

1 AN ACT relating to economic development.

2 *Be it enacted by the General Assembly of the Commonwealth of Kentucky:*

3 ➔SECTION 1. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO  
4 READ AS FOLLOWS:

5 *The intent of Sections 1 to 12 of this Act is to create new jobs, training, business, and*  
6 *investment opportunities in the Kentucky energy sector by:*

7 *(1) Encouraging greater energy efficiency, conservation, and the use of renewable*  
8 *resources;*

9 *(2) Promoting energy independence and security;*

10 *(3) Diversifying the portfolio of energy sources used for generating electricity for*  
11 *Kentucky electric customers; and*

12 *(4) Stabilizing long-term energy prices and reducing economic risks to electric utility*  
13 *customers in Kentucky.*

14 ➔SECTION 2. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO  
15 READ AS FOLLOWS:

16 *As used in Sections 1 to 12 of this Act:*

17 *(1) "Anaerobic digestion" means the process by which microorganisms break down*  
18 *the following biodegradable material in the absence of oxygen to produce*  
19 *electricity:*

20 *(a) Waste paper;*

21 *(b) Grass clippings or other yard waste;*

22 *(c) Leftover food;*

23 *(d) Sewage and animal waste; and*

24 *(e) Low-impact biomass;*

25 *(2) "Cabinet" means, except as otherwise indicated, the Energy and Environment*  
26 *Cabinet;*

27 *(3) "Combined heat and power" (CHP) means a system that:*

- 1        (a) Uses the same energy source for simultaneous or sequential generation of  
2        electricity or mechanical power or both, in combination with the generation  
3        of steam or other useful thermal energy, including heating and cooling  
4        applications;
- 5        (b) Produces at least twenty percent (20%) of its total useful energy in the form  
6        of thermal energy, and at least fifteen percent (15%) of its total useful  
7        energy in the form of electricity or mechanical power, or a combination  
8        thereof;
- 9        (c) Has a net effective heat rate of no more than seven thousand five hundred  
10       (7,500) British thermal units per kilowatt-hour, calculated on a higher  
11       heating value basis;
- 12       (d) Is designed for continuous operation; and
- 13       (e) If generating electricity, provides the electricity primarily for use by a  
14       facility or group of facilities located near the point where electricity is  
15       generated and from which net wholesale sales of electricity do not exceed  
16       fifty percent (50%) of total annual generation;
- 17       (4) "Commission" means the Public Service Commission;
- 18       (5) "Decoupling" means the disassociation of a utility's net income from its sales of  
19       the energy commodity, such as electricity or natural gas;
- 20       (6) "Eligible electric generating facility" means:
- 21       (a) A facility generating electricity using, in whole or in part, solar energy,  
22       wind energy, hydro power, anaerobic digestion, low-impact biomass, landfill  
23       gas, geothermal energy, or any combination thereof;
- 24       (b) A centralized facility generating electricity using, in whole or in part, solar  
25       energy, wind energy, hydro power, anaerobic digestion, low-impact  
26       biomass, landfill gas, geothermal energy, or any combination thereof; or
- 27       (c) A facility generating electricity using, in whole or in part, solar energy,

1           wind energy, hydro power, anaerobic digestion, low-impact biomass, landfill  
2           gas, geothermal energy, or any combination thereof that is fed into the  
3           distribution system or transmission grid;

4   (7) "Geothermal energy" means a system that uses the heat of the earth for electric  
5           generation or for direct use, including but not limited to space heating and  
6           cooling, food preparation, or industrial processes;

7   (8) "Hydro power" means:

8           (a) Hydro power capacity placed into service after January 1, 1992; and

9           (b) Additional capacity installed or efficiency improvements made to existing  
10           hydro power capacity and certified by the Federal Energy Regulatory  
11           Commission;

12   (9) "Kentucky retail sales" means electricity generated or purchased by a retail  
13           electric supplier and sold to retail electric customers in Kentucky;

14   (10) "Low-impact biomass" means any nonhazardous organic material that is  
15           available on a renewable basis and that is produced and harvested in a  
16           sustainable manner within the Commonwealth, including but not limited to:

17           (a) Renewable plant material, such as agricultural commodities, forest  
18           products, dedicated energy crops, and algae;

19           (b) Vegetative waste material, such as agricultural residues, woody debris,  
20           wood, or residues from wood, paper, or paper products facilities;

21           (c) Food waste;

22           (d) Yard waste; and

23           (e) Landfill gas or biogas produced from organic matter, wastewater, anaerobic  
24           digesters, or municipal solid waste.

