WYOMING LEGISLATIVE SERVICE OFFICE
MATT OBRECHT, *Director*

July 12, 2024

Honorable Mark Gordon
Governor of Wyoming
State Capitol
200 West 24th Street
Cheyenne, Wyo. 82002

Dear Governor Gordon,

It has recently been brought to my attention that 2024 Senate Enrolled Act 53 (original 2024 Senate File 23) contains an error. A portion of the House committee of the whole amendment (SF0023HS001/AE), to Page 3, Line 21 of the engrossed bill, which deleted "shall" and inserted "may" in the first sentence of the newly created W.S. 37-2-135(e) was inadvertently enrolled into the final act into the first sentence of W.S. 37-2-135(d) due to a scrivener's error.

Please accept a corrected copy of 2024 Senate Enrolled Act 53 dated July 12, 2024, as passed by the House and concurred to by the Senate. I will include a copy of this letter and the corrected copy of 2024 Senate Enrolled Act 53 in the bill jacket to be filed with the Secretary of State's Office. A copy of this letter and the corrected copy of the enrolled act will also be posted to the Wyoming Legislature's website. In addition, the Legislative Service Office will work with the publishers of the Wyoming Statutes and 2024 Wyoming Session Laws to ensure the corrected law is published.

Sincerely,

Matt Obrecht

Cc – President Ogden Driskill
Speaker Albert Sommers
Chief of Staff Drew Perkins
Deputy Chief of Staff Betsy Anderson

CORRECTED COPY
July 12, 2024

ORIGINAL SENATE
FILE NO. SF0023

ENGROSSED

ENROLLED ACT NO. 53, SENATE

SIXTY-SEVENTH LEGISLATURE OF THE STATE OF WYOMING
2024 BUDGET SESSION

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

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

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

37-2-135. Energy resource procurement.

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

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

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(c) An affected electrical utility may obtain a waiver of the requirements of subsection (b) of this section if the commission determines that waiving the requirement is in the public interest because of a clear emergency, a time limited commercial or technical opportunity that provides value to the customers of the affected electrical utility or any other factor determined by the commission that makes waiving the requirement in the public interest. The commission shall adopt rules regarding the waiver process.

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

(e) The commission may appoint an independent evaluator to monitor any solicitation submitted for approval under this section. The independent evaluator shall not make the determination as to which bid shall be awarded under the solicitation. The independent evaluator shall actively monitor the solicitation approval process for fairness and compliance with this section and rules of the commission. The independent evaluator shall report to the commission and others as directed by the commission and shall develop one (1) or more reports addressing the

solicitation approval process, any concerns related to the solicitation and the ultimate results of the solicitation approval process including the opinions and conclusions of the independent evaluator. The report shall include an opinion as to whether the solicitation approval process is fair, done in compliance with this section and whether any modeling used by the affected electrical utility regarding the solicitation is sufficient. The independent evaluator shall perform other functions and provide other input and reports as directed by the commission. The commission shall adopt rules regarding independent evaluators under this subsection.

(f) As used in this section:

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

(ii) "Significant energy resource":

(A) Means a resource that consists of:

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

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

(III) The purchase or lease by an affected electrical utility from an affiliated company of a

generating facility, electricity, electrical generating capacity or both electricity and electrical generating capacity;

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

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

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

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

Section 2.

(a) The public service commission is authorized up to one (1) full-time position for the period beginning with the effective date of this act and ending June 30, 2026 for an analyst to implement the requirements of this act. It is the intent of the legislature that the public service

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commission include this full-time position in its standard budget request for the immediately succeeding fiscal biennium.

(b) There is appropriated three hundred fifty-six thousand dollars ($356,000.00) from the public service account under W.S. 37-2-106 within the special revenue fund to the public service commission for the period beginning with the effective date of this act and ending June 30, 2026 to be expended only for purposes of funding the position authorized in subsection (a) of this section. This appropriation shall not be transferred or expended for any other purpose and any unexpended, unobligated funds remaining from this appropriation shall revert as provided by law on June 30, 2026.

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Section 3. This act is effective July 1, 2024.

(END)

Speaker of the House

President of the Senate

Governor

TIME APPROVED: _____

DATE APPROVED: _____

I hereby certify that this act originated in the Senate.

Chief Clerk