CHAPTER 42

Competitive Procurement

**SECTION 58-42-10. Legislative findings.**

(A) The General Assembly finds that it is in the public interest for the state's electrical utilities to competitively procure targeted volumes of renewable energy and co-located energy storage resources. The General Assembly further finds that it is in the public interest for the state's electrical utilities to competitively procure certain stand-alone storage additions to be located in South Carolina. These procurements shall be consistent with the electric utilities' 2023 integrated resource plans as approved by the commission or the subsequent annual integrated resource plan updates as approved by the commission. The resources procured pursuant to this section are intended to be placed in service on or before January 1, 2035. The volumes of each procurement may be increased or decreased as provided in this section. If an electrical utility proposes an amount of solar or storage in a future integrated resource plan filing that is lower than the amount contained in the electrical utility's 2023 integrated resource plan as approved by the commission, the electrical utility shall include and analyze at least one scenario consistent with the electrical utilities' 2023 preferred resource portfolio that includes volumes of solar and storage consistent with that contained in the 2023 integrated resource plans as approved by the commission.

(B) The electrical utilities shall procure the resources referred to in subsection (A) through at least a biennial competitive procurement process consistent with the requirements of Sections 58-42-20 and 58-42-30, and in accordance with this section. The target volume in each competitive procurement shall be consistent with the volume of resources needed to be procured at that time to achieve the resource in-service dates specified in the electrical utility's 2023 integrated resource plan as approved by the commission or a subsequent integrated resource plan annual update as approved by the commission.

(C) The amount of renewable energy or energy storage resources required to be procured by each electrical utility pursuant to this section shall be reduced by the alternating current ("AC") nameplate capacity of any facility of the same resource type for which such electrical utility enters into a power purchase agreement after the effective date of this section pursuant to the electrical utility's mandatory purchase obligation under Public Utility Regulatory Policies Act or pursuant to a prior competitive procurement which had not resulted in an executed power purchase agreement prior to the enactment date of this section, provided that the facility is placed in service in 2035 or earlier.

(D) The target resource volumes for each competitive procurement shall reflect any increases or decreases included in the electrical utility's most recently approved integrated resource plan or integrated resource plan update. The electric utility may, at its option, include the procurement of non-renewable generation resources as part of its procurement of renewable and storage resources pursuant to this section.

(E) The target resource volumes for competitive procurement shall take into account any changes in siting opportunities that may be affected by local permitting, zoning, or other regulatory or legal challenges.

(F) The target resource volumes for competitive procurement by the electrical utility shall be increased to account for replacing megawatts associated with:

(1) any inability by the electrical utility to reach target procurement volumes in prior procurement cycles;

(2) the inability of renewable energy or energy storage resources procured in any prior procurement cycles to be placed in service; and

(3) the expiration of any existing contracts with qualifying facilities pursuant to the Public Utility Regulatory Policies Act.

All target resource volumes referenced in this subsection shall be consistent with the needs identified in the most recently commission approved integrated resource plan or integrated resource plan update.

(G) Prior to making final awards in a competitive procurement, the electrical utility shall confirm that the resources selected are cost effective using methodologies and current inputs reflected in the applicable integrated resource plan or integrated resource plan update approved by the commission for that electrical utility.

(H) Notwithstanding the other subsections of this section, the results of competitive procurements within an electrical utility's balancing area outside of South Carolina that serve customers in the electrical utility's balancing area within South Carolina shall be approved or accepted by the commission as specified in Section 58-42-20(G).

(I) Notwithstanding Section 58-41-20(F)(2), electrical utilities shall continue to offer to qualifying small power production facilities power purchase agreements for the purchase of energy and capacity at avoided cost, with commercially reasonable terms and a duration of up to ten years, until the competitive procurement requirements of this section have been satisfied.

HISTORY: 2025 Act No. 41 (H.3309), § 18, eff May 12, 2025.

**SECTION 58-42-20. Definitions.**

(A) For purposes of this chapter:

(1) "Electrical utility" shall be defined as in Section 58-27-10; provided, however, that electrical utilities serving less than 100,000 customers shall be exempt from the provisions of this chapter unless otherwise provided.

(2) "Energy storage facility" means commercially available technology that can absorb energy and store it for later use including, but not limited to, electrochemical, thermal, and electromechanical technologies but not including pumped hydroelectric facilities.

(3) "Renewable energy facility" has the same meaning as defined in Section 58-39-120(E).

(4) "Renewable energy resource" has the same meaning as "renewable generation resource" as defined in Section 58-39-120(F).

(B) Unless an electrical utility makes an application pursuant to subsection (G), electrical utilities shall file for commission approval a program for the competitive procurement of renewable energy resources and such amount of associated co-located energy storage facilities as determined by the commission to meet needs for new generation and energy storage resources identified by the electrical utility's integrated resource plan or other planning process. A competitive procurement program may be used to procure any subset of energy, capacity, ancillary services, and environmental and renewable attributes. The commission may not grant approval of the program unless it finds that the electrical utility has satisfied all the requirements of this section and that the proposed program is in the best interests of the customers of the electrical utility. Co-located energy storage facilities, if included in the solicitation, must be associated equipment located at the same site as the renewable energy facility.

(C) Electrical utilities shall procure renewable energy resources and co-located energy storage facilities, or the output of such facilities, subject to the following requirements:

(1) Renewable energy and co-located energy storage resources, or their output, procured by electrical utilities shall be procured via a competitive solicitation process open to all market participants that meet minimum eligibility requirements.