25           "Low-impact biomass" does not include electricity generated from direct  
26           combustion of mixed municipal waste or wood that has been chemically treated;

27   (11) "Low-income residential energy efficiency program" means a program designed

- 1 to achieve cost-effective residential energy savings for families with income less  
2 than two hundred percent (200%) of the federal poverty level, and may include:
- 3 (a) Home energy efficiency improvements;  
4 (b) Funding replacement of inefficient substandard housing stock, including  
5 mobile and manufactured homes;  
6 (c) Programs to upgrade energy efficiency in rental properties;  
7 (d) Demand-side management programs;  
8 (e) Education programs; and  
9 (f) Other efficiency measures;
- 10 (12) "Renewable energy" means electricity generated from solar energy, geothermal  
11 energy, wind energy, low-impact biomass, hydro power, anaerobic digestion,  
12 combined heat and power from renewable sources, or landfill gas;
- 13 (13) "REP" means the renewable energy portfolio requirements as provided in  
14 subsection (1) of Section 4 of this Act;
- 15 (14) "Retail electric supplier" has the same meaning as in KRS 278.010;
- 16 (15) "Solar energy" means electricity generated from a solar photovoltaic system, or  
17 heat from a solar thermal water heating system or concentrating solar thermal  
18 collector; and
- 19 (16) "Wind energy" means electricity generated by a turbine or machine that:
- 20 (a) Is certified as meeting the United States Wind Industry Consensus  
21 Standards developed by the American Wind Energy Association in  
22 partnership with the United States Department of Energy;  
23 (b) Is covered by a manufacturer's warranty of not less than five (5) years;  
24 (c) Is in compliance with all relevant building codes, height restriction  
25 variances, other special code requirements, and zoning ordinances;  
26 (d) Has been installed in accordance with all building design codes and all  
27 permits received prior to the start of construction and installation;

1 (e) Is in compliance with all applicable Federal Aviation Administration  
2 regulations;

3 (f) Meets all requirements of Article 705 of the National Electrical Code for  
4 electrical components and installations; and

5 (g) Is rated and listed by Underwriters Laboratories.

6 ➔SECTION 3. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO  
7 READ AS FOLLOWS:

8 The cabinet, in consultation with the Kentucky Department of Agriculture, the  
9 Kentucky Environmental Quality Commission, the Governor's Office of Agricultural  
10 Policy, and the United States Forest Service, shall promulgate administrative  
11 regulations in accordance with KRS Chapter 13A by December 1, 2017, for  
12 determining what constitutes sustainable production and harvesting of biomass, which  
13 criteria will be used by the commission or cabinet in evaluating whether a process  
14 utilizing biomass for generating electricity is eligible for inclusion as low-impact  
15 biomass meeting the REP requirements. At a minimum, the administrative regulations  
16 shall:

17 (1) Utilize a life-cycle analysis in assessing biomass production and harvesting  
18 sustainability;

19 (2) Include consideration of available reports from the United States Department of  
20 Energy's National Renewable Energy Laboratory, the United States  
21 Environmental Protection Agency, the United States Department of Agriculture,  
22 and the final report of the Governor's Biomass and Biofuels Task Force;

23 (3) Require that air emissions from a facility using biomass meet Best Available  
24 Control Technology requirements, and that water consumption requirements and  
25 wastewater discharges not interfere with water quality or existing water usage  
26 and withdrawal requirements; and

27 (4) Be developed following input from a wide range of stakeholders, including

1 organizations representing public health and environmental concerns,  
2 agricultural and forestry organizations, businesses, and industries, as well as  
3 input from the general public in all parts of the Commonwealth.

