

IN THE SENATE

SENATE BILL NO. 1364

BY STATE AFFAIRS COMMITTEE

AN ACT

1 RELATING TO THE PUBLIC UTILITIES COMMISSION; AMENDING CHAPTER 5, TITLE 61,
2 IDAHO CODE, BY THE ADDITION OF A NEW SECTION 61-542, IDAHO CODE, TO
3 DEFINE THE AUTHORITY OF THE PUBLIC UTILITIES COMMISSION AND ITS JURIS-
4 DICTION OVER THE ENVIRONMENTAL ATTRIBUTES OF PUBLIC UTILITY REGULATORY
5 POLICIES ACT QUALIFYING FACILITIES AND TO PROVIDE FOR USE AND IMPLEMEN-
6 TATION OF ENVIRONMENTAL ATTRIBUTES; AND DECLARING AN EMERGENCY.
7

8 Be It Enacted by the Legislature of the State of Idaho:

9 SECTION 1. That Chapter 5, Title 61, Idaho Code, be, and the same is
10 hereby amended by the addition thereto of a NEW SECTION, to be known and des-
11 ignated as Section 61-542, Idaho Code, and to read as follows:

12 61-542. ENVIRONMENTAL ATTRIBUTES OF PURPA QUALIFYING FACILITIES. (1)
13 Definitions:

14 (a) "Environmental attributes" means any and all claims, credits,
15 benefits, emissions reductions, offsets and allowances, howsoever
16 entitled, resulting from the avoidance of the emission of any gas,
17 chemical or other substance into the air, soil or water. Environmen-
18 tal attributes shall include, but are not limited to: (i) green tags,
19 green and/or clean energy credits, renewable energy credits or renew-
20 able energy certificates; (ii) any avoided emissions of pollutants to
21 the air, soil or water such as sulfur oxides, nitrogen oxides, carbon
22 monoxide and other pollutants; (iii) any avoided emissions of carbon
23 dioxide, methane and other greenhouse gases. Environmental attributes
24 do not include: (i) tax credits or other tax incentives existing now
25 or in the future associated with construction, ownership or operation
26 of the qualifying facility; or (ii) adverse wildlife or environmental
27 impacts.

28 (b) "PURPA" means the public utility regulatory policies act of 1978,
29 16 U.S.C. section 824a-3.

30 (c) "Qualifying facility" means a qualifying small power or cogenera-
31 tion facility as defined in 18 CFR 292.101(b)(1) as that section may be
32 amended or superseded.

33 (d) "Public utility" means an electrical corporation as defined in sec-
34 tions 61-119 and 61-129, Idaho Code.

35 (2) Ownership. The legislature hereby finds that, to the extent that
36 environmental attributes are generated by or associated with qualifying
37 facilities, such environmental attributes are attributes of the power pur-
38 chased by the public utility from such qualifying facilities at avoided cost
39 rates. All environmental attributes generated by or associated with such
40 qualifying facilities shall be owned by the public utility purchaser of the
41 power from the qualifying facilities, unless, with regard to any specific
42 qualifying facility, such ownership is expressly assigned to the qualify-

1 ing facility by specific agreement with the public utility purchaser of the
2 power, and such agreement is approved by the commission.

3 (3) Use. Environmental attributes owned by a public utility pursuant
4 to this section may be used for any, or all, of the following purposes:

5 (a) Environmental attributes may be used by a public utility to satisfy
6 the requirements of any state or federal renewable portfolio standards
7 or requirements applicable to such public utility;

8 (b) Environmental attributes may be sold, and the proceeds of such sale
9 utilized to offset, or partially offset, the power supply expense paid
10 by customers of the public utility as determined by the commission;

11 (c) Environmental attributes may be assigned to a qualifying facility,
12 as referenced in subsection (2) of this section, by specific agreement
13 approved by the commission. Should the owner of a qualifying facility
14 desire to enter into such specific agreement assigning ownership of the
15 environmental attributes to the qualifying facility, the public util-
16 ity owner of the environmental attributes shall negotiate in good faith
17 with the owner of such qualifying facility.

18 (4) Implementation. The legislature hereby directs the commission
19 to implement this requirement for all qualifying facility power purchase
20 agreements entered into by public utilities subsequent to the date of enact-
21 ment of this section.

22 SECTION 2. An emergency existing therefor, which emergency is hereby
23 declared to exist, this act shall be in full force and effect on and after its
24 passage and approval.