



Summary of the South Carolina Energy Freedom Act

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South Carolina Office of Regulatory Staff
ENERGY OFFICE

Editor's note: The following is solely provided as a high-level summary of the new act. It is not meant to constitute legal advice and the Office of Regulatory Staff is not responsible for any errors or omissions.

The “[South Carolina Energy Freedom Act](#)” (H. 3659, R. 82) was unanimously passed by the legislature and signed into law by Governor McMaster on May 16, 2019 as Act 62. This Act contains the following provisions:

Electrical Utility Customer Rights (Section 58-27-845)

- Directs the Public Service Commission of South Carolina (PSC) to protect customers from rising costs and to provide customers with opportunities to reduce or manage their own energy usage
- Grants customers the right to electric rates that enable energy efficiency, demand response, or onsite distributed energy resources (DERs) to reduce their electricity consumption
- Grants customers the right to obtain and use data collected by a utility on their individual energy consumption and allows data sharing with a third-party vendor

Customer-Generator Tariffs (Sections 58-40-10, 58-40-20, and 58-27-2610)

- Removes the two percent cap on generation capacity from distributed energy resources
- Customer-generators who apply for “net metering” before June 1, 2021 will receive the current full retail credits until May 31, 2029
- Beginning June 1, 2021, net metering tariffs will be replaced by “solar choice metering tariffs.” The PSC will determine the value of energy provided by customer-generators and the number of years customer-generators may receive the tariff, as well as the billing mechanism and energy measurement interval
- Non-participating customers do not have to pay for lost revenue that a utility incurs due to customers that install DERs, ensuring no cost shifting to non-participating customers
- Utilities may continue to recover distributed energy resource program costs for customer-generators who apply before June 1, 2021, but may not recover lost revenues from customer-generators who apply on or after June 1, 2021
- Adds “energy storage” to the definition of customer-generator
- Removes the cap on solar leasing and allows solar leasing for both residential and non-residential customers

Neighborhood Community Solar (Section 58-41-40)

- All electric service providers are encouraged to propose neighborhood community solar programs
- Directs the PSC to promote access to solar energy projects for low- and moderate-income customers
- Requires participating customers to cover all program costs, ensuring no cost shifting to non-participating customers

Small Power Producers (Section 58-41-20)

- Streamlines the contract process for small power producers under the Public Utility Regulatory Policies Act of 1978 (PURPA)
- Requires the PSC to approve templates for each utility's:
 - standard offer (for small power producers up to 2 MW),
 - form contract power purchase agreements (for small power producers above 2 MW),
 - avoided cost methodology, and
 - commitment to sell forms
- Ensures contract terms are reasonable, non-discriminatory, and in compliance with federal law
- Requires the PSC to consider whether power purchase agreements should prohibit lower prices due to the intermittent nature of renewable energy or include protections to small power producers in the event of interconnection delays by the utility
- Ensures that avoided cost methodologies consider energy, capacity, and ancillary services, to reflect the costs a utility would have incurred to produce a unit of energy on its own
 - Includes energy storage equipment
 - May account for the resource type and the geographic value to the grid of energy produced near the point of consumption
- Requires the PSC to employ third-party consultants and experts to evaluate each utility's avoided cost calculation
- Allows formal complaint proceedings for disagreements over avoided cost rates
- Allows small power producers with projects already in the interconnection queue to secure contracts with a utility for 10 years at PSC-approved avoided cost rates

Voluntary Renewable Energy Programs (Section 58-41-30)

- Requires utilities to file a voluntary renewable program for commercial and industrial customers with a demand of 1 MW or more that will be reviewed and approved by the PSC
- Allows participating customers to negotiate and contract directly with renewable energy suppliers
- Requires participating customers to cover all program costs, ensuring no cost shifting to non-participating customers

Interconnection Standards (Section 58-27-460)

- Requires the PSC to consider revisions to interconnection standards to include energy storage and ensure for efficient and timely processing of interconnection requests
- Requires that interconnection disputes follow dispute resolution procedures
- Allows the PSC to consider performance incentives and enforcement mechanisms for electrical utilities to ensure compliance with interconnection standards
- Requires the PSC to consider whether an independent review of interconnection should be performed
- Requires the PSC to consider whether to require utilities to:
 - study the cost to upgrade transmission to support renewable energy development,
 - evaluate the cost of developing and maintain capacity maps, and
 - file a list of interconnected facilities with the PSC quarterly

Integrated Resource Plans (IRPs) (Section 58-37-40)

Note: the requirements under this section apply to investor-owned utilities, electric cooperatives, municipally owned electric utilities, and Santee Cooper.

- Requires utilities to submit IRPs at least every 3 years and provide annual updates (with some exceptions)
- Requires each utility's IRP to be published on its website and/or the website of the ORS - Energy Office
- Expands the requirements for the existing IRP process by requiring utilities to consider, among other factors, analyses of several alternative futures, including futures with higher levels of renewable energy and energy efficiency

Utility Generation Resource Procurement (Sections 58-41-20 and 58-33-110)

- Authorizes the PSC to open a generic docket to create programs for competitive procurement of energy and capacity from renewable energy facilities
- Requires a demonstration that any new major generation facility (i.e. of capacity greater than 75 MW) has been compared to other generation options in terms of cost, reliability, and any other regulatory implications
- Enables the PSC to require additional processes when approving new utility power generation proposals, including an evaluation by an unbiased, independent evaluator, an opportunity for interested parties to review and comment on bid procedures, and a demonstration that the new generation facility is consistent with the utility's IRP

Responsibilities Assigned to the Office of Regulatory Staff (ORS)

- The South Carolina Office of Regulatory Staff (ORS) must be considered a party of record in all filings, applications, or proceedings before the PSC to represent the public interest of South Carolina. The ORS is authorized to employ expert witnesses and other professional expertise if necessary to assist in participation in commission proceedings.
- In the event that the PSC modifies or rejects an electrical utility's integrated resource plan (IRP), the ORS shall review the revised plan and submit a report to the PSC assessing the sufficiency of the revised filing.
- The ORS shall review each electrical utility's annual updates to its IRP and submit a report to the PSC on the reasonableness of the update.
- The ORS is authorized to initiate an independent study to evaluate the integration of renewable energy and emerging energy technologies into the electric grid for the public interest.
- The ORS shall, if required by the PSC, retain an unbiased independent evaluator to assess the reasonableness of any certificate sought for a major utility facility for generation.
- In cooperation with the Department of Consumer Affairs, the ORS shall develop consumer protection regulations regarding the sale or lease of renewable energy generation facilities, including the development of a formal complaint process. Such regulations may include disclosure requirements by solar companies, conducting an investigation into an alleged violation, issuing a cease and desist order against a further violation, imposing fines, and/or voiding agreements.
- Additionally, the ORS - Energy Office shall receive IRPs from electric cooperatives, municipally owned electric utilities, and Santee Cooper and post each plan on the Energy Office website.