

Senator Curtis S. Bramble proposes the following substitute bill:

ENERGY AMENDMENTS

2009 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Curtis S. Bramble

House Sponsor: _____

LONG TITLE

General Description:

This bill amends provisions related to energy.

Highlighted Provisions:

This bill:

- ▶ amends definitions related to public utilities;
- ▶ modifies provisions related to independent entities;
- ▶ enacts the Utah Generated Renewable Energy Electricity Network Authority Act,

including:

- creating the authority as an independent state agency;
- defining terms;
- providing for approval of qualifying transmission projects;
- addressing powers and duties, including rulemaking authority;
- authorizing bonding by the authority;
- addressing annual budgets;
- addressing audits; and
- providing a process related to dissolution;
- creating a board; and
- ▶ makes technical and conforming amendments.



26 **Monies Appropriated in this Bill:**

27 None

28 **Other Special Clauses:**

29 None

30 **Utah Code Sections Affected:**

31 **AMENDS:**

32 **54-2-1**, as last amended by Laws of Utah 2008, Chapter 374

33 **54-12-1**, as last amended by Laws of Utah 2008, Chapter 374

34 **54-12-2**, as last amended by Laws of Utah 2008, Chapter 374

35 **54-17-102**, as last amended by Laws of Utah 2008, Chapter 382

36 **54-17-201**, as last amended by Laws of Utah 2008, Chapters 374 and 382

37 **54-17-601**, as enacted by Laws of Utah 2008, Chapter 374

38 **63E-1-102**, as last amended by Laws of Utah 2008, Chapters 360 and 382

39 **ENACTS:**

40 **63H-2-101**, Utah Code Annotated 1953

41 **63H-2-102**, Utah Code Annotated 1953

42 **63H-2-201**, Utah Code Annotated 1953

43 **63H-2-202**, Utah Code Annotated 1953

44 **63H-2-203**, Utah Code Annotated 1953

45 **63H-2-204**, Utah Code Annotated 1953

46 **63H-2-301**, Utah Code Annotated 1953

47 **63H-2-302**, Utah Code Annotated 1953

48 **63H-2-401**, Utah Code Annotated 1953

49 **63H-2-402**, Utah Code Annotated 1953

50 **63H-2-403**, Utah Code Annotated 1953

51 **63H-2-404**, Utah Code Annotated 1953

52 **63H-2-501**, Utah Code Annotated 1953

53 **63H-2-502**, Utah Code Annotated 1953

54 **63H-2-503**, Utah Code Annotated 1953

55 **63H-2-504**, Utah Code Annotated 1953

56

57 *Be it enacted by the Legislature of the state of Utah:*

58 Section 1. Section **54-2-1** is amended to read:

59 **54-2-1. Definitions.**

60 As used in this title:

61 (1) "Avoided costs" means the incremental costs to an electrical corporation of electric
62 energy or capacity or both which, due to the purchase of electric energy or capacity or both
63 from ~~[small]~~ qualifying power production or cogeneration facilities, the electrical corporation
64 would not have to generate itself or purchase from another electrical corporation.

65 (2) "Cogeneration facility":

66 (a) means a generation facility which produces:

67 (i) electric energy; and

68 (ii) steam or forms of useful energy, including heat, which are used for industrial,
69 commercial, heating, or cooling purposes; and

70 (b) is a qualifying cogeneration facility under federal law.

71 (3) "Commission" means the Public Service Commission of Utah.

72 (4) "Commissioner" means a member of the commission.

73 (5) (a) "Corporation" includes an association, and a joint stock company having any
74 powers or privileges not possessed by individuals or partnerships.

75 (b) "Corporation" does not include towns, cities, counties, conservancy districts,
76 improvement districts, or other governmental units created or organized under any general or
77 special law of this state.

