

**COMMUNITY RENEWABLE ENERGY ACT**

2019 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen G. Handy**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill enacts the Community Renewable Energy Act in the Public Utilities Code.

**Highlighted Provisions:**

This bill:

- ▶ enacts the Community Renewable Energy Act;
- ▶ defines terms and program requirements under the act;
- ▶ outlines the role and rulemaking authority of the Utah Public Service Commission in approving a community renewable energy program under the act;
- ▶ establishes and clarifies options for customer participation and nonparticipation in programs under the act;
- ▶ establishes procedures concerning rates, customer billing, and renewable energy resource acquisition under the act; and
- ▶ makes technical changes.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

ENACTS:

**54-17-901**, Utah Code Annotated 1953



- 28 [54-17-902](#), Utah Code Annotated 1953
- 29 [54-17-903](#), Utah Code Annotated 1953
- 30 [54-17-904](#), Utah Code Annotated 1953
- 31 [54-17-905](#), Utah Code Annotated 1953
- 32 [54-17-906](#), Utah Code Annotated 1953
- 33 [54-17-907](#), Utah Code Annotated 1953
- 34 [54-17-908](#), Utah Code Annotated 1953
- 35 [54-17-909](#), Utah Code Annotated 1953



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

38 Section 1. Section [54-17-901](#) is enacted to read:

39 **Part 9. Community Renewable Energy Act**

40 **[54-17-901](#). Community Renewable Energy Act.**

41 This part is known as the "Community Renewable Energy Act."

42 Section 2. Section [54-17-902](#) is enacted to read:

43 **[54-17-902](#). Definitions.**

44 As used in this part:

45 (1) (a) "Auxiliary services" means those services necessary to safely and reliably:

46 (i) interconnect and transmit electric power from any renewable energy resource

47 constructed or acquired for a community renewable energy program; and

48 (ii) integrate and supplement electric power from any renewable energy resource.

49 (b) "Auxiliary services" shall include applicable Federal Energy Regulatory

50 Commission requirements governing transmission and interconnection services.

51 (2) "Commission" means the Public Service Commission created in Section [54-1-1](#).

52 (3) "Community renewable energy program" means the program approved by the  
53 commission under Section [54-17-904](#) that allows a qualified utility to provide electric service  
54 from one or more renewable energy resources to a participating customer within a participating  
55 community.

56 (4) "County" means the unincorporated area of a county.

57 (5) "Division" means the Division of Public Utilities created in Section [54-4a-1](#).

58 (6) "Municipality" means a city or a town as defined in Section [10-1-104](#).

- 59 (7) "Office" means the Office of Consumer Services created in Section 54-10a-101.
- 60 (8) "Ongoing costs" means the cost of transmission and distribution facilities allocated  
61 to the state, retail services, and generation assets that are not replaced assets.
- 62 (9) "Participating community" means a municipality or a county:  
63 (a) whose residents are served by a qualified utility; and  
64 (b) the municipality or county meets the requirements in Section 54-17-903.
- 65 (10) "Participating customer" means:  
66 (a) a customer of a qualified utility located within the boundary of a municipality or  
67 county where a community renewable energy program has been approved by the commission;  
68 and  
69 (b) the customer has not exercised the right to not participate in the community  
70 renewable energy program as provided in Section 54-17-905.
- 71 (11) "Qualified utility" means the same as that term is defined in Section 54-17-801.
- 72 (12) "Renewable electric energy supply" means incremental renewable energy  
73 resources that are developed to meet the equivalent of the annual electric energy consumption  
74 of participating customers within a participating community.
- 75 (13) "Renewable energy resource" means:  
76 (a) electric energy generated by a source that is naturally replenished and includes one  
77 or more of the following:  
78 (i) wind;  
79 (ii) solar photovoltaic or thermal solar technology;  
80 (iii) a geothermal resource; or  
81 (iv) a hydroelectric plant; or  
82 (b) use of an energy efficient and sustainable technology the commission has approved  
83 for implementation that:  
84 (i) increases efficient energy usage;  
85 (ii) is capable of being used for demand response; or  
86 (iii) facilitates the use and development of renewable generation resources through  
87 electrical grid management or energy storage.
- 88 (14) "Replaced asset" means an existing thermal energy resource that:  
89 (a) was built or acquired, in whole or in part, by a qualified utility to serve its

90 customers, including customers within a participating community;

91 (b) was built or acquired prior to commission approval and the effective date of the  
92 community renewable energy program; and

93 (c) is no longer used, either in whole or in part, to serve participating customers, as  
94 agreed upon by the qualified utility and the participating community as provided in Subsection  
95 54-17-903(2)(b).

96 Section 3. Section **54-17-903** is enacted to read:

97 **54-17-903. Program requirement for a municipality or county.**

98 (1) Customers of a qualified utility may be served by the community renewable energy  
99 program described in this part if the municipality or county satisfies the requirements of  
100 Subsection (2).

