

Representative Raymond P. Ward proposes the following substitute bill:

CLEAN AND RENEWABLE ENERGY REQUIREMENT

AMENDMENTS

2020 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Raymond P. Ward

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill modifies provisions relating to clean energy requirements for certain electrical corporations.

Highlighted Provisions:

This bill:

- ▶ requires that, on or after a certain date, a certain percentage of a large-scale electric utility's annual retail sales come from qualifying clean electricity if compliance is cost effective;
- ▶ amends provisions relating to the issuance, expiration, and use of renewable energy certificates;
- ▶ amends and requires plans and reports concerning a large-scale electric utility's progress in acquiring qualifying electricity and qualifying clean electricity; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None



26 **Utah Code Sections Affected:**

27 AMENDS:

28 **54-17-601**, as last amended by Laws of Utah 2010, Chapters 119, 125, and 268

29 **54-17-602**, as enacted by Laws of Utah 2008, Chapter 374

30 **54-17-603**, as last amended by Laws of Utah 2009, Chapter 140

31 **54-17-604**, as enacted by Laws of Utah 2008, Chapter 374

32 **54-17-605**, as enacted by Laws of Utah 2008, Chapter 374

33 **54-17-903**, as enacted by Laws of Utah 2019, Chapter 471

34 **54-17-904**, as enacted by Laws of Utah 2019, Chapter 471

35 ENACTS:

36 **54-17-604.5**, Utah Code Annotated 1953



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

39 Section 1. Section **54-17-601** is amended to read:

40 **54-17-601. Definitions.**

41 As used in this part:

42 (1) [~~"Adjusted"~~] Until January 1, 2026, "adjusted retail electric sales" means the total
43 kilowatt-hours of retail electric sales of an electrical corporation to customers in this state in a
44 calendar year, reduced by:

45 (a) the amount of those kilowatt-hours attributable to electricity generated or purchased
46 in that calendar year from qualifying zero carbon emissions generation and qualifying carbon
47 sequestration generation;

48 (b) the amount of those kilowatt-hours attributable to electricity generated or purchased
49 in that calendar year from generation located within the geographic boundary of the Western
50 Electricity Coordinating Council that derives its energy from one or more of the following but
51 that does not satisfy the definition of a renewable energy source or that otherwise has not been
52 used to satisfy Subsection **54-17-602**(1):

53 (i) wind energy;

54 (ii) solar photovoltaic and solar thermal energy;

55 (iii) wave, tidal, and ocean thermal energy;

56 (iv) except for combustion of wood that has been treated with chemical preservatives

57 such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass
58 byproducts, including:
59 (A) organic waste;
60 (B) forest or rangeland woody debris from harvesting or thinning conducted to improve
61 forest or rangeland ecological health and to reduce wildfire risk;
62 (C) agricultural residues;
63 (D) dedicated energy crops; and
64 (E) landfill gas or biogas produced from organic matter, wastewater, anaerobic
65 digesters, or municipal solid waste;
66 (v) geothermal energy;
67 (vi) hydroelectric energy; or
68 (vii) waste gas and waste heat capture or recovery; and
69 (c) the number of kilowatt-hours attributable to reductions in retail sales in that
70 calendar year from demand side management as defined in Section 54-7-12.8, with the
71 kilowatt-hours for an electrical corporation whose rates are regulated by the commission and
72 adjusted by the commission to exclude kilowatt-hours for which a renewable energy certificate
73 is issued under Subsection 54-17-603(4)(b).

74 (2) Beginning January 1, 2026, "adjusted retail electric sales" means the total
75 kilowatt-hours of a large-scale electric utility's annual retail electric sales to customers in the
76 state in a calendar year, excluding any load served by a clean energy resource acquired under
77 Part 8, Renewable Energy Contracts.

78 [~~(2)~~] (3) "Amount of kilowatt-hours attributable to electricity generated or purchased in
79 that calendar year from qualifying carbon sequestration generation," for qualifying carbon
80 sequestration generation, means the kilowatt-hours supplied by a facility during the calendar
81 year multiplied by the ratio of the amount of carbon dioxide captured from the facility and
82 sequestered to the sum of the amount of carbon dioxide captured from the facility and
83 sequestered plus the amount of carbon dioxide emitted from the facility during the same
84 calendar year.

