



# Third Party Power Purchase Agreements in Utah

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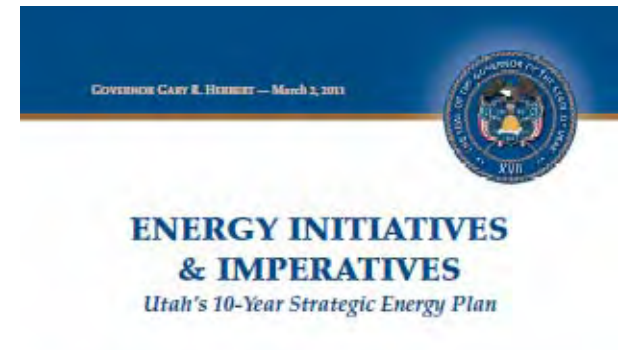
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# Overview

Review of Regulatory Inquiry and Comments

Review of the Legislation

Two Case Studies



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# Utah's Public Service Commission

## Request for Comment

### October, 2009

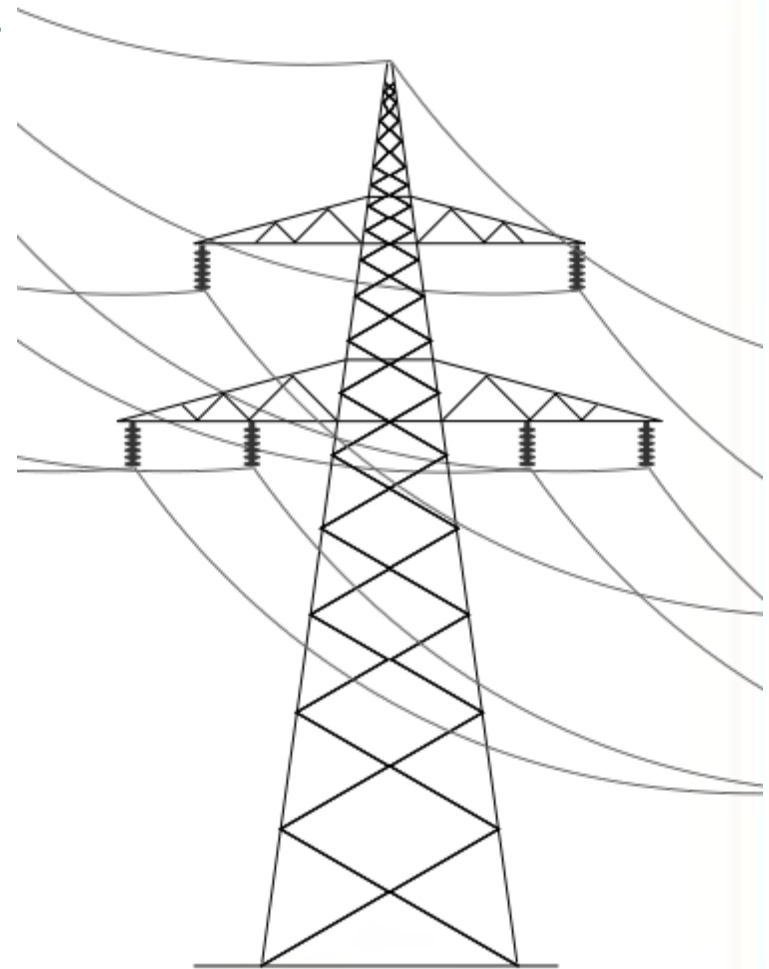
Is this a proper consideration for the Public Service Commission?

- a. Is a 3<sup>rd</sup> party a public utility under Utah law?
- b. “Primarily a financing mechanism” for 3<sup>rd</sup> party Distributed Generation (DG)
- c. Single relationship vs. multiple customer
- d. Non-utility lessors to retail customer lessees



# Commentary: Rocky Mountain Power

- Citing [Utah Code 54-2-1](#)
- “ ...with certain exceptions, classifies a third party that owns, controls or operates electric plant as a public utility.”
- Argued that none of the exceptions were met as required
- Net metering prevents one of the exceptions from being met, “solely”



# Commentary: Business

- Kennecott- Same line of reasoning as Rocky Mountain Power
- Sun-Edison- Cited guidance given by FERC
- Scatec & Solar Nation- Business Case, job creation/financial feasibility with PPA
- Wal-mart- “the public generally” in Utah Code, success in other PPA projects, desire to build in Utah



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# Commentary: Government

- Governor's Office of Economic Development- Authority under Utah Code to “present argument regarding the economic development impact of any matter that is the subject of the proceeding.”
- Salt Lake County- Ability to get benefit indirectly from tax credits, cited case law
- Salt Lake City- Air quality standards, limited transmission capability
- Park City- Cited flux in energy prices, performance guarantees and increased capacity to meet “internal environmental goals.”





# Commentary: Non-Profit

- Consortium- Favorable for business and energy development, follow precedent from other states, PPAs exempt from regulation
- Western Resource Advocates- 3<sup>rd</sup> party developers considered “independent energy providers” under Utah code, also “do not serve the general public.”
- Interstate Renewable Energy Council- Akin to a home mortgage or auto lease. Limited ability of a utility to facilitate the production of solar, whether DG or central
- Utah Clean Energy- Prohibitive nature of creating a “new regulatory regime,” enabling a mechanism that enhances the benefit of net metering



# PSC's Conclusion

- Informally that the Public Service Commission could offer guidelines for PPAs
- Since these guidelines would be non-binding, issuing them would be moot as there would still be space for judicial review
- Some of the parties who had supplied comment took the issue to the Utah Legislature





# Utah House Bill 145, 2010

- Added language to existing Utah Code to determine that:
- Power Purchase Agreements would be allowed
- State, County, City and non-profits so that building of RE would not be impeded by lack of access to tax credits
- Systems could be no larger than 2 MW
- Net Metering would be allowed



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# Case Study 1- University of Utah

- 1300 panels, 33,720 kW DC system
- Pre-purchase of power via Division of Facilities Construction & Management ARRA funds
- Viewable by public from the Museums' observation deck



# Case Study 2- Salt Palace

- 1.65 MW installation
- New Market Tax Credit
- Boost for conferences



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