101 (2) The municipality or county in which the customer resides shall:

102 (a) adopt a resolution no later than December 31, 2019, that states a goal of achieving  
103 an amount equivalent to 100% of the annual electric energy supply for participating customers  
104 from a renewable energy resource by 2030;

105 (b) enter into an agreement with a qualified utility:

106 (i) with the stipulation of payment by the municipality or county to the qualified utility  
107 for the costs of:

108 (A) third-party expertise contracted for by the division and the office, for assistance  
109 with activities associated with initial approval of the community renewable energy program;  
110 and

111 (B) providing notice to the municipality's or county's customers as provided in Section  
112 54-17-905;

113 (ii) determining the obligation for the payment of any termination charges under  
114 Subsection 54-17-905(3)(b) that are not paid by a participating customer and not included in  
115 participating customer rates under Subsections 54-17-904 (2) and (4); and

116 (iii) identifying the replaced asset;

117 (c) adopt a local ordinance that:

118 (i) establishes participation in the renewable energy program; and

119 (ii) is consistent with the terms of the agreement entered into with the qualified utility  
120 under Subsection (2)(b);

- 121 (d) comply with any other terms or conditions required by the commission; and
- 122 (e) obtain commission approval for the community renewable energy program as
- 123 provided in Section 54-17-904.

124 (3) The local ordinance required in Subsection (2)(c) shall be adopted by the  
125 municipality or county within 90 days after the date of the commission order approving the  
126 community renewable energy program.

127 Section 4. Section 54-17-904 is enacted to read:

128 **54-17-904. Authority of commission to approve a community renewable energy**  
129 **program.**

130 (1) After the commission has adopted administrative rules as required under Section  
131 54-17-909, a qualified utility may file an application with the commission for approval of a  
132 community renewable energy program.

133 (2) The application shall include:

134 (a) the names of each municipality and county to be served by the community  
135 renewable energy program;

136 (b) a map of the geographic boundaries of each municipality and county;

137 (c) the number of customers served by the qualified utility within those boundaries;

138 (d) projected rates for participating customers that take into account:

139 (i) the estimated number of customers expected to participate in the program;

140 (ii) the quantifiable costs and benefits to the qualified utility and all of the qualified  
141 utility's customers in their capacity as ratepayers of the qualified utility, excluding costs or  
142 benefits that do not directly affect the qualified utility; and

143 (iii) the cost of ongoing assets and retail services at the time of the application;

144 (e) the agreement entered into with the qualified utility under Section 54-17-903;

145 (f) a proposed plan established by the participating community addressing low-income  
146 programs and assistance;

147 (g) a proposed solicitation process for the acquisition of renewable energy resources as  
148 provided in Section 54-17-908; and

149 (h) any other information the commission may require by rule.

150 (3) The commission may approve an application for a community renewable energy  
151 program if the commission finds:

152 (a) the application meets all of the requirements in this section and administrative rules  
153 adopted by the commission in accordance with Sections 54-17-908 and 54-17-909 to  
154 implement this part; and

155 (b) the community renewable energy program is in the public interest.

156 (4) The rates approved by the commission for participating customers:

157 (a) shall be based on the factors included in Subsection (2)(d) and any other factor  
158 determined by the commission to be in the public interest;

159 (b) may not result in any shift of costs or benefits to any nonparticipating customer, or  
160 any other customer of the qualified utility beyond the participating community boundaries; and

161 (c) shall take into account any quantifiable benefits to the qualified utility, and the  
162 qualified utility's customers, including participating customers in their capacity as ratepayers of  
163 the qualified utility, excluding costs or benefits that do not directly affect the qualified utility's  
164 costs of service.

165 (5) (a) Each municipality or county included in the application shall be a party to the  
166 regulatory proceeding.

167 (b) A municipality or county identified in the application shall provide information to  
168 all relevant parties in accordance with the commission's rules for discovery, notwithstanding  
169 Title 63G, Chapter 2, Government Records Access and Management Act.

170 (6) The community renewable energy program may not be implemented until after the  
171 municipality or county adopts the ordinance required in Section 54-17-903.

172 Section 5. Section 54-17-905 is enacted to read:

173 **54-17-905. Customer participation -- Election not to participate.**

174 (1) After commission approval of a community renewable energy program and  
175 adoption of the ordinance by the participating community as required in Section 54-17-903, a  
176 qualified utility shall provide notice to each of its customers within the participating  
177 community that includes:

178 (a) the projected rates and terms of participation in the community renewable energy  
179 program approved by the commission;

180 (b) an estimated comparison to otherwise applicable existing rates;

181 (c) an explanation that the customer may elect to not participate in the community  
182 renewable energy program by notifying the qualified utility; and

183 (d) any other information required by the commission.

184 (2) (a) An existing customer of the qualified utility may elect to not participate in the  
185 community renewable energy program and continue to pay applicable existing rates by giving  
186 notice to the qualified utility in the manner and within the time period determined by the  
187 commission.