78 (6) "Distribution electrical cooperative" includes an electrical corporation that:

79 (a) is a cooperative;

80 (b) conducts a business that includes the retail distribution of electricity the cooperative
81 purchases or generates for the cooperative's members; and

82 (c) is required to allocate or distribute savings in excess of additions to reserves and
83 surplus on the basis of patronage to the cooperative's:

84 (i) members; or

85 (ii) patrons.

86 (7) "Electrical corporation" includes every corporation, cooperative association, and
87 person, their lessees, trustees, and receivers, owning, controlling, operating, or managing any

88 electric plant, or in any way furnishing electric power for public service or to its consumers or
89 members for domestic, commercial, or industrial use, within this state, except independent
90 energy producers, and except where electricity is generated on or distributed by the producer
91 solely for the producer's own use, or the use of the producer's tenants, or for the use of
92 members of an association of unit owners formed under Title 57, Chapter 8, Condominium
93 Ownership Act, and not for sale to the public generally.

94 (8) "Electric plant" includes all real estate, fixtures, and personal property owned,
95 controlled, operated, or managed in connection with or to facilitate the production, generation,
96 transmission, delivery, or furnishing of electricity for light, heat, or power, and all conduits,
97 ducts, or other devices, materials, apparatus, or property for containing, holding, or carrying
98 conductors used or to be used for the transmission of electricity for light, heat, or power.

99 (9) "Generation facility" means all electric plant used for the production or generation
100 of electricity, including all electric plant used to interconnect the production or generation
101 plant.

102 [~~9~~] (10) "Gas corporation" includes every corporation and person, their lessees,
103 trustees, and receivers, owning, controlling, operating, or managing any gas plant for public
104 service within this state or for the selling or furnishing of natural gas to any consumer or
105 consumers within the state for domestic, commercial, or industrial use, except in the situation
106 that:

107 (a) gas is made or produced on, and distributed by the maker or producer through,
108 private property:

109 (i) solely for the maker's or producer's own use or the use of the maker's or producer's
110 tenants; and

111 (ii) not for sale to others;

112 (b) gas is compressed on private property solely for the owner's own use or the use of
113 the owner's employees as a motor vehicle fuel; or

114 (c) gas is compressed by a retailer of motor vehicle fuel on the retailer's property solely
115 for sale as a motor vehicle fuel.

116 [~~10~~] (11) "Gas plant" includes all real estate, fixtures, and personal property owned,
117 controlled, operated, or managed in connection with or to facilitate the production, generation,
118 transmission, delivery, or furnishing of gas, natural or manufactured, for light, heat, or power.

119 ~~[(11)]~~ (12) "Heat corporation" includes every corporation and person, their lessees,
120 trustees, and receivers, owning, controlling, operating, or managing any heating plant for public
121 service within this state.

122 ~~[(12)]~~ (13) (a) "Heating plant" includes all real estate, fixtures, machinery, appliances,
123 and personal property controlled, operated, or managed in connection with or to facilitate the
124 production, generation, transmission, delivery, or furnishing of artificial heat.

125 (b) "Heating plant" does not include ~~[either small]~~ an independent power production
126 facility, a qualifying power production [facilities] facility, or a cogeneration [facilities] facility.

127 ~~[(13)]~~ (14) "Independent energy producer" means every electrical corporation, person,
128 corporation, or government entity, their lessees, trustees, or receivers, that own, operate,
129 control, or manage an independent power production or cogeneration facility.

130 ~~[(14)]~~ (15) "Independent power production facility" means a generation facility that:

131 (a) produces electric energy solely by the use, as a primary energy source, of biomass,
132 waste, a renewable resource, a geothermal resource, or any combination of the preceding
133 sources; or

134 (b) is a qualifying power production facility.

135 ~~[(15)]~~ (16) "Private telecommunications system" includes all facilities for the
136 transmission of signs, signals, writing, images, sounds, messages, data, or other information of
137 any nature by wire, radio, lightwaves, or other electromagnetic means, excluding mobile radio
138 facilities, that are owned, controlled, operated, or managed by a corporation or person,
139 including their lessees, trustees, receivers, or trustees appointed by any court, for the use of that
140 corporation or person and not for the shared use with or resale to any other corporation or
141 person on a regular basis.

