

Senator Mark B. Madsen proposes the following substitute bill:

ENERGY AMENDMENTS

2012 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Mark B. Madsen

House Sponsor: Michael E. Noel

LONG TITLE

General Description:

This bill enacts provisions within the Energy Resource Procurement Act.

Highlighted Provisions:

This bill:

- ▶ enacts provisions relating to renewable energy facilities;
- ▶ authorizes an electric corporation to enter into a contract to supply electric service from one or more renewable energy facilities, under certain circumstances; and
- ▶ requires Public Service Commission approval of contracts for electric service from renewable energy facilities.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:

54-17-801, Utah Code Annotated 1953

54-17-802, Utah Code Annotated 1953

54-17-803, Utah Code Annotated 1953



26 **54-17-804**, Utah Code Annotated 1953

27 **54-17-805**, Utah Code Annotated 1953



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

30 Section 1. Section **54-17-801** is enacted to read:

31 **Part 8. Renewable Energy Contracts**

32 **54-17-801. Definitions.**

33 As used in this part:

34 (1) "Contract customer" means a person who executes or will execute a renewable
35 energy contract with a qualified utility.

36 (2) "Qualified utility" means an electric corporation that serves more than 200,000
37 retail customers in the state.

38 (3) "Renewable energy contract" means a contract under this section for the delivery of
39 electricity from one or more renewable energy facilities to a contract customer requiring the use
40 of a qualified utility's transmission or distribution system to deliver the electricity from a
41 renewable energy facility to the contract customer.

42 (4) "Renewable energy facility":

43 (a) except as provided in Subsection (4)(b), has the same meaning as renewable energy
44 source defined in Section 54-17-601; and

45 (b) does not include an electric generating facility whose costs have been included in a
46 qualified utility's rates as a facility providing electric service to the qualified utility's system.

47 Section 2. Section **54-17-802** is enacted to read:

48 **54-17-802. Contracts for the purchase of electricity from a renewable energy**
49 **facility.**

50 (1) Within a reasonable time after receiving a request from a contract customer and
51 subject to reasonable credit requirements, a qualified utility shall enter into a renewable energy
52 contract with the requesting contract customer to supply some or all of the contract customer's
53 electric service from one or more renewable energy facilities selected by the contract customer.

54 (2) Subject to a contract customer agreeing to pay the qualified utility for all
55 incremental costs associated with metering facilities, communication facilities, and
56 administration, a renewable energy contract may provide for electricity to be delivered to a

57 contract customer:

58 (a) from one renewable energy facility to a contract customer's single metered delivery
59 location;

60 (b) from multiple renewable energy facilities to a contract customer's single metered
61 delivery location; or

62 (c) from one or more renewable energy facilities to a single contract customer's
63 multiple metered delivery locations.

64 (3) (a) A single contract customer may aggregate multiple metered delivery locations to
65 satisfy the minimum megawatt limit under Subsection (4).

66 (b) Multiple contract customers may not aggregate their separate metered delivery
67 locations to satisfy the minimum megawatt limit under Subsection (4).

68 (4) The amount of electricity provided to a contract customer under a renewable energy
69 contract may not be less than 2.0 megawatts.

70 (5) The amount of electricity provided in any hour to a contract customer under a
71 renewable energy contract may not exceed the contract customer's metered kilowatt-hour load
72 in that hour at the metered delivery locations under the contract.

73 (6) A renewable energy contract that meets the requirements of Subsection (4) may
74 provide for one or more increases in the amount of electricity to be provided under the contract
75 even though the amount of electricity to be provided by the increase is less than the minimum
76 amount required under Subsection (4).

77 (7) The total amount of electricity to be generated by renewable energy facilities and
78 delivered to contract customers at any one time under all renewable energy contracts may not
79 exceed 300 megawatts, unless the commission approves in advance a higher amount.

80 (8) Electricity generated by a renewable energy facility and delivered to a contract
81 customer under a renewable energy contract may not be included in a net metering program
82 under Chapter 15, Net Metering of Electricity.

83 Section 3. Section **54-17-803** is enacted to read:

84 **54-17-803. Ownership of a renewable energy facility -- Joint ownership --**

85 **Ownership of environmental attributes.**

86 (1) A renewable energy facility may be owned:

87 (a) by a person who will be a contract customer receiving electricity from the

88 renewable energy facility;

89 (b) by a qualified utility;

90 (c) by a person other than a contract customer or qualified utility; or

91 (d) jointly by any combination of Subsections (1)(a), (b), and (c), whether in equal
92 shares or otherwise.