4 ➔SECTION 4. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO  
5 READ AS FOLLOWS:

6 (1) Each retail electric supplier shall be subject to the requirements of this section  
7 and shall, by the end of the calendar year specified, achieve the requirement for  
8 renewable energy for that year, as follows:

9 (a) In calendar year 2019, two and one-quarter percent (2.25%) of the average  
10 of Kentucky retail sales for 2017 and 2018 shall be from renewable energy  
11 purchased or generated by that retail electric supplier, of which at least one-  
12 quarter of one percent (0.25%) shall be from solar energy;

13 (b) In calendar year 2022, five and one-half percent (5.5%) of the average of  
14 2020 and 2021 Kentucky retail sales shall be from renewable energy  
15 purchased or generated by that retail electric supplier, of which at least one-  
16 half of one percent (0.5%) shall be from solar energy;

17 (c) In calendar year 2025, nine and one-quarter percent (9.25%) of the average  
18 of 2023 and 2024 Kentucky retail sales shall be from renewable energy  
19 purchased or generated by that retail electric supplier, of which at least  
20 three-quarters of one percent (0.75%) shall be from solar energy; and

21 (d) In calendar year 2027 and thereafter, twelve and one-half percent (12.5%)  
22 of the average of 2025 and 2026 Kentucky retail sales shall be from  
23 renewable energy purchased or generated by that retail electric supplier, of  
24 which at least one percent (1%) shall be from solar energy.

25 (2) No certificate of public convenience and necessity authorizing the construction of  
26 new or expanded generating capacity shall be granted to a retail electric supplier,  
27 except as necessary to facilitate compliance with subsection (1) of this section,

1 unless the commission finds that the retail electric supplier is in compliance with  
 2 the requirements of subsection (1) or (3) of this section.

3 (3) For any year in which the retail electric supplier does not meet the REP  
 4 requirement, that retail electric supplier may request that the commission  
 5 approve an alternative plan by which the shortfall in meeting the requirement  
 6 can instead be met by offsetting one and one-quarter (1.25) times that amount of  
 7 energy in reductions in energy usage through additional energy measures  
 8 pursuant to Section 8 of this Act.

9 ➔SECTION 5. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO  
 10 READ AS FOLLOWS:

11 (1) Electricity generated from one (1) or more types of renewable energy may be  
 12 utilized to satisfy the REP requirements of subsection (1) of Section 4 of this Act.

13 (2) If electric generation employs multiple energy sources, only that portion of the  
 14 electricity produced that is attributable to renewable energy may be used to  
 15 comply with the REP requirement.

16 (3) Electricity attributable to renewable energy that is generated or purchased by the  
 17 retail electric supplier from a generating facility that became operational before  
 18 the effective date of this Act may be used to comply with the renewable portfolio  
 19 standard requirement for that supplier.

20 ➔SECTION 6. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO  
 21 READ AS FOLLOWS:

22 By January 1, 2018, and on January 1 biennially thereafter, each retail electric  
 23 supplier shall file an implementation plan with the commission, describing the manner  
 24 in which that supplier will comply with the REP requirements of Section 4 of this Act.

25 ➔SECTION 7. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO  
 26 READ AS FOLLOWS:

27 (1) Commencing on January 1, 2020, and on January 1 of each year thereafter, each