85 [~~(3)~~] (4) "Banked renewable energy certificate" means a bundled or unbundled
86 renewable energy certificate that is:

87 (a) not used in a calendar year to comply with this part or with a renewable energy

88 program in another state; and

89 (b) carried forward into a subsequent year.

90 ~~[(4)]~~ (5) "Bundled renewable energy certificate" means a renewable energy certificate
91 for qualifying electricity that is acquired:

92 (a) by an electrical corporation by a trade, purchase, or other transfer of electricity that
93 includes the renewable energy attributes of, or certificate that is issued for, the electricity; or

94 (b) by an electrical corporation by generating the electricity for which the renewable
95 energy certificate is issued.

96 (6) "Clean energy source" means:

97 (a) an electric generation facility or generation capability or upgrade that derives its
98 energy from one or more of the following:

99 (i) wind energy;

100 (ii) solar photovoltaic and solar thermal energy;

101 (iii) wave, tidal, and ocean thermal energy;

102 (iv) geothermal energy;

103 (v) hydroelectric energy;

104 (vi) nuclear energy;

105 (vii) landfill gas or biogas produced from organic matter, wastewater, anaerobic
106 digesters, or municipal solid waste;

107 (viii) waste gas and waste heat capture or recovery, whether or not it is renewable,
108 including methane gas from:

109 (A) an abandoned coal mine; or

110 (B) a coal degassing operation associated with a state-approved mine permit; or

111 (ix) municipal solid waste;

112 (b) hydrogen gas derived from any source of energy described in Subsection (6)(a);

113 (c) if an electric generation facility employs multiple energy sources, that portion of the
114 electricity generated that is attributable to energy sources described in Subsections (6)(a) and

115 (b); and

116 (d) electricity generated or purchased from qualifying carbon sequestration generation.

117 ~~[(5)]~~ (7) "Electrical corporation":

118 (a) ~~[is as]~~ means the same as that term is defined in Section 54-2-1; and

119 (b) does not include a person generating electricity that is not for sale to the public.

120 ~~[(6)]~~ (8) "Qualifying carbon sequestration generation" means a fossil-fueled generating
121 facility located within the geographic boundary of the Western Electricity Coordinating
122 Council that:

123 (a) becomes operational or is retrofitted on or after January 1, 2008; and

124 (b) reduces carbon dioxide emissions into the atmosphere through permanent
125 geological sequestration or through another verifiably permanent reduction in carbon dioxide
126 emissions through the use of technology.

127 (9) "Qualifying clean electricity" means electricity generated from a clean energy
128 source if:

129 (a) (i) the clean energy source is located within the geographic boundary of the
130 Western Electricity Coordinating Council; or

131 (ii) the electricity is delivered to:

132 (A) the transmission system of an electrical corporation; or

133 (B) a delivery point designated by the electrical corporation for the purpose of
134 subsequent delivery to the electrical corporation;

135 (b) the clean energy attributes of the electricity are not traded, sold, transferred, or used
136 to satisfy another state's renewable, zero carbon energy, or clean energy program; and

137 (c) the clean energy source was not acquired under Part 8, Renewable Energy
138 Contracts.

139 ~~[(7)]~~ (10) "Qualifying electricity" means electricity generated on or after January 1,
140 1995 from a renewable energy source if:

141 (a) (i) the renewable energy source is located within the geographic boundary of the
142 Western Electricity Coordinating Council; or

143 (ii) the qualifying electricity is delivered to the transmission system of an electrical
144 corporation or a delivery point designated by the electrical corporation for the purpose of
145 subsequent delivery to the electrical corporation; and

146 (b) the renewable energy attributes of the electricity are not traded, sold, transferred, or
147 otherwise used to satisfy another state's renewable energy program.

148 ~~[(8)]~~ (11) "Qualifying zero carbon emissions generation":

149 (a) means a generation facility located within the geographic boundary of the Western

150 Electricity Coordinating Council that:

- 151 (i) becomes operational on or after January 1, 2008; and
- 152 (ii) does not produce carbon as a byproduct of the generation process;
- 153 (b) includes generation powered by nuclear fuel; and
- 154 (c) does not include renewable energy sources used to satisfy the requirement
- 155 established under Subsection [54-17-602\(1\)](#).

156 [~~9~~] [\(12\)](#) "Renewable energy certificate" means a certificate issued under Section

157 [54-17-603](#).

