

Fla. Stat. § 366.91

Current through the 2022 regular and extra sessions.

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§ 366.91. Renewable energy.

(1) The Legislature finds that it is in the public interest to promote the development of renewable energy resources in this state. Renewable energy resources have the potential to help diversify fuel types to meet Florida's growing dependency on natural gas for electric production, minimize the volatility of fuel costs, encourage investment within the state, improve environmental conditions, and make Florida a leader in new and innovative technologies.

(2) As used in this section, the term:

(a) "Biogas" means a mixture of gases produced by the biological decomposition of organic materials which is largely comprised of carbon dioxide, hydrocarbons, and methane gas.

(b) "Biomass" means a power source that is comprised of, but not limited to, combustible residues or gases from forest products manufacturing, waste, byproducts, or products from agricultural and orchard crops, waste or coproducts from livestock and poultry operations, waste or byproducts from food processing, urban wood waste, municipal solid waste, municipal liquid waste treatment operations, and landfill gas.

(c) "Customer-owned renewable generation" means an electric generating system located on a customer's premises that is primarily intended to offset part or all of the customer's electricity requirements with renewable energy.

(d) "Net metering" means a metering and billing methodology whereby customer-owned renewable generation is allowed to offset the customer's electricity consumption on site.

(e) "Renewable energy" means electrical energy produced from a method that uses one or more of the following fuels or energy sources: hydrogen produced or resulting from sources other than fossil fuels, biomass, solar energy, geothermal energy, wind energy, ocean energy, and hydroelectric power. The term includes the alternative energy resource, waste heat, from sulfuric acid manufacturing operations and electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration.

(f) "Renewable natural gas" means anaerobically generated biogas, landfill gas, or wastewater treatment gas refined to a methane content of 90 percent or greater which may be used as a transportation fuel or for electric generation or is of a quality capable of being injected into a natural gas pipeline.

(3) On or before January 1, 2006, each public utility must continuously offer a purchase contract to producers of renewable energy. The commission shall establish requirements relating to the purchase of capacity and energy by public utilities from renewable energy producers and may adopt rules to administer this section. The contract shall contain payment provisions for energy and capacity which are based upon the utility's full avoided costs, as defined in [s. 366.051](#); however, capacity payments are not required if, due to the operational characteristics of the renewable energy generator or the anticipated peak and off-peak

availability and capacity factor of the utility's avoided unit, the producer is unlikely to provide any capacity value to the utility or the electric grid during the contract term. Each contract must provide a contract term of at least 10 years. Prudent and reasonable costs associated with a renewable energy contract shall be recovered from the ratepayers of the contracting utility, without differentiation among customer classes, through the appropriate cost-recovery clause mechanism administered by the commission.

(4) On or before January 1, 2006, each municipal electric utility and rural electric cooperative whose annual sales, as of July 1, 1993, to retail customers were greater than 2,000 gigawatt hours must continuously offer a purchase contract to producers of renewable energy containing payment provisions for energy and capacity which are based upon the utility's or cooperative's full avoided costs, as determined by the governing body of the municipal utility or cooperative; however, capacity payments are not required if, due to the operational characteristics of the renewable energy generator or the anticipated peak and off-peak availability and capacity factor of the utility's avoided unit, the producer is unlikely to provide any capacity value to the utility or the electric grid during the contract term. Each contract must provide a contract term of at least 10 years.

(5) On or before January 1, 2009, each public utility shall develop a standardized interconnection agreement and net metering program for customer-owned renewable generation. The commission shall establish requirements relating to the expedited interconnection and net metering of customer-owned renewable generation by public utilities and may adopt rules to administer this section.

(6) On or before July 1, 2009, each municipal electric utility and each rural electric cooperative that sells electricity at retail shall develop a standardized interconnection agreement and net metering program for customer-owned renewable generation. Each governing authority shall establish requirements relating to the expedited interconnection and net metering of customer-owned generation. By April 1 of each year, each municipal electric utility and rural electric cooperative utility serving retail customers shall file a report with the commission detailing customer participation in the interconnection and net metering program, including, but not limited to, the number and total capacity of interconnected generating systems and the total energy net metered in the previous year.