- 1 retail electric supplier shall submit to the commission an annual report that  
2 provides information relating to the actions taken by the utility during the  
3 previous calendar year to comply with the REP standard in Section 4 of this Act.
- 4 (2) The commission shall promulgate administrative regulations pursuant to KRS  
5 Chapter 13A regarding the form, submission, and information to be contained in  
6 each annual report. At a minimum, the annual report shall include the following:
- 7 (a) The total number of megawatt-hours sold to retail electric customers in  
8 Kentucky;
- 9 (b) The total number of megawatt-hours of electricity sold to retail customers in  
10 Kentucky that qualifies as renewable energy;
- 11 (c) The percentage of the electric utility's total Kentucky retail sales that the  
12 amount set forth under paragraph (b) of this subsection represents;
- 13 (d) The total number of megawatt-hours of electricity sold to retail electric  
14 customers in Kentucky that qualifies as solar energy under Section 2 of this  
15 Act;
- 16 (e) The percentage of the electric utility's total retail sales that the amount in  
17 paragraph (d) of this subsection represents;
- 18 (f) A summary demonstrating how compliance with Section 4 of this Act has  
19 been achieved; and
- 20 (g) A certification by the retail electric supplier that it has sole and exclusive  
21 title to the renewable energy purchased or generated and that this power  
22 has not been used to meet renewable portfolio requirements or to satisfy  
23 other emission reduction requirements in any other state or jurisdiction,  
24 except for a federal renewable portfolio standard.
- 25 (3) (a) Concurrent with the submission of each report under this section, each  
26 retail electric supplier shall make a copy of the report available on its Web  
27 site.



1 (b) Beginning September 1, 2025, and on September 1 of every fifth year  
 2 thereafter, the commission shall file with the Legislative Research  
 3 Commission a report that includes all of the following information:

4 1. A summary of data collected under this section;

5 2. The status of renewable energy in Kentucky;

6 3. For the total renewable energy portfolio, the cost of renewable energy  
 7 compared to the average cost of electricity in Kentucky;

8 4. An evaluation of the change in electricity rates as a result of Sections  
 9 1 to 12 of this Act; and

10 5. A description of the impact that the adoption of the REP requirements  
 11 has had on employment in Kentucky. The commission shall consult  
 12 with other appropriate agencies, including the Cabinet for Economic  
 13 Development, the Finance and Administration Cabinet, and the Labor  
 14 Cabinet, in the development of this information.

15 ➔SECTION 8. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO  
 16 READ AS FOLLOWS:

17 (1) (a) For each calendar year, beginning in 2019, all retail electric suppliers shall  
 18 take energy efficiency measures and implement energy efficiency programs  
 19 that achieve incremental and cumulative electricity savings equivalent to  
 20 the applicable percentages in paragraph (b) of this subsection. Cumulative  
 21 electricity savings are the savings reflected in a particular year from  
 22 measures installed during that year, in combination with measures installed  
 23 in earlier years and still in use and are measured against a rolling baseline  
 24 that is the average of the previous two (2) years' sales.

25 (b) The incremental and cumulative electricity savings shall be:

26 1. In calendar year 2019, the incremental electricity savings requirement  
 27 shall be one-quarter of one percent (0.25%);

- 1            2. In calendar year 2020, the incremental electricity savings requirement  
2            shall be one-half of one percent (0.5%) and the cumulative savings  
3            achieved shall be three-quarters of one percent (0.75%);
- 4            3. In calendar year 2021, the incremental electricity savings requirement  
5            shall be three-quarters of one percent (0.75%) and the cumulative  
6            savings achieved shall be one and one-half percent (1.5%);
- 7            4. In calendar year 2022, the incremental electricity savings requirement  
8            shall be one percent (1%) and the cumulative savings achieved shall  
9            be two and one-half percent (2.5%);
- 10           5. In calendar year 2023, the incremental electricity savings requirement  
11           shall be one and one-quarter percent (1.25%) and the cumulative  
12           savings achieved shall be three and three-quarters percent (3.75%);
- 13           6. In calendar year 2024, the incremental electricity savings requirement  
14           shall be one and one-quarter percent (1.25%) and the cumulative  
15           savings achieved shall be five percent (5%);
- 16           7. In calendar year 2025, the incremental electricity savings requirement  
17           shall be one and one-half percent (1.5%) and the cumulative savings  
18           achieved shall be six and one-half percent (6.5%);
- 19           8. In calendar year 2026, the incremental electricity savings requirement  
20           shall be one and three-quarters percent (1.75%) and the cumulative  
21           savings achieved shall be eight and one-quarter percent (8.25%); and
- 22           9. In calendar year 2027, the incremental electricity savings requirement  
23           shall be two percent (2%) and the cumulative savings achieved shall  
24           be ten and one-quarter percent (10.25%).
- 25           (2) A portion of the incremental electricity savings achieved from energy efficiency  
26           programs in any year shall be obtained through low-income residential energy  
27           efficiency programs. The portion shall be at least ten percent (10%) of the

