

South Carolina H3659 – The Energy Freedom Act



This document is written to reflect the order of the bill as passed. [The full bill text can be found here.](#)
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Large-scale Solar/PURPA

- “as soon as is practicable after the effective date of this chapter” the Commission will open an *individual* docket to establish each utility’s standard offer, avoided cost methodologies, standard PPAs, commitment to sell forms (LEOs), and anything else needed to implement this section
- This proceeding will occur once every 24 months to ensure timely updates of contracts and rates
- The commission shall approve form PPAs for qualifying facilities not eligible for the standard offer – these approved, published agreements shall contain enumerated terms and conditions but no information related to pricing or length of the PPA (both negotiated)
- Commission may approve multiple form PPAs for different generation types/characteristics, and parties are not bound to use the form PPAs
- “Any decisions by the Commission shall be just and reasonable to the ratepayers of the electrical utility, in the public interest, consistent with PURPA and the FERC’s implementing regulations and orders, and *nondiscriminatory to small power producers*; and shall strive to reduce the risk placed on the using and consuming public”

The Weeds - PURPA

- Rates paid to small power producers shall be nondiscriminatory and fully + accurately reflect the utility’s avoided costs
- PPAs shall be commercially reasonable and consistent with PURPA
- Each utility’s avoided cost methodology fairly accounts for costs avoided – energy, capacity, and ancillary services provided or consumed by small power producers including those utilizing energy storage equipment. Approved avoided costs may differ based on geographic location and resource type.
- Avoided cost rates offered to non-standard offer QFs must be calculated based on the most recently approved avoided cost methodology. If parties are unable to agree on a negotiated rate, small power producers retain right to dispute issues before the Commission
- Small power producers are eligible for avoided cost rates in effect at the time of delivering an executed notice of commitment to sell form to the utility. The commitment to sell form must provide a “reasonable” period of time from its submittal to execution of a PPA. Prohibits forced execution of a PPA prior to receipt of a final interconnection agreement.
- Commission shall examine if PPAs should include terms that prohibit: 1. Termination of a PPA due to delays if such delays are due to the utility’s interconnection procedures; 2. Reduction of price paid to small power producers due to intermittent nature of generation
- Commission is authorized (not required) to open a docket for the purposes of creating competitive procurement programs if the commission deems such action to be in the public interest
- Grandfathering sections (F)(1) and (2)
 - Eligibility requirement: projects in the interconnection queue prior to effective date of this act

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- Goal: interconnect South Carolina-located applicable projects under terms outlined below until execution of interconnection agreements and PPAs with an aggregate nameplate capacity is equal to 20% of previous five-year retail peak load average
- Terms: 10-year fixed price PPA with commercially reasonable terms. Commission may approve contractions longer than 10 years, but these contracts must contain additional terms, conditions or rate structures including a reduction in the contract price relative to the ten year avoided cost.
- Qualifying language: “Commission is expressly directed to consider the potential benefits of terms with a longer duration to promote the state’s policy of encouraging renewable energy”
- Commission is authorized to employ third-party consultants and experts to evaluate avoided cost rates, methodologies, terms, calculations, and conditions. The commission shall engage a qualified independent third party to submit a report on each utility’s avoided cost calculation pursuant to this section
- Each avoided cost filing must be reasonably transparent so that underlying assumptions, data, and results can be independently reviewed and verified by the parties and the commission

Voluntary Renewable Energy Program (C&I Procurement)

- Within 120 days of effective date, each utility shall file a program for voluntary large-scale renewable energy procurement
- Participating customer shall have right to select renewable energy facility and negotiate directly with the supplier on the price to be paid by the customer for the energy, capacity, and environmental attributes of the facility
- Participating customer will pay retail bill minus generation credit, plus reimbursement for utility payment to renewable energy supplier, plus an admin fee
- Eligible participating customers can bundle demand
- Commission may approve a program that provides for variable and fixed generation credit options
- Non-participating customers shall bear no costs associated with program
- Facility may be located anywhere within the utility’s balancing authority (NC or SC for Duke)

Neighborhood Community Solar Programs

- Intent: expand opportunity to support solar and access to solar options to all South Carolinians, regardless of income level. Encourages (does not require) all utilities in the state to consider offering neighborhood community solar programs
- Within 60 days of effective date, Commission will open a docket to review previous community solar programs established under Act 236 in 2014. Utilities then may propose new programs.

Electric Utility Customer Rights

- General Assembly finds that *there is a critical need* to protect customers from rising costs, provide opportunities for customers to reduce or manage electric consumption *in a manner that contributes*

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to reductions in utility peak demand and other drivers of electric utility costs, and equip customers with the information and ability to manage their electric bills

- *“Every customer of an electrical utility has the right to a rate schedule that offers the customer a reasonable opportunity to employ such energy and cost saving measures as energy efficiency, demand response, or onsite distributed energy resources in order to reduce consumption of electricity from the electrical utility’s grid and to reduce electrical utility costs”*
- *“In fixing just and reasonable utility rates pursuant to Section 58-3-140 and Section 58-27-810, the commission shall consider whether rates are designed to discourage the wasteful use of public utility services while promoting all use that is economically justified in view of the relationships between costs incurred and benefits received, and that no one class of customers are unduly burdening another, and that each customer class pays, as close as practicable, the cost of providing service to them.”*
- *“For each class of service, the commission must ensure that each electrical utility offers to each class of service a minimum of one reasonable rate option that aligns the customer’s ability to achieve bill savings with long-term reductions in the overall cost the electrical utility will incur in providing electric service, including, but not limited to, time-variant pricing structures.”*
- *“Every customer of an electrical utility has a right to obtain their own electric usage data in a machine-readable, accessible format to the extent such is readily available. Electrical utilities shall allow customers an electronic means to assent to share the customer’s energy usage data with a third-party vendor designated by the customer.”*

