

SENATE FILE NO. SF0023

Public utilities-energy resource procurement.

Sponsored by: Joint Corporations, Elections & Political  
Subdivisions Interim Committee

A BILL

for

1 AN ACT relating to public utilities; establishing a  
2 solicitation process for specified electrical utilities  
3 acquiring or constructing significant energy resources;  
4 providing a waiver process; providing for the use of  
5 independent evaluators; providing rulemaking authority;  
6 authorizing a full time position; providing an  
7 appropriation; and providing for an effective date.

8

9 *Be It Enacted by the Legislature of the State of Wyoming:*

10

11 **Section 1.** W.S. 37-2-135 is created to read:

12

13 **37-2-135. Energy resource procurement.**

14

1           (a) An affected electrical utility shall comply with  
2 this section to acquire or construct a significant energy  
3 resource after July 1, 2024, provided that this section  
4 shall not apply to a significant energy resource for which  
5 the affected electrical utility has issued a solicitation  
6 before July 1, 2024.

7

8           (b) Except as provided in subsection (c) of this  
9 section, to acquire or construct a significant energy  
10 resource, an affected electrical utility shall conduct a  
11 solicitation process that is approved by the commission. To  
12 obtain the approval of the commission of a solicitation  
13 process, the affected electrical utility shall file with  
14 the commission a request for approval that includes a  
15 description of the solicitation process that the affected  
16 electrical utility will use, a complete proposed  
17 solicitation and any other information that the commission  
18 requires by rule.

19

20           (c) An affected electrical utility may obtain a  
21 waiver of the requirements of subsection (b) of this  
22 section if the commission determines that waiving the  
23 requirement is in the public interest because of a clear

1 emergency, a time limited commercial or technical  
2 opportunity that provides value to the customers of the  
3 affected electrical utility or any other factor determined  
4 by the commission that makes waiving the requirement in the  
5 public interest. The commission shall adopt rules regarding  
6 the waiver process.

7

8 (d) The commission shall adopt rules outlining the  
9 requirements for the solicitation approval process under  
10 this section. Rules adopted under this subsection may  
11 account for circumstances where an affected electrical  
12 utility is subject to regulation in more than one (1) state  
13 regarding the acquisition, construction or cost recovery of  
14 a significant energy resource, in which event the rules may  
15 allow the commission to consider the impact of the  
16 multistate regulation on the solicitation process, cost  
17 recovery of resources and methods by which the affected  
18 electrical utility may be able to mitigate the potential  
19 for cost disallowances.

20

21 (e) The commission shall appoint an independent  
22 evaluator to monitor any solicitation submitted for  
23 approval under this section. The independent evaluator

1 shall not make the determination as to which bid shall be  
2 awarded under the solicitation. The independent evaluator  
3 shall actively monitor the solicitation approval process  
4 for fairness and compliance with this section and rules of  
5 the commission. The independent evaluator shall report to  
6 the commission and others as directed by the commission and  
7 shall develop one (1) or more reports addressing the  
8 solicitation approval process, any concerns related to the  
9 solicitation and the ultimate results of the solicitation  
10 approval process including the opinions and conclusions of  
11 the independent evaluator. The report shall include an  
12 opinion as to whether the solicitation approval process is  
13 fair, done in compliance with this section and whether any  
14 modeling used by the affected electrical utility regarding  
15 the solicitation is sufficient. The independent evaluator  
16 shall perform other functions and provide other input and  
17 reports as directed by the commission. The commission shall  
18 adopt rules regarding independent evaluators under this  
19 subsection.

20

21 (f) As used in this section:

22

1           (i) "Affected electrical utility" means a public  
2 utility other than a cooperative electric utility as  
3 defined in W.S. 37-17-101(a)(i);

4

5           (ii) "Significant energy resource":

6

7           (A) means a resource that consists of:

8

9           (I) A total of one hundred (100)  
10 megawatts or more of new generating capacity that has a  
11 dependable life of ten (10) or more years;

12

13           (II) The purchase of electricity,  
14 electric generating capacity or both if the contract is for  
15 a term of ten (10) or more years and a total of not less  
16 than one hundred (100) megawatts;

17

18           (III) The purchase or lease by an  
19 affected electrical utility from an affiliated company of a  
20 generating facility, electricity, electrical generating  
21 capacity or both electricity and electrical generating  
22 capacity;

23

1 (IV) A contract with an option for the  
2 affected electrical utility or an affiliate to purchase a  
3 resource that consists of not less than one hundred (100)  
4 megawatts of new generating capacity that has a remaining  
5 dependable life of ten (10) or more years; or

6

7 (V) A type of resource designated by  
8 rule of the commission as a significant energy resource  
9 after considering the affected electrical utility's  
10 integrated resource plan and action plan.

11

12 (B) Shall not include a resource procured  
13 for one (1) or more customers pursuant to an approved  
14 tariff, at the customer's request and agreed upon with the  
15 affected electrical utility, provided that the agreement  
16 does not negatively impact the affected electrical  
17 utility's other customers.

18

19 (iii) "Solicitation" means a request for  
20 proposals or other invitation for persons to submit a bid  
21 or proposal through an open bid process for construction or  
22 acquisition of a significant energy resource.

23

1           **Section 2.**

2

3           (a) The public service commission is authorized up to  
4 one (1) full-time position for the period beginning with  
5 the effective date of this act and ending June 30, 2026 for  
6 an analyst to implement the requirements of this act. It is  
7 the intent of the legislature that the public service  
8 commission include this full-time position in its standard  
9 budget request for the immediately succeeding fiscal  
10 biennium.

11

12           (b) There is appropriated two hundred thousand  
13 dollars (\$200,000.00) from the public service account under  
14 W.S. 37-2-106 within the special revenue fund to the public  
15 service commission for the period beginning with the  
16 effective date of this act and ending June 30, 2026 to be  
17 expended only for purposes of funding the position  
18 authorized in subsection (a) of this section. This  
19 appropriation shall not be transferred or expended for any  
20 other purpose and any unexpended, unobligated funds  
21 remaining from this appropriation shall revert as provided  
22 by law on June 30, 2026.

23