188 (b) After implementation of the community renewable energy program:

189 (i) a customer that previously elected not to participate in the program may become a  
190 participating customer as allowed by commission rules and by giving notice to the qualified  
191 utility in the manner required by the commission; and

192 (ii) a customer of the qualified utility that begins taking electric service within a  
193 participating community after the date of implementation of the community renewable energy  
194 program shall:

195 (A) be given notice provided in Subsection (1); and

196 (B) shall become a participating customer unless the person elects not to participate by  
197 giving notice to the qualified utility in the manner and within the time period determined by the  
198 commission.

199 (3) A customer that does not opt out of the community renewable energy program  
200 under Subsection (2) may later discontinue participation in the community renewable program  
201 by:

202 (a) giving notice to the qualified utility, in the manner determined by the commission;

203 and

204 (b) paying a termination charge, if applicable, in an amount determined by the  
205 commission that includes the cost of renewable energy resources acquired or constructed for  
206 the community renewable energy program that are not being utilized by participating customers  
207 as necessary to prevent shifting costs to any other customer of the qualified utility.

208 (4) (a) A customer of a qualified utility that is annexed into the boundaries of a  
209 participating community after the effective date of the community renewable energy program  
210 shall be given notice as provided in Subsection (1) advising the customer of the option to opt  
211 out of the program.

212 (b) A participating customer located in a county that is annexed into a municipality that  
213 is not a participating community shall continue to be included in the renewable energy

214 program.

215 (5) A residential customer that is participating in the net metering program under Title  
216 54, Chapter 15, Net Metering of Electricity, may not be a participating customer under this  
217 part.

218 (6) (a) The cost of providing notice under Subsection (1) shall be paid by the  
219 participating communities.

220 (b) All other notices required under this section shall be paid for as program costs and  
221 recovered through participating customers' rates.

222 Section 6. Section **54-17-906** is enacted to read:

223 **54-17-906. Customer billing.**

224 The qualified utility shall:

225 (1) include information on its monthly bills to participating customers identifying the  
226 community renewable energy program cost; and

227 (2) provide notice to participating customers of any change in rate for participation in  
228 the community renewable energy program.

229 Section 7. Section **54-17-907** is enacted to read:

230 **54-17-907. Annual filing -- Modification of rates for participating customers.**

231 (1) (a) The qualified utility may make a rate adjustment filing, not more than annually,  
232 with the commission to adjust rates for participating customers to reflect the quantifiable costs  
233 and benefits of the community renewable energy program.

234 (b) The adjustment in rates may not include ongoing costs as that term is defined in  
235 Section [54-17-902](#).

236 (2) The commission shall determine the content and filing requirements for the annual  
237 filing by administrative rules as described in Section [54-17-909](#).

238 (3) The commission shall determine rate changes which shall become effective within  
239 90 days after the date of the annual filing, unless otherwise determined by the commission for  
240 good cause.

241 Section 8. Section **54-17-908** is enacted to read:

242 **54-17-908. Acquisition of renewable energy resources.**

243 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
244 commission shall make rules outlining a competitive solicitation process for the acquisition of

245 renewable assets acquired by the qualified utility for purposes of this act.

246 (2) The solicitation rules shall include the following provisions:

247 (a) solar photovoltaic or thermal solar energy facilities may be acquired under the  
248 provisions of Section 54-17-807;

249 (b) renewable energy resources developed under this part shall be constructed or  
250 acquired subject to an option by the qualified utility to own the renewable energy resource so  
251 long as including the option in a solicitation is in the interest of participating customers and any  
252 other customer of the qualified utility; and

253 (c) any other requirement determined by the commission to be in the public interest.

254 (3) Upon completion of a solicitation under this section and the rules adopted by the  
255 commission to implement this section, the commission may approve cost recovery for a  
256 renewable energy resource for the community renewable energy program if approval of the  
257 renewable energy resource:

258 (a) complies with the provisions of this part;

259 (b) does not result in any shift of costs or benefits to any nonparticipating customer, or  
260 any other customer of the qualified utility beyond the participating community boundaries; and

261 (c) is in the public interest.

262 Section 9. Section **54-17-909** is enacted to read:

263 **54-17-909. Commission rulemaking authority.**

264 In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the  
265 commission shall adopt rules to implement this part, including:

266 (1) the terms and conditions of the agreement under Section 54-17-903;

267 (2) the content and filing of an application under Section 54-17-904;

268 (3) the notice requirements under Section 54-17-905;

269 (4) the standards for determining when a termination charge is applicable and the  
270 amount and timing of any such charge under Subsection 54-17-905(3)(b);

271 (5) the content and filing requirements for the annual filing under Subsection  
272 54-17-907(2);

273 (6) the solicitation requirements under Section 54-17-908; and

274 (7) any other requirements determined by the commission necessary to protect the  
275 public interest and to implement this part.