142 ~~[(16)]~~ (17) (a) "Public utility" includes every railroad corporation, gas corporation,
143 electrical corporation, distribution electrical cooperative, wholesale electrical cooperative,
144 telephone corporation, telegraph corporation, water corporation, sewerage corporation, heat
145 corporation, and independent energy producer not described in Subsection ~~[(16)]~~ (17)(d),
146 where the service is performed for, or the commodity delivered to, the public generally, or in
147 the case of a gas corporation or electrical corporation where the gas or electricity is sold or
148 furnished to any member or consumers within the state for domestic, commercial, or industrial
149 use.

150 (b) (i) If any railroad corporation, gas corporation, electrical corporation, telephone
151 corporation, telegraph corporation, water corporation, sewerage corporation, heat corporation,
152 or independent energy producer not described in Subsection [~~(16)~~] (17)(d), performs a service
153 for or delivers a commodity to the public, it is considered to be a public utility, subject to the
154 jurisdiction and regulation of the commission and this title.

155 (ii) If a gas corporation, independent energy producer not described in Subsection
156 [~~(16)~~] (17)(d), or electrical corporation sells or furnishes gas or electricity to any member or
157 consumers within the state, for domestic, commercial, or industrial use, for which any
158 compensation or payment is received, it is considered to be a public utility, subject to the
159 jurisdiction and regulation of the commission and this title.

160 (c) Any corporation or person not engaged in business exclusively as a public utility as
161 defined in this section is governed by this title in respect only to the public utility owned,
162 controlled, operated, or managed by the corporation or person, and not in respect to any other
163 business or pursuit.

164 (d) An independent energy producer is exempt from the jurisdiction and regulations of
165 the commission with respect to an independent power production facility if it meets the
166 requirements of this Subsection [~~(16)~~] (17)(d)[~~(i), (ii), or (iii)~~], or any combination of these:

167 (i) the commodity or service is produced or delivered, or both, by an independent
168 energy producer solely for the uses exempted in Subsection (7) or for the use of state-owned
169 facilities;

170 (ii) the commodity or service is sold by an independent energy producer solely to an
171 electrical corporation or other wholesale purchaser; or

172 (iii) (A) the commodity or service delivered by the independent energy producer is
173 delivered to an entity which controls, is controlled by, or affiliated with the independent energy
174 producer or to a user located on real property managed by the independent energy producer;
175 and

176 (B) the real property on which the service or commodity is used is contiguous to real
177 property which is owned or controlled by the independent energy producer. Parcels of real
178 property separated solely by public roads or easements for public roads shall be considered as
179 contiguous for purposes of this Subsection [~~(16)~~] (17).

180 (e) Any person or corporation defined as an electrical corporation or public utility

181 under this section may continue to serve its existing customers subject to any order or future
182 determination of the commission in reference to the right to serve those customers.

183 (f) (i) "Public utility" does not include any person that is otherwise considered a public
184 utility under this Subsection [~~(16)~~] (17) solely because of that person's ownership of an interest
185 in an electric plant, cogeneration facility, independent power production facility, or [~~small~~]
186 qualifying power production facility in this state if all of the following conditions are met:

187 (A) the ownership interest in the electric plant, cogeneration facility, [~~or small~~]
188 independent power production facility, or qualifying power production facility is leased to:

189 (I) a public utility, and that lease has been approved by the commission;

190 (II) a person or government entity that is exempt from commission regulation as a
191 public utility; or

192 (III) a combination of Subsections [~~(16)~~] (17)(f)(i)(A)(I) and (II);

193 (B) the lessor of the ownership interest identified in Subsection [~~(16)~~] (17)(f)(i)(A) is:

194 (I) primarily engaged in a business other than the business of a public utility; or

195 (II) a person whose total equity or beneficial ownership is held directly or indirectly by
196 another person engaged in a business other than the business of a public utility; and

197 (C) the rent reserved under the lease does not include any amount based on or
198 determined by revenues or income of the lessee.

