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3rd Party Solar PV Power Purchase Agreement (PPA)

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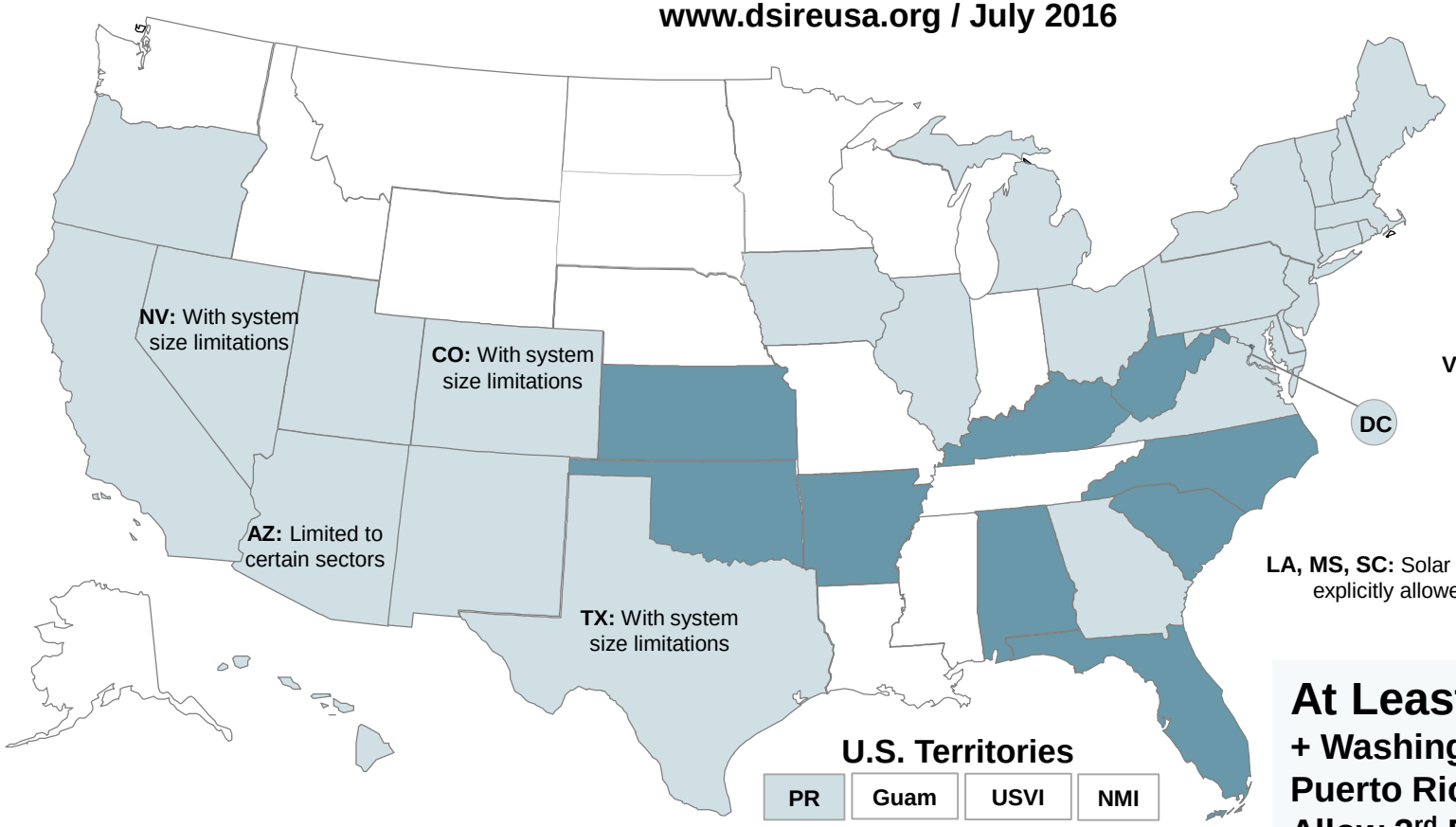

At Least 26 States
+ Washington DC and Puerto Rico Authorize or Allow 3rd Party Power Purchase Agreements for Solar PV

- Apparently disallowed by state or otherwise restricted by legal barriers
- Authorized by state or otherwise currently in use, at least in certain jurisdictions
- Status unclear or unknown

Important Information Regarding 3rd-Party Solar PPAs

State authorization of 3rd-party solar PV PPAs allows residential customers to purchase electricity generated by solar panels on their roof (usually at a price lower than the retail rate of electricity) from a third party that owns the PV system. Some states that limit or prohibit 3rd-party solar PV PPAs explicitly allow for residential solar leasing arrangements.