1 incremental energy savings multiplied by the percentage of total electricity sales  
 2 from each utility that comes from residential customers. The programs shall be  
 3 developed in coordination with programs provided by the Kentucky Housing  
 4 Corporation and implemented by the utility through providers of low-income  
 5 weatherization and housing programs within each utility service area.

6 (3) The baseline for incremental electricity savings under this section shall be the  
 7 average of the total kilowatt-hours that the retail electric supplier sold to  
 8 Kentucky retail customers during the preceding two (2) calendar years.

9 (4) A retail electric supplier may meet the requirements of this section by any one (1)  
 10 or more of the following, alone or in combination:

11 (a) End-use efficiency savings measures at customer facilities located in  
 12 Kentucky and installed after January 1, 2017; or

13 (b) Combined heat and power installations, subject to the following conditions:

14 1. The installation or upgrade to an existing installation was put into  
 15 operation after January 1, 2017;

16 2. Savings from upgrades to existing combined heat and power systems  
 17 can qualify only to the extent the savings exceed what was achieved  
 18 with the prior system;

19 3. The total claimed savings from combined heat and power installations  
 20 can account for no more than thirty percent (30%) of the utility's  
 21 annual savings requirement; and

22 4. The combined heat and power system is not also counted as renewable  
 23 generation under the state REP standard in Section 4 of this Act.

24 ➔SECTION 9. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO  
 25 READ AS FOLLOWS:

26 (1) On January 1, 2018, and on January 1 biennially thereafter, each retail electric  
 27 supplier shall file with the commission an energy efficiency plan which shall:

- 1        (a) Propose a set of energy efficiency programs, including average and peak  
2        demand reduction programs, which include offerings for each customer  
3        class, including low-income residential customers within the residential  
4        class. The commission shall allow suppliers flexibility to tailor the relative  
5        amount of effort devoted to each customer class based on the specific  
6        characteristics of their service territory;
- 7        (b) Specify necessary funding levels for proposed energy efficiency programs;
- 8        (c) Demonstrate that the proposed efficiency programs and the funding are  
9        sufficient to ensure the achievement of applicable energy efficiency  
10       performance standards under Section 8 of this Act;
- 11       (d) Demonstrate that the utility's proposed energy efficiency program will be  
12       cost-effective, providing savings in electricity usage within each class of  
13       customers greater than the cost of implementation of the program;
- 14       (e) Provide for efficient and effective administration of the proposed efficiency  
15       programs. A utility's energy efficiency programs may be administered at the  
16       utility's option, by the utility, alone or jointly with other utilities, by a state  
17       agency, or by an appropriate, experienced organization selected after a  
18       competitive bidding process, except that the comprehensive low-income  
19       energy efficiency program shall be administered as provided in Section 8 of  
20       this Act;
- 21       (f) Include a process for measurement and verification of calendar year energy  
22       savings for each energy efficiency program. A report on calendar year  
23       energy savings from each efficiency program shall be filed with the  
24       commission at the end of each calendar year commencing with January 1,  
25       2020;
- 26       (g) Allow for the coordination of energy efficiency measures and programs  
27       with the energy efficiency measures and programs of other utilities, where

1 the commission finds that coordination would increase savings to the  
2 customers of all participating utilities; and

3 (h) Include any other information that the commission determines is necessary.