199 (ii) Any person that is exempt from classification as a public utility under Subsection
200 [~~(16)~~] (17)(f)(i) shall continue to be so exempt from classification following termination of the
201 lessee's right to possession or use of the electric plant for so long as the former lessor does not
202 operate the electric plant or sell electricity from the electric plant. If the former lessor operates
203 the electric plant or sells electricity, the former lessor shall continue to be so exempt for a
204 period of 90 days following termination, or for a longer period that is ordered by the
205 commission. This period may not exceed one year. A change in rates that would otherwise
206 require commission approval may not be effective during the 90-day or extended period
207 without commission approval.

208 (g) "Public utility" does not include any person that provides financing for, but has no
209 ownership interest in an electric plant, [~~small~~] qualifying power production facility,
210 independent power production facility, or cogeneration facility. In the event of a foreclosure in
211 which an ownership interest in an electric plant, [~~small~~] qualifying power production facility,

212 independent power production facility, or cogeneration facility is transferred to a third-party
213 financier of an electric plant, ~~[small]~~ qualifying power production facility, independent power
214 production facility, or cogeneration facility, then that third-party financier is exempt from
215 classification as a public utility for 90 days following the foreclosure, or for a longer period that
216 is ordered by the commission. This period may not exceed one year.

217 (h) (i) The distribution or transportation of natural gas for use as a motor vehicle fuel
218 does not cause the distributor or transporter to be a "public utility," unless the commission,
219 after notice and a public hearing, determines by rule that it is in the public interest to regulate
220 the distributors or transporters, but the retail sale alone of compressed natural gas as a motor
221 vehicle fuel may not cause the seller to be a "public utility."

222 (ii) In determining whether it is in the public interest to regulate the distributors or
223 transporters, the commission shall consider, among other things, the impact of the regulation
224 on the availability and price of natural gas for use as a motor fuel.

225 ~~[(17)]~~ (18) "Purchasing utility" means any electrical corporation that is required to
226 purchase electricity from ~~[small]~~ qualifying power production or cogeneration facilities
227 pursuant to the Public Utility Regulatory Policies Act, 16 U.S.C. Section 824a-3.

228 ~~[(18)]~~ (19) "Qualifying power producer" means a corporation, cooperative association,
229 or person, or the lessee, trustee, and receiver of the corporation, cooperative association, or
230 person, who owns, controls, operates, or manages any qualifying power production facility or
231 cogeneration facility.

232 ~~[(19)]~~ (20) "Qualifying power production facility" means a generation facility that:

233 (a) produces electrical energy solely by the use, as a primary energy source, of biomass,
234 waste, a renewable resource, a geothermal resource, or any combination of the preceding
235 sources;

236 (b) has a power production capacity that, together with any other facilities located at
237 the same site, is no greater than 80 megawatts; and

238 (c) is a qualifying small power production facility under federal law.

239 ~~[(20)]~~ (21) "Railroad" includes every commercial, interurban, and other railway, other
240 than a street railway, and each branch or extension of a railway, by any power operated,
241 together with all tracks, bridges, trestles, rights-of-way, subways, tunnels, stations, depots,
242 union depots, yards, grounds, terminals, terminal facilities, structures, and equipment, and all

243 other real estate, fixtures, and personal property of every kind used in connection with a
244 railway owned, controlled, operated, or managed for public service in the transportation of
245 persons or property.

246 ~~[(21)]~~ (22) "Railroad corporation" includes every corporation and person, their lessees,
247 trustees, and receivers, owning, controlling, operating, or managing any railroad for public
248 service within this state.

249 ~~[(22)]~~ (23) (a) "Sewerage corporation" includes every corporation and person, their
250 lessees, trustees, and receivers, owning, controlling, operating, or managing any sewerage
251 system for public service within this state.