93 (2) A qualified utility may be a joint owner of a renewable energy facility only if:

94 (a) the qualified utility consents to being a joint owner; and

95 (b) the joint ownership agreement requires the qualified utility to recover from contract
96 customers receiving electricity from the renewable energy facility all of the qualified utility's
97 costs associated with its ownership of the renewable energy facility, including administrative,
98 acquisition, operation, and maintenance costs, unless the commission, in an order issued in a
99 separate regulatory proceeding:

100 (i) authorizes the qualified utility to recover some of those costs from customers other
101 than contract customers:

102 (ii) determines that the rate to be paid for electricity from the renewable energy facility
103 by customers other than contract customers is cost effective; and

104 (iii) approves the inclusion of the rate determined under Subsection (2)(b)(ii) in general
105 rates ~~§~~ or through a commission approved cost recovery mechanism ~~§~~ .

106 (3) To the extent that any electricity from a renewable energy facility to be delivered to
107 a contract customer is owned by a person other than the contract customer:

108 (a) the qualified utility shall, by contract with the owner of the ~~§~~ electricity to be sold
108a from the ~~§~~ renewable energy
109 facility, purchase electricity for resale to one or more contract customers;

110 (b) the qualified utility shall sell that electricity to the contract customer or customers
111 under renewable energy contracts with the same duration and pricing as the contract between
112 the qualified utility and the owner of the ~~§~~ electricity to be sold from the ~~§~~ renewable energy
112a facility; and

113 (c) the qualified utility's contract with the owner of the ~~§~~ electricity to be sold from
113a the ~~§~~ renewable energy facility shall
114 provide that the qualified utility's obligation to purchase electricity under that contract ceases if
115 the contract customer defaults in its obligation to purchase and pay for the electricity under the
116 contract with the qualified utility.

117 (4) The right to any environmental attribute associated with a renewable energy facility
118 shall remain the property of the renewable energy facility's owner, except to the extent that a

119 contract to which the owner is a party provides otherwise.

120 Section 4. Section **54-17-804** is enacted to read:

121 **54-17-804. Exemption from certificate of convenience and necessity requirements.**

122 (1) A qualified utility is not required to comply with Section 54-4-25 with respect to a
123 renewable energy facility that is the subject of a renewable energy contract if:

124 (a) each contract necessary for the commission to determine compliance with this part
125 is filed with the commission; and

126 (b) the commission determines that each contract relating to the renewable energy
127 facility complies with this part.

128 (2) In making its determination under Subsection (1)(b), the commission may process
129 and consider together multiple renewable energy contracts between the same contract customer
130 and the qualified utility providing for the delivery of electricity from a renewable energy
131 facility to the contract customer's multiple metered delivery locations.

132 Section 5. Section **54-17-805** is enacted to read:

133 **54-17-805. Costs associated with delivering electricity from a renewable energy**
134 **facility to a contract customer.**

135 (1) To the extent that a renewable energy contract provides for the delivery of
136 electricity from a renewable energy facility owned by the contract customer, the renewable
137 energy contract shall require the contract customer to pay for the use of the qualified utility's
138 transmission or distribution facilities at the qualified utility's applicable rates, which may
139 include transmission costs at the qualified utility's applicable rate approved by the Federal
140 Energy Regulatory Commission.

141 (2) To the extent that a renewable energy contract provides for the delivery of
142 electricity from a renewable energy facility owned by a person other than the qualified utility or
143 the contract customer, the renewable energy contract shall require the contract customer to bear
144 all reasonably identifiable costs that the qualified utility incurs in delivering the electricity from
145 the renewable energy facility to the contract customer, including all costs to procure and deliver
146 electricity and for billing, administrative, and related activities, as determined by the
147 commission.

148 (3) A qualified utility that enters a renewable energy contract shall charge a contract
149 customer for all metered electric service delivered to the contract customer, including

150 generation, transmission, and distribution service, at the qualified utility's applicable tariff
151 rates, excluding:

152 (a) any kilowatt hours of electricity delivered from the renewable energy facility, based
153 on the time of delivery, adjusted for transmission losses;

154 (b) any ~~Ⓢ~~ **[kilowatt hours]** kilowatts ~~←Ⓢ~~ of electricity delivered from the renewable
154a energy facility that
155 coincide with the contract customer's monthly metered kilowatt demand measurement, adjusted
156 for transmission losses;

157 (c) any transmission and distribution service that the contract customer pays for under
158 Subsection (1) or (2); and

159 (d) any transmission service that the contract customer provides under Subsection (2)
160 to deliver generation from the renewable energy facility.