Ordinance 2017-03

SHORT TITLE:

An ordinance amending and enacting new Provo City Code provisions regarding distributed generation (including solar generation) by residential customers of Provo City Power.
(16-093)

I

PASSAGE BY MUNICIPAL COUNCIL

ROLL CALL

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This ordinance was passed by the Municipal Council of Provo City, on the 17th day of January 2017, on a roll call vote as described above. Signed this 26 January 2017.

[Signature]
Chair

II

APPROVAL BY MAYOR

This ordinance is approved by me this 31 January 2017.

[Signature]
Mayor
Ordinance 2017-03

III

CITY RECORDER'S CERTIFICATE AND ATTEST

This ordinance was signed and recorded in the office of the Provo City Recorder on the 31st day of January, 2017, with a short summary being published on the 21st day of January, 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 2017-03.

PROVO CITY SEAL
COUNTY AND COMMISSIONERS OF UTILITY

[Signature]
City Recorder
ORDINANCE 2017-03.

AN ORDINANCE AMENDING AND ENACTING NEW PROVO CITY CODE PROVISIONS REGARDING DISTRIBUTED GENERATION (INCLUDING SOLAR GENERATION) BY RESIDENTIAL CUSTOMERS OF PROVO CITY POWER. (16-093)

WHEREAS, on October 4, 2016, the Municipal Council considered a proposal to recover some portion of the costs that residential energy customers with solar generation systems impose on the electrical system, but may avoid paying for under the then current net metering policy; and

WHEREAS, after consideration of the proposal, the Municipal Council enacted Ordinance 2016-27, which imposed a grid access charge on residential solar customers based on the generating capacity of the customer’s system; and

WHEREAS, after considering public comment, on October 18, 2016, the Municipal Council rescinded Ordinance 2016-27 before it went into effect, and subsequently formed a special committee to consider the matter and bring back a recommendation to the Council; and

WHEREAS, the committee met several times to consider the matter, and then presented its findings and recommendations to the Council at the January 3, 2017 Council Meeting, at which time the Council accepted the committee’s recommendations and directed that corresponding legislation be drafted for its consideration; and

WHEREAS, on January 17, 2017, the Municipal Council held a duly noticed public meeting to consider the proposed legislation and to ascertain the facts regarding this matter, which facts are found in the meeting record; and

WHEREAS, after considering the facts presented to the Municipal Council, the Council finds that (i) provisions of Provo City Code should be amended and enacted as set forth below in order to properly regulate and account for the costs of distributed generation, including solar generation, by residential customers of Provo City Power, and (ii) such action furthers the health, safety, and general welfare of the citizens of Provo City.

NOW, THEREFORE, be it ordained by the Municipal Council of Provo City, Utah, as follows:
PART I:

Provo City Code Section 12.02.030. (Customer Deposits) is hereby amended as follows:


(1) A person having a recent, verifiable record of two (2) continuous years of timely and complete payments to Provo City (or any other utility company) for residential utility service(s) shall not be required to pay a deposit to obtain residential electric service.

(2) A person who does not have a recent, verifiable record of two (2) continuous years of timely and complete payments to Provo City (or any other utility company) for residential utility service must pay a deposit to obtain residential electric service. The minimum deposit for each residential electric meter shall be as shown on the Consolidated Fee Schedule adopted by the Municipal Council. The minimum deposit may be increased to equal two (2) months’ average billing for customers who fail to make timely and complete monthly payments.

(3) A person applying for nonresidential electric service shall pay a deposit equal to the reasonably anticipated cost of two (2) months’ electric service, as determined by the Energy Department, for each nonresidential electric meter.

(4) A person applying for nonresidential service shall not be required to provide a monetary security deposit for utility service upon verification and approval by Provo City of acceptable credit standing.

(5) A deposit made by a person described in Subsection (2) of this section shall be refunded after the customer demonstrates for two (2) continuous years a record of timely and complete payment of amounts correctly billed. A deposit made by a person described in Subsection (3) of this section shall be refunded after the customer demonstrates for three (3) continuous years a record of timely and complete payment of amounts correctly billed.

(6) Deposits may only be applied to the unpaid balance amount on closed-out accounts. Renewal of deposits applied to closed-out accounts may be required as a condition of the reconnection of electric service.

(7) In certain limited circumstances, set forth below, a residential account owner (the “transferor”) that is eligible for a deposit exemption under Subsection (1), has already paid a deposit under Subsection (2), or has already had a deposit refunded under Subsection (5) may transfer that account’s deposit or deposit status to another account owner (the “transferee”). As the result of the transfer of deposit status, the transferee shall not be required to pay a new or additional deposit. Such a transfer may occur if:

(a) the transferee is the surviving spouse of a deceased transferor and applies for residential service at the same physical address where the transferor received service;
(b) the transferee, as the result of a divorce or separation from a transferor to which the
transferee was or is married:

(i) applies for residential service at the same physical address where the
transferor received service; and

(ii) if the transfer involves a deposit that has been paid and not yet refunded, the
transferor consents to the transfer; or

(c) the transferor and transferee are both the same person who has moved from one
residence in Provo to another residence in Provo and is transferring the account to the
new residence.

PART II:

Provo City Code Section 12.03.080. (Generation or Transmission of Electricity by
Entities Other than Provo City) is hereby amended as follows:

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

(f) 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.

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

(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) is nevertheless eligible to be billed as described in Subsection (5)(c) only so long as:

(i) the system used to generate electricity is the same system that met the criteria in Subsection (5)(a). 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) or meets the eligibility requirements to be a transferee in Provo City Code 12.02.030(7)(a) or (b); and

(iii) the account owner is generating electricity at the same physical address that met the eligibility requirements in Subsection (5)(a) or meets the eligibility requirements to be a transferee in Provo City Code 12.02.030(7)(c). 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) 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);

(iii) carry over any total electricity credit resulting when the credits under Subsection (5)(c)(ii) exceed the charges under Subsections (5)(c)(i) and (iv) 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) 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) exceed the charges under Subsections (6)(a) and (d) 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.

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

(6) 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.

(7) 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.

PART III:

The Consolidated Fee Schedule is amended as follows:

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ENERGY

AS OF JUNE 1, 2013, ENERGY CHARGES SHALL BE AS FOLLOWS:

Monthly Rates and Fees

Schedule No. 1

Residential – EL1, EL3

Customer Service Charge  $6.57 per connection

Energy Charge

$0.0877 per 1st 500 kWh

$0.1019 per 501 - 1,000 kWh

$0.1209 per additional kWh

Credit for Residential $0.06742 per kWh

Electricity Generation

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PART IV:

A. If a provision of this ordinance conflicts with a provision of a previously adopted ordinance, this ordinance shall prevail.

B. This ordinance and its various sections, clauses and paragraphs are hereby declared to be severable. If any part, sentence, clause or phrase is adjudged to be unconstitutional or invalid, the remainder of the ordinance shall not be affected thereby.

C. The Municipal Council hereby directs that the official copy of the Provo City Code be updated to reflect the provisions enacted by this ordinance.
D. This ordinance shall take effect on March 31, 2017 after it has been posted or published in accordance with Utah Code 10-3-711, presented to the Mayor in accordance with Utah Code 10-3b-204, and recorded in accordance with Utah Code 10-3-713.

END OF ORDINANCE.