(7) Under the provisions of subsections (5) and (6), when a utility purchases power generated from biogas produced by the anaerobic digestion of agricultural waste, including food waste or other agricultural byproducts, net metering shall be available at a single metering point or as a part of conjunctive billing of multiple points for a customer at a single location, so long as the provision of such service and its associated charges, terms, and other conditions are not reasonably projected to result in higher cost electric service to the utility's general body of ratepayers or adversely affect the adequacy or reliability of electric service to all customers, as determined by the commission for public utilities, or as determined by the governing authority of the municipal electric utility or rural electric cooperative that serves at retail.

(8) A contracting producer of renewable energy must pay the actual costs of its interconnection with the transmission grid or distribution system.

(9) The commission may approve cost recovery by a gas public utility for contracts for the purchase of renewable natural gas in which the pricing provisions exceed the current market price of natural gas, but which are otherwise deemed reasonable and prudent by the commission.

History

S. 1, [ch. 2005-259](#); s. 41, [ch. 2008-227](#), eff. July 1, 2008; s. 16, [ch. 2010-139](#), eff. May 27, 2010; s. 2, [ch. 2021-178](#), effective July 1, 2021.

Annotations

Notes

Amendments.

The 2008 amendment by s. 41, ch. 2008-227, effective July 1, 2008, in (2)(a), inserted “waste, byproducts, or products from,” substituted “waste or co-products from livestock and poultry operations, waste or by products from food processing” for “waste products from livestock and poultry operations and food processing”; added (2)(b) and (2)(c), and redesignated former (2)(b) as present (2)(d); redesignated former (5) as present (8); and added present (5) through (7).

The 2010 amendment added “and electrical energy produced using pipeline-quality synthetic gas produced from waste petroleum coke with carbon capture and sequestration” in (2)(d).

Notes to Decisions

Energy & Utilities Law: Electric Power Industry: Rates

Circuit court properly entered summary judgment in favor of an electric utility company in a non-profit corporation's action for a declaration that the utility's amended policy—charging its solar customers the full retail rate for kilowatt-hours consumed and crediting them at a much lower fuel charge rate for the total kilowatt-hours generated and sent to the grid—violated the law, and for an injunction directing the utility to provide a lawful net metering program because the non-profit lacked standing to challenge the policy since it only presented a conclusory assertion of injury linked to the policy by only a tenuous chain of speculation that it could not have successfully established a cooperative even with the policy in effect. [*Cnty. Power Network Corp. v. JEA*, 327 So. 3d 412, 2021 Fla. App. LEXIS 12880 \(Fla. 1st DCA 2021\)](#).

Research References & Practice Aids

RESEARCH REFERENCES & PRACTICE AIDS

Florida Statutes references.

Chapter 288. Commercial Development and Capital Improvements, *F.S. § 288.9606*. Issue of revenue bonds.

Chapter 366. Public Utilities, *F.S. § 366.92*. Florida renewable energy policy.

Chapter 373. Water Resources, [*F.S. § 373.236*](#). Duration of permits; compliance reports.

Chapter 377. Energy Resources, [*F.S. § 377.803*](#). Definitions.

Chapter 403. Environmental Control, [*F.S. § 403.973*](#). Expedited permitting; amendments to comprehensive plans.

Florida Administrative Code references.

Chapter 27N-1 Renewable Energy Technologies and Energy Efficiency, [*F.A.C. 27N-1.200*](#) Definitions.

Chapter 40B-2 Permitting of Water Use, [*F.A.C. 40B-2.321*](#) Duration of Permits.

Chapter 40B-2 Permitting of Water Use, [*F.A.C. 40B-2.341*](#) Revocation of Permits.

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