158 [~~10~~] [\(13\)](#) "Renewable energy source" means:

159 (a) an electric generation facility or generation capability or upgrade that becomes

160 operational on or after January 1, 1995 that derives its energy from one or more of the

161 following:

- 162 (i) wind energy;
- 163 (ii) solar photovoltaic and solar thermal energy;
- 164 (iii) wave, tidal, and ocean thermal energy;
- 165 (iv) except for combustion of wood that has been treated with chemical preservatives
- 166 such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass
- 167 byproducts, including:

- 168 (A) organic waste;
- 169 (B) forest or rangeland woody debris from harvesting or thinning conducted to improve
- 170 forest or rangeland ecological health and to reduce wildfire risk;

171 (C) agricultural residues;

172 (D) dedicated energy crops; and

173 (E) landfill gas or biogas produced from organic matter, wastewater, anaerobic

174 digesters, or municipal solid waste;

175 (v) geothermal energy located outside the state;

176 (vi) waste gas and waste heat capture or recovery whether or not it is renewable,

177 including methane gas from:

178 (A) an abandoned coal mine; or

179 (B) a coal degassing operation associated with a state-approved mine permit;

180 (vii) efficiency upgrades to a hydroelectric facility, without regard to the date upon

181 which the facility became operational, if the upgrades become operational on or after January
182 1, 1995;

183 (viii) compressed air, if:

184 (A) the compressed air is taken from compressed air energy storage; and

185 (B) the energy used to compress the air is a renewable energy source; or

186 (ix) municipal solid waste;

187 (b) any of the following:

188 (i) up to 50 average megawatts of electricity per year per electrical corporation from a
189 certified low-impact hydroelectric facility, without regard to the date upon which the facility
190 becomes operational, if the facility is certified as a low-impact hydroelectric facility on or after
191 January 1, 1995, by a national certification organization;

192 (ii) geothermal energy if located within the state, without regard to the date upon which
193 the facility becomes operational; or

194 (iii) hydroelectric energy if located within the state, without regard to the date upon
195 which the facility becomes operational;

196 (c) hydrogen gas derived from any source of energy described in Subsection [~~(10)~~]
197 (13)(a) or (b);

198 (d) if an electric generation facility employs multiple energy sources, that portion of the
199 electricity generated that is attributable to energy sources described in Subsections [~~(10)~~]
200 (13)(a) through (c); and

201 (e) any of the following located in the state and owned by a user of energy:

202 (i) a demand side management measure, as defined by Subsection [54-7-12.8\(1\)](#), with
203 the quantity of renewable energy certificates to which the user is entitled determined by the
204 equivalent energy saved by the measure;

205 (ii) a solar thermal system that reduces the consumption of fossil fuels, with the
206 quantity of renewable energy certificates to which the user is entitled determined by the
207 equivalent kilowatt-hours saved, except to the extent the commission determines otherwise
208 with respect to net-metered energy;

209 (iii) a solar photovoltaic system that reduces the consumption of fossil fuels with the
210 quantity of renewable energy certificates to which the user is entitled determined by the total
211 production of the system, except to the extent the commission determines otherwise with

212 respect to net-metered energy;

213 (iv) a hydroelectric or geothermal facility with the quantity of renewable energy
214 certificates to which the user is entitled determined by the total production of the facility,
215 except to the extent the commission determines otherwise with respect to net-metered energy;

216 (v) a waste gas or waste heat capture or recovery system, other than from a combined
217 cycle combustion turbine that does not use waste gas or waste heat, with the quantity of
218 renewable energy certificates to which the user is entitled determined by the total production of
219 the system, except to the extent the commission determines otherwise with respect to
220 net-metered energy; and

221 (vi) the station use of solar thermal energy, solar photovoltaic energy, hydroelectric
222 energy, geothermal energy, waste gas, or waste heat capture and recovery.

223 ~~[(+)]~~ (14) "Unbundled renewable energy certificate" means a renewable energy
224 certificate associated with:

225 (a) qualifying electricity that is acquired by an electrical corporation or other person by
226 trade, purchase, or other transfer without acquiring the electricity for which the certificate was
227 issued; or

228 (b) activities listed in Subsection ~~[(+)]~~ (13)(e).

229 Section 2. Section 54-17-602 is amended to read:

230 **54-17-602. Target amount of qualifying electricity -- Renewable energy certificate**
231 **-- Cost-effectiveness -- Cooperatives.**

232 (1) (a) To the extent that it is cost effective to do so and unless Subsection (3) applies,
233 beginning in 2025 the annual retail electric sales in this state of each electrical corporation shall
234 consist of qualifying electricity or renewable energy certificates in an amount equal to at least
235 20% of adjusted retail electric sales.