Legal authorization for residential 3rd-party solar PV PPA arrangements usually lies in the definition of a "utility" in state statutes, regulations or case law; in state regulatory commission decisions or orders; and/or in rules and guidelines for state incentive programs.

States that have authorized the use of 3rd-party PPAs may not have done so in every jurisdiction. For example, municipal utilities may not allow 3rd-party PPAs in their territories even though they are allowed or in use in the state's investor-owned utility (IOU) territories.

Though a 3rd-party PPA provider may not be subject to the same regulations as utilities, additional licensing requirements may still apply.

This map does not represent interstate 3rd-party solar PV PPA authorizations relevant to large generators. In states that limit or prohibit intrastate PPAs, interstate PPAs for wholesale electricity market sales may be allowed by federal laws in areas under the jurisdiction of regional, multi-state transmission organization authorities.

This map and information is provided as a public service and does not constitute legal advice. Seek qualified legal expertise before making binding financial decisions related to a 3rd-party PPA.

Authorities/References

- **Alabama:** AL code § 37-14-32
- **Arizona**: ACC Decision 71795, Docket E-20690A-09-0346 *(limited to schools, governments or other non-profit entities)*
- **Arkansas:** A.C.A. §23-18-109
- **California**: Cal. Pub. Util. Code § 218, § 2868
- **Colorado**: S.B. 09-051; PUC Decision C09-0990, Docket No. 08R-424E (2009) *(limited to systems generating no more than 120% of the average annual electricity consumption)*
- **Connecticut**: Clean Energy Finance and Investment Authority
- **D.C.:** REIP Program; PSC Order 15837 (2010)
- **Delaware**: S.B. 266 and S.B. 267 (2010)
- **Florida**: PSC Decision: Docket 860725-EU; Order 17009 (1987)
- **Georgia**: H.B. 57 (2015)
- **Hawaii**: S.B. 704 (2011)
- **Illinois**: 220 ILCS 5/3-105, 16-102; 83 Ill. Adm. Code, Part 465
- **Iowa:** Iowa Supreme Court, No. 13-0642 (2014) *(the Iowa Supreme Court's decision overruled an earlier IUB's determination that a local solar company who proposed a 3rd-party PPA would be a "public utility" under Iowa law)*
- **Kansas:** KS Department of Revenue Opinion O-2016-001
- **Kentucky:** KRS 278.010 (3)
- **Louisiana:** La. R.S. 45:121
- **Maryland**: H.B. 1057 (2009)
- **Maine:** Title 35-A section 3202
- **Massachusetts**: 220 CMR 18.00
- **Michigan**: 2008 Public Act 286; PSC Order Docket U-15787
- **Mississippi:** Any entity selling electricity is subject to public utility regulations stipulated in MS code § 77-3-3, but MS NEM rules explicitly allow leasing of solar equipment.
- **Nevada**: NRS 704.021 (AB 186, 2009); PUC Orders 07-06024
- **New Hampshire:** PUC 902.03; PUC Docket DE 10-212 (letter 1/31/12)
- **New Jersey**: N.J. Stat. 48:3-51; N.J.A.C. §14:8-4.1 et seq.
- **New Mexico**: H.B. 181 and S.B. 190 (2010)
- and 07-06027 *(limited to systems generating no more than 150% of the average annual electricity consumption)*
- **New York**: NY CLS Public Service § 2.13
- **North Carolina**: General Statutes § 62-3(23)
- **Ohio**: PUC Order 06-653-EL-ORD (11/05/2008)
- **Oklahoma**: 17 Okl. St. § 151; O.A.C. § 165:40
- **Oregon**: PUC Order, Docket 08-388; O.R.S §757.005
- **Pennsylvania**: PUC Order, Docket M-2011-2249441
- **Puerto Rico**: No policy reference available; based on news reports and articles
- **Rhode Island**: R.I. Gen. Laws § 39-26.4
- **South Carolina:** SC Code Section 58-27-2610(E) and Section 58-27-2630(A)(9) arising from SB 1189 prohibit 3rd PartySales, but SB 1189 explicitly allows leasing of solar equipment.
- **Texas**: S.B. 981 (2011) *(limited to systems generating electricity no more than the average annual electricity consumption)*
- **Utah**: H.B. 244 (2016); Title 54 Chapter 2)(1)(19)
- **Vermont**: No policy reference available, based upon news reports and communications
- **Virginia**: S.B. 1023 (2013) *(limited to solar systems between 50kW and 1MW within the certificated service territory, tax exempt entities are exempt from the minimum)*
- **West Virginia**: WV Code §24-2-1