

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; and
6 providing for an effective date.

7

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

9

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

11

12 **37-2-135. Energy resource procurement.**

13

14 (a) An affected electrical utility shall comply with
15 this section to acquire or construct a significant energy

1 resource after July 1, 2024, provided that this section
2 shall not apply to a significant energy resource for which
3 the affected electrical utility has issued a solicitation
4 before July 1, 2024.

5

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

18

19 (i) May hold a public hearing and shall provide
20 an opportunity for public comment;

21

22 (ii) Shall determine whether the solicitation
23 process:

1

2 (A) Complies with this section and any
3 rules adopted by the commission;

4

5 (B) Is in the public interest taking into
6 consideration:

7

8 (I) Whether the solicitation process
9 will most likely result in the acquisition, production and
10 delivery of electricity at the lowest reasonable cost to
11 the retail customers of the affected electrical utility
12 located in this state;

13

14 (II) The long term and short term
15 impacts;

16

17 (III) Risk;

18

19 (IV) Reliability;

20

21 (V) Financial impacts on the affected
22 electrical utility; and

23

1 (VI) Any other factors determined by
2 the commission to be relevant.

3

4 (iii) May provide the affected electrical
5 utility guidance on any additions or changes to its
6 proposed solicitation process;

7

8 (iv) Within sixty (60) days of the day on which
9 the request for approval was filed, unless the commission
10 determines that additional time is necessary and is in the
11 public interest, the commission shall:

12

13 (A) Approve the proposed solicitation
14 process;

15

16 (B) Suggest modifications to the proposed
17 solicitation process; or

18

19 (C) Reject the proposed solicitation
20 process.

21

22 (c) An affected electrical utility may obtain a
23 waiver of the requirements of subsection (b) of this

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

9

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

23

1 (i) The type of screening criteria the affected
2 electrical utility may use in a solicitation process
3 including the risks an affected electrical utility may
4 consider;

5

6 (ii) The required disclosures by an affected
7 electrical utility; and

8

9 (iii) Participation of an independent evaluator
10 consistent with subsection (e) of this section.

11

12 (e) The commission shall appoint an independent
13 evaluator to monitor any solicitation submitted for
14 approval under this section. The independent evaluator
15 shall not make the determination as to which bid shall be
16 awarded under the solicitation. The independent evaluator
17 shall actively monitor the solicitation approval process
18 for fairness and compliance with this section and rules of
19 the commission. The independent evaluator shall report to
20 the commission and others as directed by the commission and
21 shall develop one (1) or more reports addressing the
22 solicitation approval process, any concerns related to the
23 solicitation and the ultimate results of the solicitation

1 approval process including the opinions and conclusions of
2 the independent evaluator. The report shall include an
3 opinion as to whether the solicitation approval process is
4 fair, done in compliance with this section and whether any
5 modeling used by the affected electrical utility regarding
6 the solicitation is sufficient. The independent evaluator
7 shall perform other functions and provide other input and
8 reports as directed by the commission. The commission shall
9 adopt rules regarding independent evaluators under this
10 subsection. The rules shall include:

11

12 (i) The qualifications for an independent
13 evaluator;

14

15 (ii) The method to pay for the independent
16 evaluator which may include the payment of a bid fee by
17 bidders to a solicitation or requiring the affected
18 electrical utility to pay the fees and permitting the
19 affected electrical utility to recover the amounts paid.

20

21 (f) As used in this section:

22

1 (ii) "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" means a
6 resource that consists of:

7

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

11

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

16

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

22