4 (2) An energy efficiency plan may provide for the electric utility to facilitate third-  
5 party loans to customers to finance energy efficiency measures with on-bill  
6 financing.

7 (3) On receipt of an energy efficiency plan, the commission shall open a case in  
8 order to allow review of the proposed plan. The plan may be submitted in  
9 conjunction with the REP implementation plan required under Section 6 of this  
10 Act.

11 (4) In approving an energy efficiency plan, the commission shall require that the  
12 plan:

13 (a) Include provisions for the definition, measurement, and third-party  
14 verification of electricity savings proposed to be achieved under the plan;

15 (b) Require that energy consumption estimates for customer facilities or  
16 portions of facilities in the applicable base time periods used for estimating  
17 savings be adjusted, as appropriate, to account for changes in weather, level  
18 of production, and building area;

19 (c) Account for the useful life of electricity savings measures;

20 (d) Allow for the use of deemed savings for specific, commonly used efficiency  
21 measures;

22 (e) Allow for savings from a program to be estimated based on a statistical  
23 sample of participating customers and extrapolated to all participating  
24 customers within a customer class; and

25 (f) For the comprehensive low-income energy efficiency program component,  
26 provide additional benchmarks for anticipated cost savings to ratepayers  
27 associated with a reduction in utility shut-offs and reconnections, the

1           savings in energy usage, and the health, safety, and any other benefits for  
2           the customers to be served by the program.

3           ➔SECTION 10. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO  
4 READ AS FOLLOWS:

- 5           (1) Each retail electric supplier shall submit an annual report to the commission on  
6           September 1, 2020, and on September 1 of each year thereafter. The commission  
7           shall promulgate administrative regulations in accordance with KRS Chapter  
8           13A regarding the form, submission, and information to be contained in each  
9           annual report. At a minimum, the annual report shall include the following:
- 10           (a) The estimated total annual electricity savings achieved by the utility through  
11           energy efficiency programs provided during the reporting period for each  
12           class of ratepayers, and the estimated savings in each class;
- 13           (b) The estimated incremental peak reduction achieved through peak demand  
14           reduction programs during this reporting period;
- 15           (c) Total expenditures made on energy efficiency and peak demand reduction  
16           programs, and expenditures made on energy efficiency and peak demand  
17           reduction programs for each class of ratepayers;
- 18           (d) The cost-effectiveness of the implemented programs for each class of  
19           ratepayers; and
- 20           (e) Any other information that the commission determines is necessary.
- 21           (2) Concurrent with the submission of each report under this section, each utility  
22           shall make a copy of the report available on its Web site.
- 23           (3) Beginning September 1, 2025, and on September 1 of every fifth year thereafter,  
24           the commission shall produce, file, and present to a meeting of the Legislative  
25           Research Commission a report that includes:
- 26           (a) A summary of data collected under this section, including the required  
27           annual reports;

- 1        (b) The status of energy efficiency in Kentucky;
- 2        (c) For the total portfolio of energy efficiency programs, the cost of energy
- 3                efficiency compared to the average cost of electricity in the state;
- 4        (d) An evaluation of whether Sections 1 to 12 of this Act have been cost-
- 5                effective;
- 6        (e) A description of the impact Sections 1 to 12 of this Act have had on
- 7                employment in the state. The commission shall consult with appropriate
- 8                agencies, including the Cabinet for Economic Development, the Finance
- 9                and Administration Cabinet, and the Labor Cabinet in the development of
- 10                this information; and
- 11        (f) Any recommendations the commission may have concerning amendments
- 12                to this section.

13        (4) No certificate of public convenience and necessity authorizing construction of

14                new or expanded generating capacity shall be granted to a retail electric supplier

15                unless the commission finds that the retail electric supplier is in compliance with

16                the requirements of this section.