(2) The electrical utility shall issue public notice of its intention to issue a competitive renewable energy and co-located energy storage solicitation, or both, at least ninety days prior to the commencement of each solicitation. This notice must include the proposed procurement volume, process, and timeline.

(3) The electrical utility shall provide a reasonable period of time for interested parties to review and comment on proposed requests for proposals, bid instructions, and bid evaluation criteria, and for commission approval, prior to finalization and issuance.

(4) Renewable energy facilities eligible to participate in a competitive procurement are those that use renewable energy resources.

(5) Energy storage facilities eligible to participate in a competitive procurement are those identified in Section 58-42-20(A)(2) installed and operated in conjunction with a renewable energy facility.

(6) The electrical utility shall be required to use an independent evaluator or independent administrator to oversee or manage the competitive procurement, as determined appropriate by the commission.

(7) The procurement of renewable energy facilities and co-located energy storage facilities and the output of such facilities shall result in a reasonable balance of electrical utility and independent third-party ownership of eligible facilities, as determined by the commission. The electrical utility and its affiliates may offer proposals into the competitive procurement provided that appropriate safeguards are in place to ensure that such proposals do not receive any advantage in the bid evaluation process.

(D) An electrical utility shall make publicly available at least forty-five days prior to each competitive solicitation:

(1) A commission-approved pro forma contract to inform prospective market participants of the procurement terms and conditions. The pro forma contract must: (i) include standardized and commercially reasonable requirements for contract performance security consistent with market standards; and (ii) define limits and compensation for resource dispatch and curtailment.

(2) A bid and portfolio evaluation methodology that: (i) ensures all bids are treated equitably, including price and nonprice evaluation criteria; and (ii) ensures electrical utility and independent third-party owned facilities are treated equitably with regards to resource dispatch and curtailments.

(3) Interconnection requirements including specification of how bids without existing interconnection studies must be treated for purposes of evaluation.

(E) After bids are submitted and evaluated, final winning bids will be selected based upon the published evaluation methodology.

(F) An electrical utility shall issue a public report summarizing the results of each competitive solicitation within sixty days of the award notifications. The report shall include, at minimum, a summary of the submitted bids and an anonymized list of the project awards, including their size, location, average award price and tenor, and award price range. Electrical utilities are permitted to recover costs incurred through such competitive procurement through rates established pursuant to Section 58-27-865 or Section 58-27-870.

(G) Notwithstanding the requirements of Section 58-42-10 and this section, the commission shall approve an electrical utility's competitive procurement of energy storage facilities or renewable energy resources and the output of energy storage facilities or renewable energy resources within an electrical utility's balancing area outside of South Carolina that serve customers within South Carolina if eligible energy storage facilities or renewable energy resources located within South Carolina were allowed to participate in the competitive procurement and if the commission determines that the results of such procurement are in the public interest and enable the economic, reliable, and safe operation of the electric grid. Electrical utilities shall be permitted to recover costs incurred through such competitive procurements through rates established pursuant to Section 58-27-865 or Section 58-27-870. However, if the commission determines that the results of the procurement are not in the public interest for South Carolina, then the costs and benefits associated with such procurement shall be allocated away from South Carolina customers.

(H) The commission is authorized to adopt rules or procedures for conducting a procurement authorized by this section.

HISTORY: 2025 Act No. 41 (H.3309), § 18, eff May 12, 2025.

**SECTION 58-42-30. Competitive procurement.**

(A) Within six months from the date of the enactment of this chapter, the commission shall open a docket to establish a competitive procurement program for each electrical utility for energy storage facilities to be located in South Carolina. Solicitations shall be subject to the following limitations:

(1) For transmission-connected energy storage (excluding pumped hydro) the electrical utilities shall conduct a competitive procurement for such resources, including utility-self developed projects. Each electrical utility shall file the proposed details of its competitive procurement process no later than twelve months after the date of the enactment of this chapter.

(2) The target procurement volume for stand-alone storage acquisition may not exceed the portion of stand-alone storage in the most recent commission approved integrated resource plan or integrated resource plan annual update that is equal to the portion of the respective electrical utility's peak load attributable to South Carolina customers.

(3) Stand-alone energy storage facilities with a design capacity less than or equal to twenty megawatts and intended primarily to address local reliability improvements or local capacity constraints are not subject to the competitive procurement requirements of this section.

(4)(a) The procurement of stand-alone energy storage facilities shall result in a reasonable balance of the electrical utility and independent third-party ownership of eligible facilities, as determined by the commission.

(b) An electrical utility and its affiliates may offer proposals into the competitive procurement provided that appropriate safeguards are in place to ensure that such proposals do not receive any advantage in the bid evaluation process. Electrical utility costs associated with facilities owned by an independent third-party power producer shall be capitalized and included within the electrical utility's rate base for ratemaking purposes.

(B) Competitively procured stand-alone storage shall be subject to operational protocols, equipment specifications, and inspections established by the electric utility and which are necessary to ensure the reliability of the electrical utility system. Information regarding competitively procured stand-alone storage must be provided to the Office of Regulatory Staff.

(C) Electrical utilities may recover costs incurred through such competitive procurement through rates established pursuant to Section 58-27-870.

HISTORY: 2025 Act No. 41 (H.3309), § 18, eff May 12, 2025.