or rule.

93 (b) (i) Notwithstanding any other provision of this title, whenever a public utility files with  
94 the commission a request for an increase in rates, fares, tolls, rentals, or charges based solely upon  
95 cost increases to the public utility of fuel supplied by an independent contractor or independent  
96 source of supply, the requested increase shall take effect ten days after the filing of the request with  
97 the commission or at any earlier time after the filing of the request as the commission may by order  
98 permit.

99 (ii) The commission shall order the increase to take effect only after a showing has been  
100 made by the public utility to the commission that the increase is justified.

101 (iii) The commission may, after a hearing, suspend, alter, or modify the increase.

102 (6) This section does not apply to any rate changes of an electrical or telephone  
103 cooperative that meets all of the requirements of this Subsection (6).

104 (a) (i) The cooperative is organized for the purpose of either distributing electricity or  
105 providing telecommunication services to its members and the public at cost.

106 (ii) "At cost" includes interest costs and a reasonable rate of return as determined by the  
107 cooperative's board of directors.

108 (b) The cooperative's board of directors and any appropriate agency of the federal  
109 government have approved the rate increase or other rate change and all necessary tariff revisions  
110 reflecting the increased rate or rate change.

111 (c) Before implementing any rate increases, the cooperative has held a public meeting for  
112 all its customers and members. The cooperative shall mail a notice of the meeting to all of the  
113 cooperative's customers and members not less than ten days prior to the date that the meeting is  
114 held.

115 (d) The cooperative has filed its tariff revisions reflecting the rate increase or other rate  
116 change with the commission, who shall make the tariffs available for public inspection.

117 (7) Notwithstanding Subsections (2) and (3), the procedures for implementing a proposed  
118 rate increase by a telephone corporation having less than 30,000 subscriber access lines in the state  
119 are provided in this Subsection (7).

120 (a) (i) The proposed rate increase by a telephone corporation subject to this Subsection (7)

121 may become effective on the day the telephone corporation files with the commission the proposed  
122 tariff revisions and necessary information to support a determination by the commission that the  
123 proposed rate increase is just and reasonable.

124 (ii) The telephone corporation shall notify the commission and all potentially affected  
125 access line subscribers of the proposed rate increase 30 days before filing the proposed rate  
126 increase or change.

127 (b) (i) The commission may investigate whether the proposed rate increase is just and  
128 reasonable.

129 (ii) If the commission determines, after notice and hearing, that the rate increase is unjust  
130 or unreasonable in whole or in part, the commission may establish the rates, charges, or  
131 classifications that the commission finds to be just and reasonable.

132 (c) The commission shall investigate and hold a hearing to determine whether any  
133 proposed rate increase is just and reasonable if 10% or more of the telephone corporation's  
134 potentially affected access line subscribers file a request for agency action requesting an  
135 investigation and hearing.

136 Section 2. Section **54-7-12.8** is enacted to read:

137 **54-7-12.8. Electric energy efficiency and conservation tariff.**

138 (1) As used in this section, "demand side management" means activities or programs that  
139 promote electric energy efficiency or conservation or more efficient management of electric energy  
140 loads.

141 (2) As provided in this section, the commission may approve a tariff under which an  
142 electrical corporation includes a line item charge on its customers' bills to recover costs incurred  
143 by the electrical corporation for demand side management.

144 (3) Each electrical corporation proposing a tariff under this section shall, before submitting  
145 the tariff to the commission for approval, seek and receive input from:

146 (a) the Division of Public Utilities;

147 (b) the Committee of Consumer Services; and

148 (c) other interested parties.

149 (4) Before approving a tariff under this section, the commission shall hold a hearing if:

150 (a) requested in writing by the electrical corporation, a customer of the electrical

151 corporation, or any other interested party within 15 days after the tariff filing; or

152 (b) the commission determines that a hearing is appropriate.

153 (5) The commission may approve a tariff under this section either with or without a  
154 provision allowing an end-use customer to receive a credit against the charges imposed under the  
155 tariff for electric energy efficiency measures that:

156 (a) the customer implements § OR HAS IMPLEMENTED § at the customer's expense; and

157 (b) qualify for the credit under criteria established by the § [~~Utah State Energy Office~~] UTAH

157a **PUBLIC SERVICE COMMISSION § .**

158 (6) In approving a tariff under this section, the commission may impose whatever  
159 conditions or limits it considers appropriate, including a maximum annual cost.

160 (7) Unless otherwise ordered by the commission, each tariff under this section approved  
161 by the commission shall take effect no sooner than 30 days after the electrical corporation files the  
162 tariff with the commission.

**Legislative Review Note**  
**as of 1-30-02 6:46 AM**

A limited legal review of this legislation raises no obvious constitutional or statutory concerns.

**Office of Legislative Research and General Counsel**