

Representative Stephen G. Handy proposes the following substitute bill:

COMMUNITY RENEWABLE ENERGY ACT

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Daniel Hemmert

Cosponsor: Tim Quinn

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;
- ▶ provides an initial opt-out period for a participating customer to elect to leave the community renewable energy program without penalty;
- ▶ establishes procedures concerning rates, customer billing, and renewable energy resource acquisition under the act; and
- ▶ makes technical changes.

Money Appropriated in this Bill:



25 None

26 **Other Special Clauses:**

27 None

28 **Utah Code Sections Affected:**

29 ENACTS:

30 [54-17-901](#), Utah Code Annotated 1953

31 [54-17-902](#), Utah Code Annotated 1953

32 [54-17-903](#), Utah Code Annotated 1953

33 [54-17-904](#), Utah Code Annotated 1953

34 [54-17-905](#), Utah Code Annotated 1953

35 [54-17-906](#), Utah Code Annotated 1953

36 [54-17-907](#), Utah Code Annotated 1953

37 [54-17-908](#), Utah Code Annotated 1953

38 [54-17-909](#), Utah Code Annotated 1953



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

41 Section 1. Section **54-17-901** is enacted to read:

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

43 **54-17-901. Community Renewable Energy Act.**

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

45 Section 2. Section **54-17-902** is enacted to read:

46 **54-17-902. Definitions.**

47 As used in this part:

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

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

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

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

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

53 Commission requirements governing transmission and interconnection services.

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

55 (3) "Community renewable energy program" means the program approved by the

56 commission under Section 54-17-904 that allows a qualified utility to provide electric service
57 from one or more renewable energy resources to a participating customer within a participating
58 community.

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

60 (5) "Division" means the Division of Public Utilities created in Section 54-4a-1.

61 (6) (a) "Initial opt-out period" means the period of time immediately after the
62 community renewable energy program's commencement, as established by the commission by
63 rule made pursuant to Section 54-17-909, during which a participating customer may elect to
64 leave the program without penalty.

65 (b) "Initial opt-out period" may not be shorter than three typical billing cycles of the
66 qualified utility.

67 (7) "Municipality" means a city or a town as defined in Section 10-1-104.

68 (8) "Office" means the Office of Consumer Services created in Section 54-10a-101.

69 (9) "Ongoing costs" means the costs allocated to the state for transmission and
70 distribution facilities, retail services, and generation assets that are not replaced assets.

71 (10) "Participating community" means a municipality or a county:

72 (a) whose residents are served by a qualified utility; and

73 (b) the municipality or county meets the requirements in Section 54-17-903.

74 (11) "Participating customer" means:

75 (a) a customer of a qualified utility located within the boundary of a municipality or
76 county where a community renewable energy program has been approved by the commission;
77 and

78 (b) the customer has not exercised the right to not participate in the community
79 renewable energy program as provided in Section 54-17-905.

80 (12) "Qualified utility" means the same as that term is defined in Section 54-17-801.

81 (13) "Renewable electric energy supply" means incremental renewable energy
82 resources that are developed to meet the equivalent of the annual electric energy consumption
83 of participating customers within a participating community.

84 (14) "Renewable energy resource" means:

85 (a) electric energy generated by a source that is naturally replenished and includes one
86 or more of the following:

87 (i) wind;
88 (ii) solar photovoltaic or thermal solar technology;
89 (iii) a geothermal resource; or
90 (iv) a hydroelectric plant; or
91 (b) use of an energy efficient and sustainable technology the commission has approved
92 for implementation that:

93 (i) increases efficient energy usage;
94 (ii) is capable of being used for demand response; or
95 (iii) facilitates the use and development of renewable generation resources through
96 electrical grid management or energy storage.

97 (15) "Replaced asset" means an existing thermal energy resource:

98 (a) that was built or acquired, in whole or in part, by a qualified utility to serve the
99 qualified utility's customers, including customers within a participating community;

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

102 (c) to the extent the asset is no longer used to serve participating customers.

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

104 **54-17-903. Program requirement for a municipality or county.**

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

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

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

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

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

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

118 (B) providing notice to the municipality's or county's customers as provided in Section
119 54-17-905;

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

123 (iii) identifying any initially proposed replaced asset;

124 (c) adopt a local ordinance that:

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

126 (ii) is consistent with the terms of the agreement entered into with the qualified utility
127 under Subsection (2)(b); and

128 (d) comply with any other terms or conditions required by the commission.

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

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

133 **54-17-904. Authority of commission to approve a community renewable energy**
134 **program.**

135 (1) After the commission has adopted administrative rules as required under Section
136 54-17-909, a qualified utility may file an application with the commission for approval of a
137 community renewable energy program.

138 (2) The application shall include:

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

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

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

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

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

145 (ii) the quantifiable costs and benefits to the qualified utility and all of the qualified
146 utility's customers in their capacity as ratepayers of the qualified utility, excluding costs or
147 benefits that do not directly affect the qualified utility, including as applicable:

148 (A) replaced assets;

