

Ordinance 2017-48

SHORT TITLE:

An ordinance amending Provo City Code to allow Commercial and Industrial Energy customers to obtain a license to generate electric energy in excess of 24kW. (17-130)

I

PASSAGE BY MUNICIPAL COUNCIL

ROLL CALL

DISTRICT	NAME	FOR	AGAINST	OTHER
CW 1	DAVID SEWELL	✓		
CW 2	GEORGE STEWART	✓		
CD 1	GARY WINTERTON	✓		
CD 2	KIM SANTIAGO	✓		
CD 3	DAVID KNECHT	✓		
CD 4	KAY VAN BUREN	✓		
CD 5	DAVID HARDING	✓		
TOTALS		7	0	

This ordinance was passed by the Municipal Council of Provo City, on the 14th day of November 2017, on a roll call vote as described above. Signed this 22nd of November 2017.

David S. Sewell

Chair

II

APPROVAL BY MAYOR

This ordinance is approved by me this 30 November 2017.

David S. Sewell

Mayor

Ordinance 2017-48

III

CITY RECORDER'S CERTIFICATE AND ATTEST

This ordinance was signed and recorded in the office of the Provo City Recorder on the 30th day of November 2017, with a short summary being published on the 18th day of November 2017, in The Daily Herald, a newspaper circulated in Provo, Utah. I hereby certify and attest that the foregoing constitutes a true and accurate record of proceedings with respect to Ordinance Number 2017-48.




City Recorder

47 D. This ordinance shall take effect immediately after it has been posted or published
48 in accordance with Utah Code 10-3-711, presented to the Mayor in accordance
49 with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

50
51 END OF ORDINANCE.

EXHIBIT A

12.03.080. Generation or Transmission of Electricity by Entities Other than Provo City.

- (1) Electric energy may not be generated in Provo City without a license therefor.

- (2) A license for the generation of electric energy ~~less than 25kW~~ by an entity other than Provo City or an interlocal entity of which Provo City is a member may be issued by the Director of the Energy Department [\(herein "the Director"\) only in accordance with this section](#). The applicant shall complete and submit the license application for consumer generation to the Department. The Department shall have thirty (30) days to review the license application and either issue a license or deny the license request. The Department's denial of a license application may be appealed to the Mayor within thirty (30) calendar days from the date written notice of denial is sent by the Department. The successful applicant/licensee shall comply with the other requirements of this Section prior to construction or installation of any equipment necessary for the generation of electric energy. A license may be issued if the Director finds the following:
 - (a) That the proposed activity will conform to all local, state and federal requirements applicable to such activities;

 - (b) That the proposed activity will not result in any increased technical or financial burden on the electric system or operations of the Department of Energy beyond that normally associated with distributed generation facilities that are designed and installed in accordance with industry standards; and

 - (c) That the proposed activity will not be detrimental to the health, safety and general welfare of the residents of Provo City or the employees of the Department.

- (3) The Director may refuse to issue a license where the exercise of that power is not contrary to applicable state or federal law.

- (4) Each license shall be subject to the following regulations:
 - (a) Provo City may at any reasonable time inspect any facilities of the applicant/licensee which are directly or indirectly used in the licensed activity.

 - (b) Provo City may impose any condition on the issuance or continuation of a license which is necessary to:

(i) Maintain the integrity and reliability of the Provo City electric system; or

(ii) Maintain the health, safety and general welfare of the residents of Provo City or the employees of the Department in relation to the proposed activity.

(c) The violation of any condition imposed on the issuance or continuation of a license shall be a basis for revoking the license to which it applies.

(d) Provo City may impose an initial fee and annual fees upon the licensee, the amount of which may include all costs incurred by Provo City which are associated with the licensing and regulatory functions described in this Section.

(e) A license for the generation of less than 25kW is subject to the following additional conditions:

(i) The license is conditioned upon the licensee entering into the standard "Net Metering Agreement" between the licensee and the City;

(ii) The licensee shall adhere to the current "Net Metering Standards" adopted by the Department. Any failure to comply with these standards will result in an immediate suspension of the license and disconnection from the City's electrical system without advanced notice to licensee. Within five (5) business days of the suspension and disconnection, the Department shall issue written notice to the licensee who must remedy the violation before the generation will be connected to the City's electrical system and/or reinstatement of the license. The licensee shall be responsible for the Department's actual costs to enforce this Section; and

(iii) The billing of such licensees shall be governed by either Subsection (5) or Subsection (6), in accordance with the terms of those Subsections.

(f) A license for the generation of 25kW or more is subject to the following additional conditions:

(i) Only industrial and commercial electric service account holders are eligible for such a license;

(ii) Before such a license may be issued, the applicant must enter into an agreement, in a form approved by the Director, to sell all the electric energy generated by the licensee to the Utah Municipal Power Agency;

(iii) Termination of said agreement with the Utah Municipal Power Agency, or failure by the

licensee to adhere to the terms of said agreement, shall be grounds for the Director to revoke the license; and

(iv). Such licensees shall be charged for the electricity that is received from the Department at the rates set forth in the Consolidated Fee Schedule, as amended from time to time by the Municipal Council, that are applicable to the category of service accounts of which the licensee is a part.

