

Effective 5/13/2014

17B-2a-406 Improvement districts providing electric service -- Public Service Commission jurisdiction -- Exceptions.

- (1) As used in this section:
 - (a) "Commission" means the Public Service Commission of Utah established in Section 54-1-1.
 - (b) "Electric corporation" has the same meaning as "electrical corporation" defined in Section 54-2-1.
 - (c) "Electric improvement district" means an improvement district that provides electric service as authorized under Subsection 17B-2a-403(1)(a)(iv).
 - (d) "Stranded asset" means an asset that:
 - (i) an electric corporation owns and operates;
 - (ii) is designed to serve an area that is:
 - (A) within the electric corporation's certificated service area before the area is removed from the certificated service area by commission order as provided in Subsection (3)(b)(i)(B)(II); and
 - (B) within the boundary of an electric improvement district; and
 - (iii) will not be useful to or used by the electric corporation after removal of the area from the electric corporation's certificated service area.
- (2) An electric improvement district is a public utility and subject to the jurisdiction of the commission.
- (3)
 - (a) Except as provided in Subsection (3)(b), an electric improvement district:
 - (i) may include only an area where:
 - (A) no retail electricity has been provided to commercial, industrial, residential, and other users of electricity from an investor-owned utility within any part of an area certificated by the commission or an area adjacent to that area, municipal agency, or electric cooperative within the five years immediately preceding September 1, 1985; and
 - (B) electric service is provided to at least one user of electricity within the electric service district as of September 1, 1985; and
 - (ii) shall have filed an application for certification and received approval by the commission by September 1, 1986.
 - (b)
 - (i) An electric improvement district created after May 11, 2009 may provide electric service within the boundary of the improvement district if:
 - (A) no part of the boundary of the electric improvement district is closer than 40 miles to an existing service line of an electric corporation;
 - (B)
 - (I) no part of the area within the boundary of the electric improvement district is within the certificated service area of an electric corporation; or
 - (II) the area within the boundary of the electric improvement district that is also within the certificated service area of an electric corporation is removed from the electric corporation's certificated service area by commission order in a proceeding initiated by a petition filed by and at the discretion of the electric corporation; and
 - (C) before January 1, 2010, the electric improvement district receives a certificate of public convenience and necessity from the commission authorizing the electric improvement district to provide electric service to the area within the boundary of the electric improvement district.

- (ii) An electric improvement district that provides electric service as provided in Subsection (3)(b)(i) shall pay an electric corporation an amount equal to the fair market value of each stranded asset of the electric corporation.
- (4) Nothing in this part may be construed to give the commission jurisdiction over:
 - (a) an improvement district, other than an electric improvement district;
 - (b) a municipality; or
 - (c) an association of municipalities organized under Title 11, Chapter 13, Interlocal Cooperation Act.
- (5) Before an electric improvement district serves any customer, the electric improvement district shall obtain a certificate of public convenience and necessity from the commission.
- (6)
 - (a) Section 54-7-12 does not apply to rate changes of an electric improvement district if:
 - (i) the district is organized for the purpose of distributing electricity to customers within the boundary of the district on a not-for-profit basis;
 - (ii) the schedule of new rates or other change that results in new rates has been approved by the board of trustees of the district;
 - (iii) prior to the implementation of any rate increases, the district first holds a public meeting for all its customers to whom mailed notice of the meeting is sent at least 10 days prior to the meeting; and
 - (iv) the district has filed the schedule of new rates or other change with the commission.
 - (b) The commission shall make the district's schedule of new rates or other change available for public inspection.

Amended by Chapter 381, 2014 General Session