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**ENERGY EFFICIENCY AMENDMENTS**

2020 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Jeffrey D. Stenquist**

Senate Sponsor: \_\_\_\_\_

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**LONG TITLE**

**General Description:**

This bill modifies a provision relating to energy efficiency.

**Highlighted Provisions:**

This bill:

- ▶ modifies the definition of "demand side management" in the context of an authorized tariff relating to energy efficiency and conservation;
- ▶ enacts a definition of "energy efficiency"; and
- ▶ modifies a provision relating to demand side management tariffs that the Public Service Commission may approve.

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

**54-7-12.8**, as last amended by Laws of Utah 2016, Chapter 393

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

Section 1. Section **54-7-12.8** is amended to read:

**54-7-12.8. Electric energy efficiency, sustainable transportation and energy, and**



28 **conservation tariff.**

29 (1) As used in this section:

30 (a) "Demand side management" means an activity or program implemented by a  
31 large-scale electric utility that promotes [~~electric~~] overall energy efficiency or conservation or  
32 more efficient management of [~~electric~~] the use of energy [~~loads~~].

33 (b) "Energy efficiency" means a change in the overall use of energy by a customer that  
34 results in:

35 (i) a lower cost to the customer; or

36 (ii) reduced use of energy by the customer.

37 [~~(b)~~] (c) "Pilot program period" means a period of five years, beginning on January 1,  
38 2017, during which the sustainable transportation and energy plan is effective.

39 [~~(c)~~] (d) "Sustainable transportation and energy plan" means the same as that term is  
40 defined in Section [54-20-102](#).

41 [~~(d)~~] (e) "Utah solar incentive program" means the eligible utility rooftop solar pilot  
42 program established by commission order in 2012.

43 (2) (a) As provided in this section, the commission may approve a tariff under which  
44 an electrical corporation includes a line item charge on the electrical corporation's customers'  
45 bills to recover costs incurred by the electrical corporation for demand side management.

46 (b) The commission shall authorize a large-scale electric utility that is allowed to  
47 charge a customer for demand side management under Subsection (2)(a) to:

48 (i) if requested by the large-scale electric utility, capitalize the annual costs incurred for  
49 demand side management provided in Subsection (2)(a);

50 (ii) amortize the annual cost for demand side management over a period of 10 years;

51 (iii) apply a carrying charge to the unamortized balance that is equal to the large-scale  
52 electric utility's pretax weighted average cost of capital approved by the commission in the  
53 large-scale electric utility's most recent general rate proceeding; and

54 (iv) recover the amortization cost described in Subsection (2)(b)(ii) and the carrying  
55 charge described in Subsection (2)(b)(iii) in customer rates.

56 (3) The commission shall, before January 1, 2017, authorize a large-scale electric  
57 utility to implement a combined line item charge on the large-scale electric utility's customers'  
58 bills to recover the cost to the large-scale electric utility of:

59 (a) demand side management, including the cost of amortizing a deferred balance;

60 (b) the sustainable transportation and energy plan; and

61 (c) the additional expense described in Subsection (5)(a)(i).

62 (4) On December 31, 2016, the commission shall end the Utah solar incentive program  
63 and surcharge tariff and the large-scale electric utility shall stop accepting new applications for  
64 solar incentive program incentives.

65 (5) (a) The commission may authorize a large-scale electric utility that capitalizes  
66 demand side management costs under Subsection (2)(b) to:

67 (i) recognize the difference between the annual revenues the large-scale electric utility  
68 collects for demand side management and the annual amount of the large-scale electric utility's  
69 demand side management cost amortization expense as an additional expense;

70 (ii) establish and fund, via the additional expense described in Subsection (5)(a)(i), a  
71 regulatory liability; and

72 (iii) use the regulatory liability described in Subsection (5)(a)(ii) to depreciate thermal  
73 generation plant.

74 (b) (i) The commission may authorize the large-scale electric utility to use the  
75 regulatory liability described in Subsection (5)(a)(ii) to depreciate thermal generation plant for  
76 which the commission determines depreciation is in the public interest for compliance with an  
77 environmental regulation or another purpose.

78 (ii) The commission may not consider the existence of the regulatory liability described  
79 in Subsection (5)(a)(ii) in a determination to accelerate depreciation under Subsection (5)(b)(i).

80 (c) The commission shall allow the large-scale electric utility to apply a carrying  
81 charge to the regulatory liability described in Subsection (5)(a)(ii) in an amount equal to the  
82 large-scale electric utility's pretax average weighted cost of capital approved by the  
83 commission in the large-scale electric utility's most recent general rate proceeding.

84 (d) The commission may allow a large-scale electric utility to use the regulatory  
85 liability carrying charge described in Subsection (5)(c) to offset the carrying charge described  
86 in Subsection (2)(b)(iii).

