

1 **RENEWABLE ENERGY AMENDMENTS**

2 2018 GENERAL SESSION

3 STATE OF UTAH

4 **Chief Sponsor: John Knotwell**

5 Senate Sponsor: Curtis S. Bramble

7 **LONG TITLE**

8 **General Description:**

9 This bill addresses the basis of setting rates for solar photovoltaic or thermal solar
10 energy facilities.

11 **Highlighted Provisions:**

12 This bill:

- 13 ▶ permits a qualified utility to apply to the commission regarding solar energy projects
- 14 under certain circumstances;
- 15 ▶ addresses exemptions from certain provisions;
- 16 ▶ prescribes requirements for the application;
- 17 ▶ imposes process requirements;
- 18 ▶ requires public hearing and comments; and
- 19 ▶ provides for rulemaking authority.

20 **Money Appropriated in this Bill:**

21 None

22 **Other Special Clauses:**

23 None

24 **Utah Code Sections Affected:**

25 ENACTS:

26 **54-17-807**, Utah Code Annotated 1953

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

29 Section 1. Section **54-17-807** is enacted to read:

30 **54-17-807. Solar photovoltaic or thermal solar energy facilities.**

31 (1) As used in this section, "acquire" means to purchase, construct, or purchase the
32 output from a photovoltaic or thermal solar energy resource.

33 (2) (a) In accordance with this section, a qualified utility may file an application with
34 the commission for approval to acquire a photovoltaic or thermal solar energy resource using
35 rate recovery based on a competitive market price, except as provided in Subsection (2)(b).

36 (b) A qualified utility may not, under this section, acquire a photovoltaic or thermal
37 solar energy resource with a generating capacity that is two megawatts or less per meter if that
38 resource is located on the customer's side of the meter.

39 (3) The energy resource acquired pursuant to this section may be owned solely or
40 jointly by a qualified utility or another entity:

41 (a) to provide renewable energy to a contract customer as provided in Section
42 [54-17-803](#);

43 (b) to serve energy to a qualified utility customer as provided in Section [54-17-806](#);

44 (c) to serve energy to any customers of the qualified utility if the proposed energy
45 resource's nameplate capacity does not exceed 300 megawatts or, if applicable, the quantity of
46 capacity that is the subject of a contract for the purchase of electricity does not exceed 300
47 megawatts, so long as the qualified utility proceeds under and complies with Part 4, Voluntary
48 Request for Resource Decision Review; or

49 (d) to serve energy to any customers of the qualified utility if the proposed energy
50 resource's nameplate capacity exceeds 300 megawatts or, if applicable, the quantity of capacity
51 that is the subject of a contract for the purchase of electricity exceeds 300 megawatts, so long
52 as the qualified utility complies with this chapter.

53 (4) Except as provided in Subsections (3)(c) and (d), the following do not apply to an
54 application submitted under Subsection (2):

55 (a) Part 1, General Provisions;

56 (b) Part 2, Solicitation Process;

57 (c) Part 3, Resource Plans and Significant Energy Resource Approval;

58 (d) Part 4, Voluntary Request for Resource Decision Review; and
59 (e) Section 54-17-502.
60 (5) The application described in Subsection (2) shall include:
61 (a) a proposed solicitation process for the energy resource;
62 (b) the criteria proposed to be used to evaluate the responses to the solicitation:
63 (i) as determined by the customer, if the energy resource is sought to serve a customer
64 pursuant to Subsection (3)(a) or (b); or
65 (ii) as proposed by the qualified utility, if the energy resource is sought to serve the
66 customers of the qualified utility pursuant to Subsection (3)(c) or (d); and
67 (c) any other information the commission may require.
68 (6) (a) Before approving a solicitation process under this section for an energy resource
69 to serve customers of the qualified utility pursuant to Subsection (3)(c) or (d), the commission
70 shall:
71 (i) hold a public hearing; and
72 (ii) provide an opportunity for public comment.
73 (b) The commission may approve a solicitation process under this section only if the
74 commission determines that the solicitation and evaluation processes to be used will create a
75 level playing field in which the qualified utility and other bidders can compete fairly, including
76 with respect to interconnection and transmission requirements imposed on bidders by the
77 solicitation within the control of the commission and the qualified utility, excluding its
78 federally regulated transmission function, and will otherwise serve the public interest.
79 (7) (a) Upon completion of the solicitation process approved under Subsection (6), the
80 qualified utility may seek approval from the commission to acquire the energy resource
81 identified through the solicitation process as the winning bid.
82 (b) Before approving acquisition of an energy resource acquired pursuant to this
83 section, the commission shall:
84 (i) hold a public hearing;
85 (ii) provide an opportunity for public comment;

86 (iii) determine whether the solicitation and evaluation processes complied with this
87 section, commission rules, and the commission's order approving the solicitation process; and

88 (iv) determine whether the acquisition of the energy resource is just and reasonable,
89 and in the public interest.

90 (c) The commission may approve a qualified utility's ownership of an energy resource
91 or a power purchase agreement containing a purchase option under Subsection (3)(c) or (d)
92 with rate recovery based on a competitive market price only if the commission determines that
93 the qualified utility's bid is the lowest cost ownership option for the qualified utility.

94 (d) If the commission approves a qualified utility's acquisition of an energy resource
95 under Subsection (3), including entering into a power purchase agreement containing a
96 purchase option, using rate recovery based on a competitive market price:

97 (i) the prices approved by the commission shall constitute competitive market prices
98 for purposes of this section; and

99 (ii) assets owned by the qualified utility and used to provide service as approved under
100 this section are not public utility property.

101 (8) If upon completion of a solicitation process approved under Subsection (6) the
102 qualified utility proposes not to acquire an energy resource, the qualified utility shall file with
103 the commission a report explaining its reasons for not acquiring the lowest cost resource bid
104 into the solicitation, along with any other information the commission requires.

105 (9) Within six months after a competitive market price for a solar energy resource
106 acquired under Subsection (3)(c) or (d) has been identified pursuant to this section, or for such
107 longer period as the commission may determine to be in the public interest, a qualified utility
108 may file an application with the commission seeking approval to acquire another energy
109 resource similar to the energy resource for which a competitive market price was established
110 without going through a new solicitation process. The commission may approve the application
111 if the qualified utility demonstrates a need to acquire the energy resource, that the competitive
112 market price remains reasonable, and that the acquisition is in the public interest.

113 (10) No later than 180 days before the end of the term approved by the commission for

114 an energy resource acquired under this section and owned by the qualifying utility, the qualified
115 utility shall file with the commission a request for determination of an appropriate disposition
116 of the energy resource asset, except that the qualified utility is permitted to retain the benefits
117 or proceeds and shall be required to assume the costs and risks of ownership of the energy
118 resource.

119 (11) The commission shall adopt rules, in accordance with Title 63G, Chapter 3, Utah
120 Administrative Rulemaking Act:

121 (a) addressing the content and filing of an application under this section;

122 (b) to establish the solicitation process and criteria to be used to identify the
123 competitive market price and select an energy resource; and

124 (c) addressing other factors determined by the commission to be relevant to protect the
125 public interest and to implement this section.