- 149 (B) auxiliary services; and
150 (C) new renewable energy resources used to serve the community renewable energy
151 program; and
152 (iii) the ongoing costs at the time of the application;
153 (e) the agreement entered into with the qualified utility under Section [54-17-903](#);
154 (f) a proposed plan established by the participating community addressing low-income
155 programs and assistance;
156 (g) a proposed solicitation process for the acquisition of renewable energy resources as
157 provided in Section [54-17-908](#); and
158 (h) any other information the commission may require by rule.
159 (3) The commission may approve an application for a community renewable energy
160 program if the commission finds:
161 (a) the application meets all of the requirements in this section and administrative rules
162 adopted by the commission in accordance with Sections [54-17-908](#) and [54-17-909](#) to
163 implement this part; and
164 (b) the community renewable energy program is in the public interest.
165 (4) The rates approved by the commission for participating customers:
166 (a) shall be based on the factors included in Subsection (2)(d) and any other factor
167 determined by the commission to be in the public interest;
168 (b) may not result in any shift of costs or benefits to any nonparticipating customer, or
169 any other customer of the qualified utility beyond the participating community boundaries; and
170 (c) shall take into account any quantifiable benefits to the qualified utility, and the
171 qualified utility's customers, including participating customers in their capacity as ratepayers of
172 the qualified utility, excluding costs or benefits that do not directly affect the qualified utility's
173 costs of service.
174 (5) (a) Each municipality or county included in the application shall be a party to the
175 regulatory proceeding.
176 (b) A municipality or county identified in the application shall provide information to
177 all relevant parties in accordance with the commission's rules for discovery, notwithstanding
178 Title 63G, Chapter 2, Government Records Access and Management Act.
179 (6) The community renewable energy program may not be implemented until after the

180 municipality or county adopts the ordinance required in Section 54-17-903.

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

182 **54-17-905. Customer participation -- Election not to participate.**

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

187 (i) the projected rates and terms of participation in the community renewable energy
188 program approved by the commission;

189 (ii) an estimated comparison to otherwise applicable existing rates;

190 (iii) an explanation that the customer may elect to not participate in the community
191 renewable energy program by notifying the qualified utility; and

192 (iv) any other information required by the commission.

193 (b) The qualified utility shall provide the notice required under Subsection (1)(a) to
194 each customer:

195 (i) no less than twice within the period of 60 days immediately preceding the date
196 required to opt out of the community renewable energy program; and

197 (ii) separately from the customer's monthly billing.

198 (c) The qualified utility shall provide the information required under Subsection (1)(a)
199 in person to each customer with an electric load of one megawatt or greater measured at a
200 single meter.

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

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

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

209 (ii) a customer of the qualified utility that begins taking electric service within a
210 participating community after the date of implementation of the community renewable energy

211 program shall:

212 (A) be given notice as determined by the commission; and

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

216 (3) (a) A customer that does not opt out of the community renewable energy program
217 under Subsection (2) may later discontinue participation in the community renewable energy
218 program as allowed by the commission as described in Subsection (3)(b) or (c).

219 (b) (i) During the initial opt-out period, a participating customer may elect to leave the
220 program by giving notice to the qualified utility in the manner determined by the commission.

221 (ii) A participating customer that opts out as described in Subsection (3)(b)(i) is not
222 subject to a termination charge.

223 (c) After the community renewable energy program's initial opt-out period, a
224 participating customer may elect to leave the program by:

225 (i) giving notice to the qualified utility in the manner determined by the commission;
226 and

227 (ii) paying a termination charge as determined by the commission that may include the
228 cost of renewable energy resources acquired or constructed for the community renewable
229 energy program that are not being utilized by participating customers as necessary to prevent
230 shifting costs to other customers of the qualified utility.

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

235 (b) A participating customer located in a portion of a county that is annexed into a
236 municipality that is not a participating community shall continue to be included in the
237 renewable energy program if the customer remains a customer of the qualified utility.

238 (c) If a participating customer is annexed into a municipality that provides electric
239 service to the municipality's residents:

240 (i) the customer may continue to be served by the qualified utility under the community
241 renewable energy program if the qualified utility enters into an agreement with the municipality

242 under Section 54-3-30; or

243 (ii) the municipality shall pay the termination charge for each participating customer
244 that is no longer served by the qualified utility.

245 (5) A residential customer that is participating in the net metering program under Title
246 54, Chapter 15, Net Metering of Electricity, may not be a participating customer under this
247 part.

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

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

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

253 **54-17-906. Customer billing.**

254 The qualified utility shall:

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

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

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

260 **54-17-907. Rate adjustment filing -- Modification of rates for participating**
261 **customers.**

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

265 (b) The rate adjustment filing may not include any changes to ongoing costs.

266 (2) The commission shall determine the content and filing requirements for the filing
267 by administrative rules as described in Section 54-17-909.

268 (3) The commission shall determine rate changes which shall become effective within
269 90 days after the date of the filing, unless otherwise determined by the commission for good
270 cause.

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

272 **54-17-908. Acquisition of renewable energy resources.**

273 (1) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
274 commission shall make rules outlining a competitive solicitation process for the acquisition of
275 renewable assets acquired by the qualified utility for purposes of this act.

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

277 (a) solar photovoltaic or thermal solar energy facilities may be acquired under the
278 provisions of Section [54-17-807](#);

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

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

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

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

289 (b) does not result in shifting of costs or benefits to other customers of the qualified
290 utility; and

291 (c) is in the public interest.

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

293 **54-17-909. Commission rulemaking authority.**

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

296 (1) establishing the initial opt-out period;

297 (2) the terms and conditions of the agreement under Section [54-17-903](#);

298 (3) the content and filing of an application under Section [54-17-904](#);

299 (4) the notice requirements under Section [54-17-905](#);

300 (5) the standards for determining when a termination charge is applicable and the
301 amount and timing of a termination charge under Subsection [54-17-905](#)(3);

302 (6) the content and filing requirements for the annual filing under Subsection
303 [54-17-907](#)(2);

304 (7) the solicitation requirements under Section [54-17-908](#); and
305 (8) any other requirements determined by the commission necessary to protect the
306 public interest and to implement this part.