236 (b) The amount under Subsection (1)(a) is computed based upon adjusted retail electric
237 sales for the calendar year commencing 36 months before the first day of the year for which the
238 target calculated under Subsection (1)(a) applies.

239 (c) Notwithstanding Subsections (1)(a) and (b), an increase in the annual target from
240 one year to the next may not exceed the greater of:

241 (i) 17,500 megawatt-hours; or

242 (ii) 20% of the prior year's amount under Subsections (1)(a) and (b).

243 (2) (a) Cost-effectiveness under Subsection (1) for other than a cooperative association
244 is determined in comparison to other viable resource options using the criteria provided by
245 Subsection [54-17-201\(2\)\(c\)\(ii\)](#).

246 (b) For an electrical corporation that is a cooperative association, cost-effectiveness is
247 determined using criteria applicable to the cooperative association's acquisition of a significant
248 energy resource established by the cooperative association's board of directors.

249 (3) (a) Beginning July 1, 2030, at least 50% of the total kilowatt-hours of a large-scale
250 electric utility's annual adjusted retail electric sales to customers in the state in a calendar year
251 shall consist of qualifying clean electricity or renewable energy certificates to the extent that it
252 is cost effective to do so.

253 (b) A large-scale electric utility's annual adjusted retail electric sales to customers
254 computed under Subsection (3)(a) is based upon annual adjusted retail electric sales for the
255 calendar year commencing 36 months before the first day of the year for which the target
256 calculated under Subsection (3)(a) applies.

257 (c) Cost-effectiveness under Subsection (3)(a) of acquiring qualifying clean electricity
258 means that, on a life-cycle basis and taking into account the long-term risks, the present value
259 of the long-term costs of acquiring qualifying clean electricity is less than or equal to the
260 present value of the long-term costs of other electricity resource options.

261 (d) (i) A large-scale electric utility and a county or municipality participating in a
262 community renewable energy program, as defined in Section [54-17-902](#), may agree on how the
263 clean energy standard under Subsection (3)(a) interacts with the community renewable energy
264 program.

265 (ii) An agreement under Subsection (3)(d)(i) shall be incorporated into the agreement
266 under Subsection [54-17-903\(2\)\(b\)](#).

267 (iii) If the large-scale electric utility and county or municipality are unable to agree as
268 provided in Subsection (3)(d)(i), the commission shall determine the interaction as provided in
269 Subsection [54-17-904\(4\)](#).

270 ~~(3)~~ (4) This section does not require an electrical corporation to:

271 (a) substitute qualifying electricity for electricity or qualifying clean electricity from a
272 generation source owned or contractually committed, or from a contractual commitment for a
273 power purchase;

274 (b) enter into any additional electric sales commitment or any other arrangement for the
275 sale or other disposition of electricity that is not already, or would not be, entered into by the
276 electrical corporation; or

277 (c) acquire qualifying electricity in excess of its adjusted retail electric sales.

278 ~~[(4)]~~ (5) (a) For the purpose of Subsection (1), an electrical corporation may combine
279 the following:

280 ~~[(a)]~~ (i) qualifying electricity from a renewable energy source owned by the electrical
281 corporation;

282 ~~[(b)]~~ (ii) qualifying electricity acquired by the electrical corporation through trade,
283 power purchase, or other transfer; and

284 ~~[(c)]~~ (iii) a bundled or unbundled renewable energy certificate, including a banked
285 renewable energy certificate.

286 (b) For the purpose of Subsection (3), a large-scale electric utility may combine the
287 following:

288 (i) qualifying clean electricity from a clean energy source owned by the large-scale
289 electric utility;

290 (ii) qualifying clean electricity acquired by the large-scale electric utility through trade,
291 power purchase, or other transfer; and

292 (iii) a bundled or unbundled renewable energy certificate, including a banked
293 renewable energy certificate.

294 ~~[(5)]~~ (6) For an electrical corporation whose rates the commission regulates, the
295 following rules concerning renewable energy certificates apply:

296 (a) a banked renewable energy certificate with an older issuance date shall be used
297 before any other banked renewable energy certificate issued at a later date is used; and

298 (b) the total of all unbundled renewable energy certificates, including unbundled
299 banked renewable energy certificates, may not ~~[exceed]~~ be used to satisfy more than 20% of the
300 amount of the annual target provided for in Subsection (1) or (3).