87 (e) The large-scale electric utility shall apply the carrying charge described in  
88 Subsection (5)(c) to funds that a large-scale electric utility is authorized to use to depreciate  
89 thermal generation plant under Subsection (5)(a) until the reduction in the large-scale electric

90 utility's rate base associated with the thermal generation plant depreciation for which the funds  
91 are used is reflected in the large-scale electric utility's customers' rates.

92 (f) If the commission determines that funds established in the regulatory liability under  
93 Subsection (5)(a) are no longer needed for the purpose of depreciating thermal generation  
94 plant, the large-scale electric utility shall use the balance of the funds in the regulatory liability  
95 to offset the capitalized demand side management costs described in Subsection (2)(b)(i).

96 (6) (a) During the pilot program period, of the funds a large-scale electric utility  
97 collects via the line item charge described in Subsection (3), the commission shall authorize the  
98 large-scale electric utility to allocate on an annual basis:

99 (i) \$10,000,000 to the sustainable transportation and energy plan; and

100 (ii) the funds not allocated to the sustainable transportation and energy plan to demand  
101 side management.

102 (b) The commission shall authorize a large-scale electric utility to spend up to:

103 (i) \$2,000,000 annually for the electric vehicle incentive program described in Section  
104 54-20-103; and

105 (ii) an annual average of:

106 (A) \$1,000,000 for the clean coal technology program described in Section 54-20-104;  
107 and

108 (B) \$3,400,000 for the innovative utility programs described in Section 54-20-105.

109 (c) The commission shall authorize a large-scale electric utility to recoup the  
110 large-scale electric utility's unrecovered costs paid through the Utah solar incentive program  
111 from the funds allocated under Subsection (6)(a)(i).

112 (d) The commission may authorize a large-scale electric utility to allocate funds the  
113 large-scale electric utility collects via the line item charge described in Subsection (3) not spent  
114 under Subsection (6) to a conservation, efficiency, or new technology program if the  
115 conservation, efficiency, or new technology program is cost-effective and in the public interest.

116 (7) A large-scale electric utility shall establish a balancing account that includes:

117 (a) funds allocated under Subsection (6)(a)(i);

118 (b) the program expenditures described in Subsection (6)(b);

119 (c) the unrecovered Utah solar incentive program costs described in Subsection (6)(c);

120 and

121 (d) a carrying charge in an amount determined by the commission.

122 (8) A customer that is paying a contract rate under an agreement with a large-scale  
123 electric utility as of January 1, 2016, is exempt from the costs recovered under Subsection (3),  
124 except for costs created by or arising from the Utah solar incentive program included in  
125 Subsection 54-7-12.8(3)(b).

126 (9) (a) In any proceeding commenced under Section 54-3-32, the commission may not  
127 consider or assess to an eligible customer an expenditure, cost, amortization, charge, or liability  
128 of any kind that is created by or arises in whole or in part from:

129 (i) any program created under Title 54, Chapter 20, Sustainable Transportation and  
130 Energy Plan Act; or

131 (ii) this section, except for costs created by or arising from the Utah solar incentive  
132 program included in Subsection 54-7-12.8(3)(b).

133 (b) Except as provided in Subsection (9)(a) and in Section 54-3-33, this section and  
134 Title 54, Chapter 20, Sustainable Transportation and Energy Plan Act, do not:

135 (i) amend or repeal any provision of Section 54-3-32; or

136 (ii) affect any right, defense, or credit available to an eligible customer under Section  
137 54-3-32.

138 (10) Each electrical corporation proposing a tariff under this section shall, before  
139 submitting the tariff to the commission for approval, seek input from:

140 (a) the Division of Public Utilities;

141 (b) the Office of Consumer Services; and

142 (c) a person that files a request for notice with the commission.

143 (11) Before approving a tariff under this section, the commission shall hold a hearing  
144 if:

145 (a) requested in writing by the electrical corporation, a customer of the electrical  
146 corporation, or any other interested party within 15 days after the tariff filing; or

147 (b) the commission determines that a hearing is appropriate.

148 (12) The commission may approve a demand side management tariff under this section  
149 either with or without a provision allowing an end-use customer to receive a credit against the  
150 charges imposed under the tariff for [electric] energy efficiency measures that:

151 (a) the customer implements or has implemented at the customer's expense; and

152 (b) qualify for the credit under criteria established by the commission.

153 (13) In approving a tariff under this section, the commission may impose whatever  
154 conditions or limits it considers appropriate, including a maximum annual cost.

155 (14) Unless otherwise ordered by the commission, each tariff under this section  
156 approved by the commission shall take effect no sooner than 30 days after the electrical  
157 corporation files the tariff with the commission.