

Representative John Knotwell proposes the following substitute bill:

RENEWABLE ENERGY AMENDMENTS

2018 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: John Knotwell

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

This bill addresses the basis of setting rates for solar photovoltaic or thermal solar energy facilities.

Highlighted Provisions:

This bill:

- ▶ permits a qualified utility to apply to the commission regarding solar energy projects under certain circumstances;
- ▶ addresses exemptions from certain provisions;
- ▶ prescribes requirements for the application;
- ▶ imposes process requirements;
- ▶ requires public hearing and comments; and
- ▶ provides for rulemaking authority.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

ENACTS:



26 [54-17-807](#), Utah Code Annotated 1953

27

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

29 Section 1. Section **54-17-807** is enacted to read:

30 **54-17-807. Solar photovoltaic or thermal solar energy facilities.**

31 (1) As used in this section, "acquire" means to purchase, construct, or purchase the
 32 output from a photovoltaic or thermal solar energy resource.

33 (2) ~~H→~~ (a) ~~←H~~ In accordance with this section, a qualified utility may file an application
 33a with the
 34 commission for approval to acquire a photovoltaic or thermal solar energy resource using rate
 35 recovery based on a competitive market price ~~H→~~, except as provided in Subsection (2)(b) ~~←H~~.

35a ~~H→~~ (b) A qualified utility may not, under this section, acquire a photovoltaic or
 35b thermal solar energy resource with a generating capacity that is two megawatts or less per
 35c meter if that resource is located on the customer's side of the meter. ~~←H~~

36 (3) The energy resource acquired pursuant to this section may be owned solely or
 37 jointly by a qualified utility or another entity:

38 (a) to provide renewable energy to a contract customer as provided in Section
 39 [54-17-803](#);

40 (b) to serve energy to a qualified utility customer as provided in Section [54-17-806](#);

41 (c) to serve energy to any customers of the qualified utility if the proposed energy
 42 resource's nameplate capacity does not exceed 300 megawatts or, if applicable, the quantity of
 43 capacity that is the subject of a contract for the purchase of electricity does not exceed 300
 44 megawatts, so long as the qualified utility proceeds under and complies with Part 4, Voluntary
 45 Request for Resource Decision Review; or

46 (d) to serve energy to any customers of the qualified utility if the proposed energy
 47 resource's nameplate capacity exceeds 300 megawatts or, if applicable, the quantity of capacity
 48 that is the subject of a contract for the purchase of electricity exceeds 300 megawatts, so long
 49 as the qualified utility complies with this chapter.

50 (4) Except as provided in Subsections (3)(c) and (d), the following do not apply to an
 51 application submitted under Subsection (2):

52 (a) Part 1, General Provisions;

53 (b) Part 2, Solicitation Process;

54 (c) Part 3, Resource Plans and Significant Energy Resource Approval;

55 (d) Part 4, Voluntary Request for Resource Decision Review; and

(e) Section [54-17-502](#).

- 57 (5) The application described in Subsection (2) shall include:
58 (a) a proposed solicitation process for the energy resource;
59 (b) the criteria proposed to be used to evaluate the responses to the solicitation:
60 (i) as determined by the customer, if the energy resource is sought to serve a customer
61 pursuant to Subsection (3)(a) or (b); or
62 (ii) as proposed by the qualified utility, if the energy resource is sought to serve the
63 customers of the qualified utility pursuant to Subsection (3)(c) or (d); and
64 (c) any other information the commission may require.
65 (6) (a) Before approving a solicitation process under this section for an energy resource
66 to serve customers of the qualified utility pursuant to Subsection (3)(c) or (d), the commission
67 shall:
68 (i) hold a public hearing; and
69 (ii) provide an opportunity for public comment.
70 (b) The commission may approve a solicitation process under this section only if the
71 commission determines that the solicitation and evaluation processes to be used will create a
72 level playing field in which the qualified utility and other bidders can compete fairly, including
73 with respect to interconnection and transmission requirements imposed on bidders by the
74 solicitation within the control of the commission and the qualified utility, excluding its
75 federally regulated transmission function, and will otherwise serve the public interest.
76 (7) (a) Upon completion of the solicitation process approved under Subsection (6), the
77 qualified utility may seek approval from the commission to acquire the energy resource
78 identified through the solicitation process as the winning bid.
79 (b) Before approving acquisition of an energy resource acquired pursuant to this
80 section, the commission shall:
81 (i) hold a public hearing;
82 (ii) provide an opportunity for public comment;
83 (iii) determine whether the solicitation and evaluation processes complied with this
84 section, commission rules, and the commission's order approving the solicitation process; and
85 (iv) determine whether the acquisition of the energy resource is just and reasonable,
86 and in the public interest.
87 (c) The commission may approve a qualified utility's ownership of an energy resource

88 or a power purchase agreement containing a purchase option under Subsection (3)(c) or (d)
89 with rate recovery based on a competitive market price only if the commission determines that
90 the qualified utility's bid is the lowest cost ownership option for the qualified utility.

91 (d) If the commission approves a qualified utility's acquisition of an energy resource
92 under Subsection (3), including entering into a power purchase agreement containing a
93 purchase option, using rate recovery based on a competitive market price:

94 (i) the prices approved by the commission shall constitute competitive market prices
95 for purposes of this section; and

96 (ii) assets owned by the qualified utility and used to provide service as approved under
97 this section are not public utility property.

98 (8) If upon completion of a solicitation process approved under Subsection (6) the
99 qualified utility proposes not to acquire an energy resource, the qualified utility shall file with
100 the commission a report explaining its reasons for not acquiring the lowest cost resource bid
101 into the solicitation, along with any other information the commission requires.

102 (9) Within six months after a competitive market price for a solar energy resource
103 acquired under Subsection (3)(c) or (d) has been identified pursuant to this section, or for such
104 longer period as the commission may determine to be in the public interest, a qualified utility
105 may file an application with the commission seeking approval to acquire another energy
106 resource similar to the energy resource for which a competitive market price was established
107 without going through a new solicitation process. The commission may approve the application
108 if the qualified utility demonstrates a need to acquire the energy resource, that the competitive
109 market price remains reasonable, and that the acquisition is in the public interest.

110 (10) No later than 180 days before the end of the term approved by the commission for
111 an energy resource acquired under this section and owned by the qualifying utility, the qualified
112 utility shall file with the commission a request for determination of an appropriate disposition
113 of the energy resource asset, except that the qualified utility is permitted to retain the benefits
114 or proceeds and shall be required to assume the costs and risks of ownership of the energy
115 resource.

116 (11) The commission shall adopt rules, in accordance with Title 63G, Chapter 3, Utah
117 Administrative Rulemaking Act:

118 (a) addressing the content and filing of an application under this section;

119 (b) to establish the solicitation process and criteria to be used to identify the
120 competitive market price and select an energy resource; and

121 (c) addressing other factors determined by the commission to be relevant to protect the
122 public interest and to implement this section.