301 ~~[(6)]~~ (7) An electrical corporation that is a cooperative association may count towards
302 Subsection (1) any of the following:

303 (a) electric production allocated to this state from hydroelectric facilities becoming
304 operational after December 31, 2007 if the facilities are located in any state in which the

305 cooperative association, or a generation and transmission cooperative with which the
306 cooperative association has a contract, provides electric service;

307 (b) qualifying electricity generated or acquired or renewable energy certificates
308 acquired for a program that permits a retail customer to voluntarily contribute to a renewable
309 energy source; and

310 (c) notwithstanding Subsection 54-17-601(7), an unbundled renewable energy
311 certificate purchased from a renewable energy source located outside the geographic boundary
312 of the Western Electricity Coordinating Council if the electricity on which the unbundled
313 renewable energy certificate is based would be considered qualifying electricity if the
314 renewable energy source was located within the geographic boundary of the Western
315 Electricity Coordinating Council.

316 ~~[(7)]~~ (8) (a) The use of the renewable attributes associated with qualifying electricity to
317 satisfy any federal renewable energy requirement does not preclude the electricity from being
318 qualifying electricity for the purpose of this chapter.

319 (b) The use of the clean energy attributes associated with qualifying clean electricity to
320 satisfy any federal renewable requirement does not preclude the electricity from being
321 qualifying clean electricity for the purpose of this chapter.

322 Section 3. Section 54-17-603 is amended to read:

323 **54-17-603. Renewable energy certificate -- Issuance -- Use to satisfy other**
324 **requirements.**

325 (1) The commission shall establish a process for issuance or recognition of a renewable
326 energy certificate.

327 (2) The commission process under Subsection (1) shall provide for the issuance,
328 monitoring, accounting, transfer, and use of a renewable energy certificate, including in
329 electronic form.

330 (3) The commission may:

331 (a) consult with another state or a federal agency and any regional system or trading
332 program to fulfill Subsection (1); and

333 (b) allow use of a renewable energy certificate that is issued, monitored, accounted for,
334 or transferred by or through a regional system or trading program, including the Western
335 Renewable Energy Generation Information System, to fulfill this part's provisions.

336 (4) A renewable energy certificate shall be issued for:

337 (a) qualifying electricity generated on and after January 1, 1995; and

338 (b) the activities of an energy user described in Subsections 10-19-102(11)(e) and
339 54-17-601(10)(e) on and after January 1, 1995.

340 (5) The person requesting a renewable energy certificate shall affirm that the renewable
341 energy attributes of the electricity have not been traded, sold, transferred, or otherwise used to
342 satisfy another state's renewable energy requirements.

343 (6) (a) For the purpose of satisfying Subsection 54-17-602(1) and the issuance of a
344 renewable energy certificate under this section before January 1, 2021, a renewable energy
345 source located in this state that derives its energy from solar photovoltaic or solar thermal
346 energy shall be credited for 2.4 kilowatt-hours of qualifying electricity for each 1.0
347 kilowatt-hour generated.

348 (b) Notwithstanding Subsection (6)(a), the acquisition or construction by an electrical
349 corporation of a renewable energy source that derives its energy from solar photovoltaic or
350 solar thermal energy shall comply with the cost-effectiveness criteria of Subsection
351 54-17-201(2)(c)(ii).

352 (7) A renewable energy certificate issued under this section:

353 [~~(a) does not expire; and~~]

354 (a) expires three years after the date that it was issued; and

355 (b) may be banked.

356 (8) The commission may recognize a renewable energy certificate that is issued,
357 monitored, accounted for, or transferred by or through another state or a regional system or
358 trading program, including the Western Renewable Energy Generation Information System, if
359 the renewable energy certificate is for qualifying electricity.

360 (9) A renewable energy certificate:

361 (a) may be used only once to satisfy Subsection 54-17-602(1) or (3);

362 (b) may be used for the purpose of Subsection 54-17-602(1) or (3) and the qualifying
363 electricity on which the renewable energy certificate is based may be used to satisfy any federal
364 renewable energy requirement; and

365 (c) may not be used if it has been used to satisfy any other state's renewable energy or
366 clean energy requirement.

