

338 property owned, controlled, operated, or managed in connection with or to facilitate the
339 diversion, development, storage, supply, distribution, sale, furnishing, carriage, appointment,
340 apportionment, or measurement of water for power, fire protection, irrigation, reclamation, or
341 manufacturing, or for municipal, domestic, or other beneficial use.

342 (b) "Water system" does not include private irrigation companies engaged in
343 distributing water only to their stockholders.

344 (34) "Wholesale electrical cooperative" includes every electrical corporation that is:

345 (a) in the business of the wholesale distribution of electricity it has purchased or
346 generated to its members and the public; and

347 (b) required to distribute or allocate savings in excess of additions to reserves and
348 surplus to members or patrons on the basis of patronage.

349 Section 2. Section **54-2-201** is enacted to read:

350 **Part 2. Exemption from Commission Jurisdiction**

351 **54-2-201. Independent energy producer --- Exemption from commission**
352 **jurisdiction.**

353 (1) As used in this section:

354 (a) "Customer generation system" means the same as that term is defined in Section
355 54-15-102.

356 (b) "Net metering program" means the same as that term is defined in Section
357 54-15-102.

358 (2) An independent energy producer is exempt from regulation by the commission as a
359 public utility for an independent power production facility if the independent energy producer
360 produces a commodity or delivers a service:

361 (a) solely for the use of a state-owned facility;

362 (b) not for sale to the public, without charge, solely for the use of:

363 (i) the independent energy producer;

364 (ii) an independent energy producer's tenant; or

365 (iii) an association of unit owners formed under Title 57, Chapter 8, Condominium
366 Ownership Act;

367 (c) for sale solely to an electrical corporation or other wholesale purchaser; ~~or~~ or ~~or~~

368 (d) (i) for use by:

369 (A) an entity the independent energy producer controls, is controlled by, or is an
 370 affiliate of; or

371 (B) a user located on real property that the independent energy producer manages or
 372 controls; and

373 (ii) for use on real property that is contiguous to, or is separated only by a public road
 374 or easement from, real property that the independent energy producer owns or controls

374a ~~H~~→ [;or] .

375 ~~[(e) to a customer in an area served by an entity that is not regulated by the~~

375a ~~commission.] ←H~~

376 (3) In addition to the exemptions described in Subsection (2), an independent energy
 377 producer that supplies energy, for direct consumption by a customer, via a customer generation
 378 system, is exempt from regulation by the commission as a public utility for an independent
 379 power production facility if:

380 (a) the customer is:

381 (i) a United States governmental entity, including an entity of the United States
 382 military;

383 (ii) a state entity, including a political subdivision of the state;

384 (iii) a state institution of higher education;

385 (iv) a school district, charter school, or an entity within the state system of public
 386 education;

387 (v) a federal income tax exempt charitable organization under U.S.C. Sec. 501(c)(3)
 388 that can provide proof of the entity's tax-exempt status; or

389 (vi) a residential customer participating in a net metering program in an area served by
 390 an electrical corporation with more than 200,000 retail customers in the state;

391 (b) the customer generation system is:

392 (i) for use on the real property where the customer generation system is located; and

393 (ii) designed to supply a maximum amount of electricity equal to the lesser of:

394 (A) 90% of the customer's average annual electricity consumption, based on an
 395 annualized billing period; or

396 (B) the maximum amount allowed under a net metering program, as defined in Section
 397 54-15-102;

398 (c) the independent energy producer notifies the customer, before installing the
 399 customer generation system, of:

- 400 (i) the total cost a customer is required to pay for the customer generation system,
 401 including an interconnection cost; and
- 402 (ii) the potential for a change in:
 403 (A) the amount the customer pays for energy from a public utility; and
 404 (B) customer fees associated with net metering and generation;
 405 (d) the independent energy producer enters into an interconnection agreement:
 406 (i) with a public utility that provides retail electric service to the real property on which
 407 the customer generation system is located; and
 408 (ii) that is subject to approval by a public utility's governing authority; and
 409 (e) except for a customer described in Subsection (3)(a)(vi), the independent energy
 410 producer installs the customer generation system by December 31, 2021.
- 411 (4) An independent energy producer that supplies electric service to a customer
 412 described in Subsection (3)(a)(vi) via a customer generation system shall provide the electric
 413 service under an agreement that includes:
 414 (a) the notification described in Subsection (3)(c);
 415 (b) a description of the incentives, including any renewable energy certificate,
 416 generated by the agreement, or by the installation or use of the customer generation system;
 417 (c) a description of an incentive described in Subsection (4)(b) that the customer
 418 forfeits or assigns to the independent energy producer under the agreement;
 419 (d) the property, equipment, or liability that the independent energy producer will
 420 insure under the agreement, and what property, equipment, or liability that the customer is
 421 responsible for insuring; and
 422 (e) the Internet address of a Division of Public Utilities website, if any, that describes
 423 considerations for a net metering customer.
- 424 (5) An independent energy producer may not provide electric service to a customer
 425 described in Subsection (3)(a)(vi) until the commission makes ~~H→~~ [the final] the first ~~←H~~
 425a determination ~~H→~~ about a net metering program under which the independent energy
 425b producer will provide service ~~←H~~ required
 426 by Section ~~H→~~ [54-15-105.1] 54-15-105.1(2) , and the determination becomes final
 426a agency action. ~~←H~~
- 427 (6) A public utility shall serve a customer in the public utility's service area that is
 428 partially served by an independent energy producer.
- 429 Section 3. Section 54-15-108 is amended to read:
 430 **54-15-108. Damages and fines for connecting a customer generation system to**