

1 COMMUNITY RENEWABLE ENERGY ACT

2 2019 GENERAL SESSION

3 STATE OF UTAH

4 Chief Sponsor: Stephen G. Handy

5 Senate Sponsor: Daniel Hemmert

6	Cosponsors:	Tim Quinn	Jeffrey D. Stenquist
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10

11 LONG TITLE

12 General Description:

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

14 Highlighted Provisions:

15 This bill:

- 16 ▶ enacts the Community Renewable Energy Act;
- 17 ▶ defines terms and program requirements under the act;
- 18 ▶ outlines the role and rulemaking authority of the Utah Public Service Commission
- 19 in approving a community renewable energy program under the act;
- 20 ▶ establishes and clarifies options for customer participation and nonparticipation in
- 21 programs under the act;
- 22 ▶ provides an initial opt-out period for a participating customer to elect to leave the
- 23 community renewable energy program without penalty;
- 24 ▶ establishes procedures concerning rates, customer billing, and renewable energy
- 25 resource acquisition under the act; and
- 26 ▶ makes technical changes.

27 Money Appropriated in this Bill:

28 None

29 **Other Special Clauses:**

30 None

31 **Utah Code Sections Affected:**

32 ENACTS:

33 **54-17-901**, Utah Code Annotated 1953

34 **54-17-902**, Utah Code Annotated 1953

35 **54-17-903**, Utah Code Annotated 1953

36 **54-17-904**, Utah Code Annotated 1953

37 **54-17-905**, Utah Code Annotated 1953

38 **54-17-906**, Utah Code Annotated 1953

39 **54-17-907**, Utah Code Annotated 1953

40 **54-17-908**, Utah Code Annotated 1953

41 **54-17-909**, Utah Code Annotated 1953



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

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

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

46 **54-17-901. Community Renewable Energy Act.**

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

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

49 **54-17-902. Definitions.**

50 As used in this part:

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

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

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

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

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

56 Commission requirements governing transmission and interconnection services.

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

58 (3) "Community renewable energy program" means the program approved by the
59 commission under Section 54-17-904 that allows a qualified utility to provide electric service
60 from one or more renewable energy resources to a participating customer within a participating
61 community.

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

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

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

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

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

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

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

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

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

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

77 (11) "Participating customer" means:

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

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

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

84 (13) "Renewable electric energy supply" means incremental renewable energy

85 resources that are developed to meet the equivalent of the annual electric energy consumption
86 of participating customers within a participating community.

87 (14) "Renewable energy resource" means:

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

90 (i) wind;

91 (ii) solar photovoltaic or thermal solar technology;

92 (iii) a geothermal resource; or

93 (iv) a hydroelectric plant; or

94 (b) use of an energy efficient and sustainable technology the commission has approved
95 for implementation that:

96 (i) increases efficient energy usage;

97 (ii) is capable of being used for demand response; or

98 (iii) facilitates the use and development of renewable generation resources through
99 electrical grid management or energy storage.

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

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

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

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

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

107 **54-17-903. Program requirement for a municipality or county.**

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

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

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

113 an amount equivalent to 100% of the annual electric energy supply for participating customers
114 from a renewable energy resource by 2030;

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

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

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

121 (B) providing notice to the municipality's or county's customers as provided in Section
122 54-17-905;

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

126 (iii) identifying any initially proposed replaced asset;

127 (c) adopt a local ordinance that:

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

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

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

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

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

136 **54-17-904. Authority of commission to approve a community renewable energy**
137 **program.**

138 (1) After the commission has adopted administrative rules as required under Section
139 54-17-909, a qualified utility may file an application with the commission for approval of a
140 community renewable energy program.

- 141 (2) The application shall include:
- 142 (a) the names of each municipality and county to be served by the community
143 renewable energy program;
- 144 (b) a map of the geographic boundaries of each municipality and county;
- 145 (c) the number of customers served by the qualified utility within those boundaries;
- 146 (d) projected rates for participating customers that take into account:
- 147 (i) the estimated number of customers expected to participate in the program;
- 148 (ii) the quantifiable costs and benefits to the qualified utility and all of the qualified
149 utility's customers in their capacity as ratepayers of the qualified utility, excluding costs or
150 benefits that do not directly affect the qualified utility, including as applicable:
- 151 (A) replaced assets;
- 152 (B) auxiliary services; and
- 153 (C) new renewable energy resources used to serve the community renewable energy
154 program; and
- 155 (iii) the ongoing costs at the time of the application;
- 156 (e) the agreement entered into with the qualified utility under Section [54-17-903](#);
- 157 (f) a proposed plan established by the participating community addressing low-income
158 programs and assistance;
- 159 (g) a proposed solicitation process for the acquisition of renewable energy resources as
160 provided in Section [54-17-908](#); and
- 161 (h) any other information the commission may require by rule.
- 162 (3) The commission may approve an application for a community renewable energy
163 program if the commission finds:
- 164 (a) the application meets all of the requirements in this section and administrative rules
165 adopted by the commission in accordance with Sections [54-17-908](#) and [54-17-909](#) to
166 implement this part; and
- 167 (b) the community renewable energy program is in the public interest.
- 168 (4) The rates approved by the commission for participating customers:

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

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

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

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

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

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

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

185 **54-17-905. Customer participation -- Election not to participate.**

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

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

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

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

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

196 (b) The qualified utility shall provide the notice required under Subsection (1)(a) to

197 each customer:

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

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

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

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

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

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

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

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

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

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

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

224 (ii) A participating customer that opts out as described in Subsection (3)(b)(i) is not

225 subject to a termination charge.

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

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

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

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

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

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

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

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

248 (5) A residential customer that is participating in the net metering program under Title
249 54, Chapter 15, Net Metering of Electricity, may not be a participating customer under this
250 part.

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

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

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

256 **54-17-906. Customer billing.**

257 The qualified utility shall:

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

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

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

263 **54-17-907. Rate adjustment filing -- Modification of rates for participating**
264 **customers.**

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

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

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

271 (3) The commission shall determine rate changes which shall become effective within
272 90 days after the date of the filing, unless otherwise determined by the commission for good
273 cause.

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

275 **54-17-908. Acquisition of renewable energy resources.**

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

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

280 (a) solar photovoltaic or thermal solar energy facilities may be acquired under the

281 provisions of Section 54-17-807;

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

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

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

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

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

294 (c) is in the public interest.

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

296 **54-17-909. Commission rulemaking authority.**

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

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

300 (2) the terms and conditions of the agreement under Section 54-17-903;

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

302 (4) the notice requirements under Section 54-17-905;

303 (5) the standards for determining when a termination charge is applicable and the
 304 amount and timing of a termination charge under Subsection 54-17-905(3);

305 (6) the content and filing requirements for the annual filing under Subsection
 306 54-17-907(2);

307 (7) the solicitation requirements under Section 54-17-908; and

308 (8) any other requirements determined by the commission necessary to protect the

309 public interest and to implement this part.