367 (10) The commission shall establish procedures and reasonable rates permitting an
368 electrical corporation that is a purchasing utility under Section 54-12-2 to acquire or retain a
369 renewable energy certificate associated with the purchase of power from an independent energy
370 producer.

371 Section 4. Section 54-17-604 is amended to read:

372 **54-17-604. Plans and reports.**

373 (1) An electrical corporation shall develop and maintain a plan for implementing
374 Subsection 54-17-602(1), consistent with the cost-effectiveness criteria of Subsection
375 54-17-201(2)(c)(ii).

376 (2) (a) A progress report concerning a plan under Subsection (1) for other than a
377 cooperative association shall be filed with the commission by January 1 of each of the years
378 2010, 2015, and 2020~~[, and 2024]~~.

379 (b) For an electrical corporation that is a cooperative association, a progress report
380 shall be filed with the cooperative association's board of directors by January 1 of each of the
381 years 2010, 2015, 2020, and 2024.

382 (3) The progress report under Subsection (2) shall contain:

383 (a) the actual and projected amount of qualifying electricity through 2025;

384 (b) the source of qualifying electricity;

385 (c) (i) an analysis of the cost-effectiveness of renewable energy sources for other than a
386 cooperative association; or

387 (ii) an estimate of the cost of achieving the target for an electrical corporation that is a
388 cooperative association;

389 (d) a discussion of conditions impacting the renewable energy source and qualifying
390 electricity markets;

391 (e) any recommendation for a suggested legislative or program change; and

392 (f) for other than a cooperative association, any other information requested by the
393 commission or considered relevant by the electrical corporation.

394 (4) The plan and progress report required by Subsections (1) and (2) may include
395 procedures that will be used by the electrical corporation to identify and select any renewable
396 energy resource and qualifying electricity that satisfy the criteria of Subsection
397 54-17-201(2)(c)(ii).

398 ~~[(5) By July 1, 2026, each electrical corporation shall file a final progress report~~
399 ~~demonstrating:]~~

400 ~~[(a) how Subsection 54-17-602(1) is satisfied for the year 2025; or]~~

401 ~~[(b) the reason why Subsection 54-17-602(1) is not satisfied for the year 2025, if it is~~
402 ~~not satisfied.]]~~

403 ~~[(6)]~~ (5) By January 1 of each of the years 2011[;] and 2016, [2021, and 2025;] the
404 Division of Public Utilities shall submit to the Legislature a report containing a summary of
405 any progress report filed under Subsections (2) through [(5)] (4).

406 [(7)] (6) The summary required by Subsection [(6)] (5) shall include any
407 recommendation for legislative changes.

408 [(8) (a) By July 1, 2027, the commission shall submit to the Legislature a report
409 summarizing the final progress reports and recommending any legislative changes.]]

410 [(b) The 2027 summary may contain a recommendation to the Legislature concerning
411 any action to be taken with respect to an electrical corporation that does not satisfy Subsection
412 54-17-602(1) for 2025.]]

413 [(c) The commission shall provide an opportunity for public comment and take
414 evidence before recommending any action to be taken with respect to an electrical corporation
415 that does not satisfy Subsection 54-17-602(1) for 2025.]]

416 [(9) If a recommendation containing a penalty for failure to satisfy Subsection
417 54-17-602(1) is made under Subsection (8), the proposal shall require that any amount paid by
418 an electrical corporation as a penalty be utilized to fund demand-side management for the retail
419 customers of the electrical corporation paying the penalty.]]

420 [(10) A penalty may not be proposed under this section if an electrical corporation's
421 failure to satisfy Subsection 54-17-602(1) is due to:]

422 [(a) a lack of cost-effective means to satisfy the requirement; or]

423 [(b) force majeure.]]

424 [(H)] (7) By July 1, 2026, an electrical corporation that is a cooperative association
425 shall file a final progress report demonstrating:

426 (a) how Subsection 54-17-602(1) is satisfied for the year 2025; or

427 (b) the reason why Subsection 54-17-602(1) is not satisfied for the year 2025 if it is not
428 satisfied.

429 ~~[(12)]~~ (8) The plan and any progress report ~~[file]~~ filed under this section by an
430 electrical corporation that is a cooperative association shall be publicly available at the
431 cooperative association's office or posted on the cooperative association's website.