(5) Residential service accounts licensed to generate electricity in Provo City that meet the criteria in Subsections (5)(a) and (b) of this Section shall be governed by Subsection (5)(c) of this Section:

(a) The account owner, as of October 4, 2016:

(i) Was licensed under this Section;

(ii) Had applied for a license under this Section; or

(iii) Had executed with a company that installs distributed generation systems a contract that obligated the account owner to purchase and install such a system and the account owner meets all other requirements for issuance of a license under this Section; and

(b) A residential account owner who meets the criteria in Subsection (5)(a) of this Section is nevertheless eligible to be billed as described in Subsection (5)(c) of this Section only so long as:

(i) The system used to generate electricity is the same system that met the criteria in Subsection (5)(a) of this Section. If that system has been subsequently replaced, including upgrades or repairs that essentially constitute a replacement of the system, the account owner is no longer eligible;

(ii) The account owner is the same individual that met the eligibility requirements in Subsection (5)(a) of this Section or meets the eligibility requirements to be a transferee in Section [12.02.030](#)(7)(a) or (b), Provo City Code; and

(iii) The account owner is generating electricity at the same physical address that met the eligibility requirements in Subsection (5)(a) of this Section or meets the eligibility requirements to be a transferee in Section [12.02.030](#)(7)(c), Provo City Code. An account owner generating electricity at a different physical address that meets the requirement in this subparagraph only by virtue of Section [12.02.030](#)(7)(c), Provo City Code, is only eligible if the account owner has physically moved the actual generation system from the original physical address.

(c) Such accounts shall:

(i) Be charged for the electricity that is received from the Department at the rates set forth in the Consolidated Fee Schedule, as amended from time to time by the Municipal Council, that are applicable to residential service accounts generally or to a residential service class of which the account is a part;

(ii) Be credited for the electricity that is generated and transmitted to the Department at the same rates that apply to the charges described in Subsection (5)(c)(i) of this Section;

(iii) Carry over any total electricity credit resulting when the credits under Subsection (5)(c)(ii) of this Section exceed the charges under Subsections (5)(c)(i) and (iv) of this Section to successive billing cycles until the billing cycle that includes February 28th in any year, at which time any remaining credit shall lapse; and

(iv) Be subject to all other charges, fees, and rates set forth in the Consolidated Fee Schedule, as amended from time to time by the Municipal Council, that are applicable to residential service accounts generally or to a residential service class of which the account is a part.

(6) Residential service accounts licensed to generate electricity in Provo City that do not meet the criteria in Subsection (5) of this Section shall:

(a) Be charged for the electricity that is received from the Department at the rates set forth in the Consolidated Fee Schedule, as amended from time to time by the Municipal Council, that are applicable to residential service accounts generally or to a residential service class of which the account is a part;

(b) Be credited for the electricity that is generated and transmitted to the Department at the rate defined for the crediting of residential electricity generation in the Consolidated Fee Schedule, as amended from time to time by the Municipal Council;

(c) Carry over any total credit resulting when the credits under Subsection (6)(b) of this Section exceed the charges under Subsections (6)(a) and (d) of this Section to successive billing cycles until the billing cycle that includes February 28th in any year, at which time any remaining credit shall lapse; and

(d) Be subject to all other charges, fees, and rates set forth in the Consolidated Fee Schedule, as amended from time to time by the Municipal Council, that are applicable to residential service accounts generally or to a residential service class of which the account is a part.

(7) This Section shall be interpreted in a manner consistent with the provisions of applicable state and federal law.

(8) This Section shall not apply to the generation or transmission of electric energy by Provo City or any interlocal entity of which Provo City is a member.

(9) This Section shall not apply to the temporary generation of electric energy for emergency or standby purposes, except as noted below.

(a) All emergency or standby generation shall not be interconnected with Provo City's power system at any time. A positive, physical means of transferring and separating loads between normal and alternate sources of supply must be used to prevent inadvertent interconnection.

(b) All emergency or standby generation shall comply with the provisions of the latest revision of the National Electric Code.

(10) Nothing in this Section shall be construed to mean that the Municipal Council may not amend, enact, or repeal any provision of the Provo City Code or any portion of the Consolidated Fee Schedule so as to create, modify, or terminate any fee, rate, charge, service class, rate schedule, or rate structure for electrical service, including, but not limited to, implementing entirely new ways of monitoring and charging for the use of the Department's electrical service and/or electrical system. Unless specifically and expressly provided otherwise, any such changes shall be applicable to every service account affected by the terms of the change.