

Representative Kay J. Christofferson proposes the following substitute bill:

COMMUNITY RENEWABLE ENERGY ACT

2019 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: _____

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;

▶ 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:



25 None

26 **Utah Code Sections Affected:**

27 ENACTS:

28 **54-17-901**, Utah Code Annotated 1953

29 **54-17-902**, Utah Code Annotated 1953

30 **54-17-903**, Utah Code Annotated 1953

31 **54-17-904**, Utah Code Annotated 1953

32 **54-17-905**, Utah Code Annotated 1953

33 **54-17-906**, Utah Code Annotated 1953

34 **54-17-907**, Utah Code Annotated 1953

35 **54-17-908**, Utah Code Annotated 1953

36 **54-17-909**, Utah Code Annotated 1953



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

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

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

41 **54-17-901. Community Renewable Energy Act.**

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

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

44 **54-17-902. Definitions.**

45 As used in this part:

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

47 (i) interconnect and transmit energy from any renewable energy resource constructed or
48 acquired for a community renewable energy program; and

49 (ii) integrate and supplement energy from any renewable energy resource.

50 (b) "Auxiliary services" shall include applicable Federal Energy Regulatory
51 Commission requirements governing transmission and interconnection services.

52 (2) "Commission" means the Public Service Commission created in Section **54-1-1**.

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

56 community.

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

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

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

60 (7) "Office" means the Office of Consumer Services created in Section [54-10a-101](#).

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

63 (9) "Participating community" means a municipality or a county:

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

65 (b) the municipality or county meets the requirements in Section [54-17-903](#).

66 (10) "Participating customer" means:

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

70 (b) the customer has not exercised the right to not participate in the community
71 renewable energy program as provided in Section [54-17-905](#).

72 (11) "Qualified utility" means:

73 (a) the same as that term is defined in Section [54-17-801](#); or

74 (b) a large-scale natural gas utility that is a public utility that provides retail natural gas
75 service to more than 200,000 retail customers in the state.

76 (12) "Renewable energy supply" means incremental renewable energy resources that
77 are developed to meet the equivalent of the annual energy consumption of participating
78 customers within a participating community.

79 (13) "Renewable energy resource" means:

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

82 (i) wind;

83 (ii) solar photovoltaic or thermal solar technology;

84 (iii) renewable natural gas technology;

85 (iv) a renewable natural gas plant;

86 (v) a geothermal resource; or

87 (vi) a hydroelectric plant; or
88 (b) use of an energy efficient and sustainable technology the commission has approved
89 for implementation that:

90 (i) increases efficient energy usage;
91 (ii) is capable of being used for demand or peak usage response; or
92 (iii) facilitates the use and development of renewable resources through electrical grid
93 or transmission and distribution system management or energy storage.

94 (14) "Replaced asset" means an existing thermal energy resource:

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

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

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

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

101 **54-17-903. Program requirement for a municipality or county.**

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

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

106 (a) adopt a resolution no later than December 31, 2019, that states a goal of achieving
107 either or both of the following for participating customers from a renewable energy resource by
108 2030:

109 (i) an amount equivalent to 100% of the annual electric energy supply; or

110 (ii) a carbon-neutral natural gas supply;

111 (b) enter into agreements with the qualified utility or utilities:

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

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

117 (B) providing notice to the municipality's or county's customers as provided in Section

118 [54-17-905](#);

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

122 (iii) identifying any initially proposed replaced asset;

123 (c) adopt a local ordinance that:

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

125 (ii) is consistent with the terms of the agreements entered into with the qualified utility
126 or utilities under Subsection (2)(b); and

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

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

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

132 **54-17-904. Authority of commission to approve a community renewable energy**
133 **program.**

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

137 (2) The application shall include:

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

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

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

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

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

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

147 (A) replaced assets;

148 (B) auxiliary services; and

149 (C) new renewable energy resources used to serve the community renewable energy
150 program; and

151 (iii) the ongoing costs at the time of the application;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

181 **54-17-905. Customer participation -- Election not to participate.**

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

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

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

189 (iii) an explanation that the customer may elect to participate in the community
190 renewable energy program by notifying the qualified utility; and

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

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

194 (i) no less than twice within the period of 60 days immediately preceding the date
195 required for the customer to elect to participate in the community renewable energy program;
196 and

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

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

201 (2) (a) An existing customer of the qualified utility may elect to 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 service within a participating
210 community after the date of implementation of the community renewable energy program shall:

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

212 (B) may become a participating customer if the person elects to participate by giving
213 notice to the qualified utility in the manner and within the time period determined by the
214 commission.

215 (c) The qualified utility may not transmit, disclose, or make available to the
216 participating community, municipality, or a third-party representative any personal information
217 or account data of customers who elect not to participate in the program, including, but not
218 limited to, names, addresses, energy usage data, or any other personally identifiable
219 information.

220 (3) A customer that elects to participate in the community renewable energy program
221 under Subsection (2) may later discontinue participation in the community renewable program
222 as allowed by the commission by:

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

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

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

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

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

238 (i) the customer may continue to be served by the qualified utility under the community
239 renewable energy program if the qualified utility enters into an agreement with the municipality
240 under Section [54-3-30](#); or

241 (ii) the municipality shall pay the termination charge for each participating customer

242 that is no longer served by the qualified utility.

243 (5) A residential customer that is participating in the net metering program under Title
244 54, Chapter 15, Net Metering of Electricity, may not be a participating customer under this
245 part.

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

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

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

251 **54-17-906. Customer billing.**

252 The qualified utility shall:

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

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

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

258 **54-17-907. Rate adjustment filing -- Modification of rates for participating**
259 **customers.**

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

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

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

266 (3) The commission shall determine rate changes which shall become effective within
267 90 days after the date of the filing, unless otherwise determined by the commission for good
268 cause.

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

270 **54-17-908. Acquisition of renewable energy resources.**

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

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

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

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

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

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

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

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

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

289 (c) is in the public interest.

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

291 **54-17-909. Commission rulemaking authority.**

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

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

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

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

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

299 (5) the content and filing requirements for the annual filing under Subsection
300 54-17-907(2);

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

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