432 Section 5. Section **54-17-604.5** is enacted to read:

433 **54-17-604.5. Plans and reports.**

434 (1) A large-scale electric utility that is required to comply with the requirement in
435 Subsection 54-17-602(3) shall:

436 (a) develop and maintain a plan for implementing Subsection 54-17-602(3), consistent
437 with the cost-effectiveness standard described in Subsection 54-17-602(3)(c); and

438 (b) by May 1, 2026, file with the commission a progress report concerning a plan under
439 Subsection (1)(a).

440 (2) The progress report under Subsection (1)(b) shall contain:

441 (a) the actual and projected amount of qualifying clean electricity through 2030;

442 (b) the source of qualifying clean electricity;

443 (c) an analysis of the cost-effectiveness of clean energy sources;

444 (d) a discussion of conditions impacting the clean energy source and qualifying clean
445 electricity markets;

446 (e) any recommendation for a suggested legislative or program change;

447 (f) a final progress report demonstrating:

448 (i) how Subsection 54-17-602(1) is satisfied for the year 2025; or

449 (ii) the reason why Subsection 54-17-602(1) is not satisfied for the year 2025, if it is
450 not satisfied; and

451 (g) any other information requested by the commission or considered relevant by the
452 large-scale electric utility.

453 (3) By November 1, 2026, the commission shall, after taking public comment and
454 evidence, submit to the Legislature a report summarizing the progress reports and public
455 comments and recommending any legislative changes.

456 (4) By May 1, 2031, a large-scale electric utility that is required to comply with
457 Subsection 54-17-602(3) shall file a final progress report to the commission demonstrating:

458 (a) how Subsection 54-17-602(3) is satisfied for the year 2030; or

459 (b) the reason why Subsection 54-17-602(3) is not satisfied for the year 2030, if it is

460 not satisfied.

461 (5) (a) By November 1, 2031, the commission, after taking public comment and
462 evidence, shall submit to the Legislature a report summarizing the final progress reports, public
463 comment and evidence, and recommending any legislative changes.

464 (b) The report described in Subsection (5)(a) may contain a recommendation to the
465 Legislature concerning any action to be taken with respect to a large-scale electric utility that is
466 required to comply with Subsection 54-17-602(3) and does not satisfy Subsection 54-17-602(3)
467 for 2030.

468 (c) The commission shall provide an opportunity for public comment and take
469 evidence before recommending any action to be taken with respect to a large-scale electric
470 utility that is required to comply with Subsection 54-17-602(3) and does not satisfy Subsection
471 54-17-602(3) for 2030.

472 Section 6. Section **54-17-605** is amended to read:

473 **54-17-605. Recovery of costs for renewable energy activities.**

474 (1) In accordance with other law, the commission shall include in the retail electric
475 rates of an electrical corporation whose rates the commission regulates the state's share of any
476 of the costs listed in Subsection (2) that are relevant to the proceeding in which the commission
477 is considering the electrical corporation's rates:

478 (a) if the costs are prudently incurred by the electrical corporation in connection with:

479 (i) the acquisition of a renewable energy certificate;

480 (ii) the acquisition of qualifying electricity for which a renewable energy certificate
481 will be issued after the acquisition; and

482 (iii) the acquisition, construction, and use of a renewable energy or clean energy
483 source; and

484 (b) to the extent any qualifying electricity [~~or~~], renewable energy source, or clean
485 energy source under Subsection (1)(a) satisfies the cost-effectiveness criteria:

486 (i) [~~or~~] under Subsection 54-17-201(2)(c)(ii)[~~;~~]; or

487 (ii) under Subsection 54-17-602(3)(c).

488 (2) The following are costs that may be recoverable under Subsection (1):

489 (a) a cost of siting, acquisition of property rights, equipment, design, licensing,
490 permitting, construction, owning, operating, or otherwise acquiring a renewable energy source

491 or clean energy source and any associated asset, including transmission;

492 (b) a cost to acquire qualifying electricity through trade, power purchase, or other
493 transfer;

494 (c) a cost to acquire a bundled or unbundled renewable energy certificate, if any net
495 revenue from the sale of a renewable energy certificate allocable to this state is also included in
496 rates;

497 (d) a cost to interconnect a renewable energy source or clean energy source to the
498 electrical corporation's transmission and distribution system;

499 (e) a cost associated with using a physical or financial asset to integrate, firm, or shape
500 a renewable energy source or clean energy source on a firm annual basis to meet a retail
501 electricity need; and

502 (f) any cost associated with transmission and delivery of qualifying electricity or
503 qualifying clean electricity to a retail electricity consumer.