Distributed Generation

- Amends definition of “customer-generator” to include owner/operator/lessee of an electric generation unit from a renewable energy resource *including an energy storage device*
- Nonresidential customer – 1 MW AC limit, or 100% of contract demand
- Residential customer – 20kW AC limit
- Intent of General Assembly to build upon success of Act 236 in 2014, avoid distribution to growing market, and require the commission to establish a successor NEM tariff that fairly allocates costs and benefits to eliminate cost shift or subsidization to the great extent practicable
- An electric utility shall make full retail rate NEM available to all customer-generators that apply before June 1, 2021. Customers who participate in NEM program after effective date of this act but before 6/1/21 shall continue net energy metering until May 31, 2029
- Successor NEM tariff
- Docket opened no later than January 1, 2020
- Investigate costs/benefits of current NEM program
- Establish methodology for calculating value of energy produced by customer-generators
- Commission shall consider:
 - Aggregate impact of customer-generators on the long-run marginal utility costs of generation, distribution, transmission
 - Cost of service implications on customers within the same class; including whether customer-generators provide an adequate rate of return to the utility
 - Direct and indirect economic impact of NEM program to the state

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- Commission shall establish a success NEM tariff “solar choice metering tariff” for customer-generators to go into effect for applications received after May 31, 2021
 - Shall include methodology to compensate customer-generators for the benefits provided by their generation to the power system
 - If time-variant rate schedules are justified
 - Are additional mitigation measures warranted to transition existing customer-generators (i.e. should they extend the grandfathering period)
 - Permit customers to utilize generated energy behind the meter without penalty
- Leasing
 - Utilities and their affiliates may offer renewable generation facility leases

Integrated Resource Plans

- Electric utilities, cooperatives, munis, and the South Carolina Public Service Authority (Santee Cooper) must prepare integrated resource plans at least once every three years
- Coops, munis, and Santee Cooper shall submit their IRPs to the State Energy Office
- IRPs must include:
 - Long term forecast under various reasonable scenarios
 - Type of generation proposed for new facilities, proposed capacity including fuel cost sensitives under various reasonable scenarios
 - Projected energy purchased produced from renewable energy resources
 - Summary of transmission investments planned by utility
 - Several resource portfolios developed with the purpose of fairly evaluating DSM, supply-side, storage, including low-med-high cases for adoption of renewable energy and cogeneration, EE, and demand response
 - More – see statute
- Commission shall approve, deny or modify an electric utility’s IRP within the scope of these stated interests:
 - Resource adequacy and applicable planning reserve margins
 - Consumer affordability and least cost
 - Compliance with environmental regulations
 - Power supply reliability
 - Commodity price risks
 - Diversity of generation supply
- Electric utilities shall submit annual updates to its IRP

Integration Study

- Commission and ORS are authorized to initiate a study to evaluate integration of renewable energy and emerging energy technologies (storage). Evaluate what is required for utilities to integrate increased levels of RE to ensure safe/reliable operation of grid. Commission shall provide opportunity

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for parties to have input on scope and provide comments on draft report. May hire and retail a consultant to assist with this study. Studies shall be based on balancing areas of each electrical utility (NC and SC for Duke)

All Source Procurement

- May not commence construction of a major utility facility for generation without first having made a demonstration that the facility has been compared to other generation options in terms of cost, reliability, and other regulatory implications – commission can adopt rules for such evaluation of other generation options
- Commission *may* require:
 - a commission-approved process that includes assessment from an unbiased independent evaluator retained by ORS to ascertain reasonableness of any certificate sought for new generation
 - Report from independent evaluator on the transparency, completeness, and integrity of bidding processes
 - Interested parties may review and comment on RFPS, bid instructions, bid criteria
 - Independent evaluator access and review of final bid evaluation and pricing information for any and all projects to be evaluated in comparison to the RFP bids received
 - Demonstration that the facility is consistent with an approved IRP
 - Utility affiliates/nonaffiliates may participate in RFP

Interconnection Procedure Review

- Within 6 months of effective date, establish proceedings for the purpose of considering revisions to the established interconnection standards
- Commission shall ensure such standard provide for *efficient and timely processing of interconnection requests* – such standards shall address impact of the addition of energy storage and establishing/amending existing interconnection requests to include energy storage
- For interconnection disputes, first resolve amongst parties then take it to Commission, commission shall resolve within 6 months of petition filing
- Commission shall establish reasonable guidelines to ensure reasonable timelines, including time requirements to deliver a final system impact study to all generators that execute a system impacts study agreement prior to three months after the effective date of this act
- Shall consider additional performance incentives and enforcement mechanisms to ensure utility compliance
- Commission authorized to do a comprehensive independent review of existing procedures and needed changes

Consumer Protection

- Directs ORS to develop consumer protection regulations including disclosures provided by sellers and lessors