17        ➔SECTION 11. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO

18 READ AS FOLLOWS:

19        A retail electric supplier shall recover the full costs of commission-approved plans

20                under Sections 1 to 12 of this Act, revenues lost by implementing those plans, and

21                incentives if appropriate. The commission shall consider decoupling as one (1) possible

22                method to enable the recovery of lost revenue when it designs, amends, or approves

23                rate schedules. Recovery of program costs, lost revenue, and incentives may be

24                reviewed and approved by the commission as part of a proceeding for approval of new

25                rate schedules pursuant to KRS 278.190 or in a separate proceeding initiated pursuant

26                to this section.

27        ➔SECTION 12. A NEW SECTION OF KRS CHAPTER 278 IS CREATED TO

1 READ AS FOLLOWS:

2 (1) By January 1, 2018, the commission shall develop guidelines for a tariff to be  
3 filed by each retail electric supplier establishing the interconnection procedures  
4 and rate at which an eligible electric generating facility will be compensated for  
5 renewable electricity generated and fed into the distribution system or  
6 transmission grid of that retail electric supplier.

7 (2) The guidelines developed under subsection (1) of this section shall, at a  
8 minimum:

9 (a) Develop a standard contract that shall be offered by each retail electric  
10 supplier for the purchase of electricity generated by the facility, including  
11 the duration of the contract; and

12 (b) Require the retail electric supplier to enter into a contract, upon request of  
13 an eligible electric generating facility, to purchase electricity from that  
14 facility at a rate that is not less than the renewable energy rate established  
15 by the commission pursuant to subsection (3) of this section that applies  
16 with respect to the particular renewable resource used by the eligible  
17 electric generating facility.

18 (3) The commission shall determine, and adjust as appropriate on a biennial basis,  
19 the rate to be paid for each kilowatt-hour of renewable electricity purchased  
20 under the contract, and the term of the contract. The renewable energy rate and  
21 contract term shall be established for each generation technology used by an  
22 eligible electric generating facility. Rates and terms shall be established to allow  
23 for recovery of costs and a reasonable rate of return on investment in the facility,  
24 considering these factors:

25 (a) Investment costs for development of a facility, including material costs,  
26 capital costs, and those costs associated with comparable projects utilizing  
27 that technology;



- 1        (b) Permitting, licensing, and interconnection costs, including necessary  
2            improvements in order to allow grid interconnections;
- 3        (c) Operation and maintenance costs;
- 4        (d) Fuel costs;
- 5        (e) Decommissioning costs; and
- 6        (f) Available federal or state financial incentives, including tax incentives.
- 7        (4) The commission, pursuant to subsection (3) of this section, may establish rates  
8            within a class of technology based on the size or capacity of an eligible electric  
9            generating facility where it finds that the size or capacity significantly affects the  
10           total costs for facility development and operation.
- 11       (5) Electric generating systems and interconnection equipment used by the eligible  
12           electric generating facility shall meet all applicable safety and power quality  
13           standards established by the National Electrical Code (NEC), Institute of  
14           Electrical and Electronics Engineers (IEEE), and accredited testing laboratories  
15           such as Underwriters Laboratories.
- 16       (6) Any upgrade of the interconnection between the retail electric supplier and the  
17           eligible electric generating facility that is required by commission-approved  
18           tariffs for the purposes of allowing the feed-in of electricity to the distribution  
19           system or transmission grid shall be made at the expense of the eligible electric  
20           generating facility.
- 21       (7) The difference between the cost of electricity under subsection (4) of this section  
22           pursuant to a commission-approved tariff, and the avoided generation costs for  
23           that retail electric supplier may be recovered as part of a proceeding initiated  
24           pursuant to this section, which shall be limited to a review of the purchase  
25           contracts and amount of electricity purchased under the renewable energy tariff  
26           during the period for which cost recovery is sought.
- 27       (8) Beginning on January 1, 2020, and on January 1 every two (2) years thereafter,

1        *the commission shall review the tariffs for each technology for which a tariff has*  
2        *been established and the interconnection guidelines, and shall adjust the rates*  
3        *and guidelines as necessary in order to effectuate the purposes of Sections 1 to 12*  
4        *of this Act.*