504 (3) (a) The commission [~~may~~] shall allow an electrical corporation to use an
505 adjustment mechanism or reasonable method other than a rate case under Sections [54-4-4](#) and
506 [54-7-12](#) to allow recovery of costs identified in Subsection (2).

507 (b) [~~If the commission allows the use of an adjustment mechanism, both~~] Both the
508 costs and any associated benefit shall be reflected in the mechanism[;] or method approved by
509 the commission in Subsection (3)(a) to the extent practicable.

510 [~~(c) This Subsection (3) creates no presumption for or against the use of an adjustment~~
511 ~~mechanism.~~]

512 (4) (a) The commission may permit an electrical corporation to include in its retail
513 electric rates the state's share of costs prudently incurred by the electrical corporation in
514 connection with a renewable energy source, whether or not the renewable energy source
515 ultimately becomes operational, including costs of:

516 (i) siting;

517 (ii) property acquisition;

518 (iii) equipment;

519 (iv) design;

520 (v) licensing;

521 (vi) permitting; and

522 (vii) other reasonable items related to the renewable energy source.

523 (b) Subsection (4)(a) creates no presumption concerning the prudence or recoverability
524 of the costs identified.

525 (c) To the extent deferral is consistent with other applicable law, the commission may
526 allow an electrical corporation to defer costs recoverable under Subsection (4)(a) until the
527 recovery of the deferred costs can be considered in a rate proceeding or an adjustment
528 mechanism created under Subsection (3).

529 (d) An application to defer costs shall be filed within 60 days after the day on which
530 the electrical corporation determines that the renewable energy source project is impaired under
531 generally accepted accounting principles and will not become operational.

532 (e) Notwithstanding the opportunity to defer costs under Subsection (4)(c), a cost
533 incurred by an electrical corporation for siting, property acquisition, equipment, design,
534 licensing, and permitting of a renewable energy source that the electrical corporation proposes
535 to construct shall be included in the electrical corporation's project costs for the purpose of
536 evaluating the project's cost-effectiveness.

537 (f) A deferred cost under Subsection (4)(a) may not be added to, or otherwise
538 considered in the evaluation of, the cost of a project proposed by any person other than the
539 electrical corporation for the purpose of evaluating that person's proposal.

540 Section 7. Section **54-17-903** is amended to read:

541 **54-17-903. Program requirement for a municipality or county.**

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

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

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

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

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

552 (A) third-party expertise contracted for by the division and the office, for assistance

553 with activities associated with initial approval of the community renewable energy program;
554 and

555 (B) providing notice to the municipality's or county's customers as provided in Section
556 [54-17-905](#);

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

560 (iii) identifying any initially proposed replaced asset; and

561 (iv) if applicable, specifying how the standard under Subsection [54-17-602](#)(3)(a)
562 interacts with the community renewable energy program;

563 (c) adopt a local ordinance that:

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

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

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

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

571 Section 8. Section **54-17-904** is amended to read:

572 **54-17-904. Authority of commission to approve a community renewable energy**
573 **program.**

574 (1) After the commission has adopted administrative rules as required under Section
575 [54-17-909](#), a qualified utility may file an application with the commission for approval of a
576 community renewable energy program.

577 (2) The application shall include:

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

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

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

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

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

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

587 (A) replaced assets;

588 (B) auxiliary services; and

589 (C) new renewable energy resources used to serve the community renewable energy
590 program; and

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

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

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

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

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

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

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

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

604 (4) In approving an application under this section, the commission shall determine how
605 the clean energy standard in Subsection 54-17-602(3)(a) interacts with the community
606 renewable energy program, if the county or municipality and large-scale electric utility are
607 unable to agree on that interaction.

608 [~~4~~] (5) The rates approved by the commission for participating customers:

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

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

613 (c) shall take into account any quantifiable benefits to the qualified utility, and the
614 qualified utility's customers, including participating customers in their capacity as ratepayers of

615 the qualified utility, excluding costs or benefits that do not directly affect the qualified utility's
616 costs of service.

617 ~~[(5)]~~ (6) (a) Each municipality or county included in the application shall be a party to
618 the regulatory proceeding.

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

622 ~~[(6)]~~ (7) The community renewable energy program may not be implemented until
623 after the municipality or county adopts the ordinance required in Section [54-17-903](#).