

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: _____

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:



26 ENACTS:

27 [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

36

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 costs allocated to the state for transmission and

61 distribution facilities, 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:
- 89 (a) that was built or acquired, in whole or in part, by a qualified utility to serve the
- 90 qualified utility's customers, including customers within a participating community;
- 91 (b) that was built or acquired prior to commission approval and the effective date of the
- 92 community renewable energy program; and
- 93 (c) to the extent the asset is no longer used to serve participating customers.

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

95 **54-17-903. Program requirement for a municipality or county.**

96 (1) Customers of a qualified utility may be served by the community renewable energy

97 program described in this part if the municipality or county satisfies the requirements of

98 Subsection (2).

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

100 (a) adopt a resolution no later than December 31, 2019, that states a goal of achieving

101 an amount equivalent to 100% of the annual electric energy supply for participating customers

102 from a renewable energy resource by 2030;

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

104 (i) with the stipulation of payment by the municipality or county to the qualified utility

105 for the costs of:

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

107 with activities associated with initial approval of the community renewable energy program;

108 and

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

110 [54-17-905](#);

111 (ii) determining the obligation for the payment of any termination charges under

112 Subsection [54-17-905](#)(3)(b) that are not paid by a participating customer and not included in

113 participating customer rates under Subsections [54-17-904](#) (2) and (4); and

114 (iii) identifying any initially proposed replaced asset;

115 (c) adopt a local ordinance that:

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

117 (ii) is consistent with the terms of the agreement entered into with the qualified utility

118 under Subsection (2)(b); and

- 119 (d) comply with any other terms or conditions required by the commission.
- 120 (3) The local ordinance required in Subsection (2)(c) shall be adopted by the
- 121 municipality or county within 90 days after the date of the commission order approving the
- 122 community renewable energy program.
- 123 Section 4. Section **54-17-904** is enacted to read:
- 124 **54-17-904. Authority of commission to approve a community renewable energy**
- 125 **program.**
- 126 (1) After the commission has adopted administrative rules as required under Section
- 127 54-17-909, a qualified utility may file an application with the commission for approval of a
- 128 community renewable energy program.
- 129 (2) The application shall include:
- 130 (a) the names of each municipality and county to be served by the community
- 131 renewable energy program;
- 132 (b) a map of the geographic boundaries of each municipality and county;
- 133 (c) the number of customers served by the qualified utility within those boundaries;
- 134 (d) projected rates for participating customers that take into account:
- 135 (i) the estimated number of customers expected to participate in the program;
- 136 (ii) the quantifiable costs and benefits to the qualified utility and all of the qualified
- 137 utility's customers in their capacity as ratepayers of the qualified utility, excluding costs or
- 138 benefits that do not directly affect the qualified utility, including as applicable:
- 139 (A) replaced assets;
- 140 (B) auxiliary services; and
- 141 (C) new renewable energy resources used to serve the community renewable energy
- 142 program; and
- 143 (iii) the ongoing costs 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) (a) 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 (i) the projected rates and terms of participation in the community renewable energy
179 program approved by the commission;

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

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

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

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

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

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

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

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

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

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

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

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

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

207 (3) A customer that does not opt out of the community renewable energy program
208 under Subsection (2) may later discontinue participation in the community renewable program
209 as allowed by the commission by:

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

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

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

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

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

225 (i) the customer may continue to be served by the qualified utility under the community
226 renewable energy program if the qualified utility enters into an agreement with the municipality
227 under Section 54-3-30; or

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

230 (5) A residential customer that is participating in the net metering program under Title
231 54, Chapter 15, Net Metering of Electricity, may not be a participating customer under this
232 part.

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

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

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

238 **54-17-906. Customer billing.**

239 The qualified utility shall:

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

242 (2) provide notice to participating customers of any change in rate for participation in

243 the community renewable energy program.

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

245 **54-17-907. Rate adjustment filing -- Modification of rates for participating**
246 **customers.**

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

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

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

253 (3) The commission shall determine rate changes which shall become effective within
254 90 days after the date of the filing, unless otherwise determined by the commission for good
255 cause.

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

257 **54-17-908. Acquisition of renewable energy resources.**

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

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

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

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

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

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

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

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

276 (c) is in the public interest.

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

278 **54-17-909. Commission rulemaking authority.**

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

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

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

283 (3) the notice requirements under Section [54-17-905](#);

284 (4) the standards for determining when a termination charge is applicable and the
285 amount and timing of any such charge under Subsection [54-17-905\(3\)\(b\)](#);

286 (5) the content and filing requirements for the annual filing under Subsection
287 [54-17-907\(2\)](#);

288 (6) the solicitation requirements under Section [54-17-908](#); and

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