252 (b) "Sewerage corporation" does not include private sewerage companies engaged in
253 disposing of sewage only for their stockholders, or towns, cities, counties, conservancy
254 districts, improvement districts, or other governmental units created or organized under any
255 general or special law of this state.

256 ~~[(23)]~~ (24) "Telegraph corporation" includes every corporation and person, their
257 lessees, trustees, and receivers, owning, controlling, operating, or managing any telegraph line
258 for public service within this state.

259 ~~[(24)]~~ (25) "Telegraph line" includes all conduits, ducts, poles, wires, cables,
260 instruments, and appliances, and all other real estate, fixtures, and personal property owned,
261 controlled, operated, or managed in connection with or to facilitate communication by
262 telegraph, whether that communication be had with or without the use of transmission wires.

263 ~~[(25)]~~ (26) (a) "Telephone corporation" means any corporation or person, and their
264 lessees, trustee, receivers, or trustees appointed by any court, who owns, controls, operates,
265 manages, or resells a public telecommunications service as defined in Section 54-8b-2.

266 (b) "Telephone corporation" does not mean a corporation, partnership, or firm
267 providing:

268 (i) intrastate telephone service offered by a provider of cellular, personal
269 communication systems (PCS), or other commercial mobile radio service as defined in 47
270 U.S.C. Sec. 332 that has been issued a covering license by the Federal Communications
271 Commission;

272 (ii) Internet service; or

273 (iii) resold intrastate toll service.

274 [~~(26)~~] (27) "Telephone line" includes all conduits, ducts, poles, wires, cables,
275 instruments, and appliances, and all other real estate, fixtures, and personal property owned,
276 controlled, operated, or managed in connection with or to facilitate communication by
277 telephone whether that communication is had with or without the use of transmission wires.

278 [~~(27)~~] (28) "Transportation of persons" includes every service in connection with or
279 incidental to the safety, comfort, or convenience of the person transported, and the receipt,
280 carriage, and delivery of that person and that person's baggage.

281 [~~(28)~~] (29) "Transportation of property" includes every service in connection with or
282 incidental to the transportation of property, including in particular its receipt, delivery,
283 elevation, transfer, switching, carriage, ventilation, refrigeration, icing, dunnage, storage, and
284 hauling, and the transmission of credit by express companies.

285 [~~(29)~~] (30) "Water corporation" includes every corporation and person, their lessees,
286 trustees, and receivers, owning, controlling, operating, or managing any water system for
287 public service within this state. It does not include private irrigation companies engaged in
288 distributing water only to their stockholders, or towns, cities, counties, water conservancy
289 districts, improvement districts, or other governmental units created or organized under any
290 general or special law of this state.

291 [~~(30)~~] (31) (a) "Water system" includes all reservoirs, tunnels, shafts, dams, dikes,
292 headgates, pipes, flumes, canals, structures, and appliances, and all other real estate, fixtures,
293 and personal property owned, controlled, operated, or managed in connection with or to
294 facilitate the diversion, development, storage, supply, distribution, sale, furnishing, carriage,
295 appointment, apportionment, or measurement of water for power, fire protection, irrigation,
296 reclamation, or manufacturing, or for municipal, domestic, or other beneficial use.

297 (b) "Water system" does not include private irrigation companies engaged in
298 distributing water only to their stockholders.

299 [~~(31)~~] (32) "Wholesale electrical cooperative" includes every electrical corporation that
300 is:

301 (a) in the business of the wholesale distribution of electricity it has purchased or
302 generated to its members and the public; and

303 (b) required to distribute or allocate savings in excess of additions to reserves and
304 surplus to members or patrons on the basis of patronage.

305 Section 2. Section **54-12-1** is amended to read:

306 **54-12-1. Legislative policy.**

307 (1) The Legislature declares that in order to promote the more rapid development of
308 new sources of electrical energy, to maintain the economic vitality of the state through the
309 continuing production of goods and the employment of its people, and to promote the efficient
310 utilization and distribution of energy, it is desirable and necessary to encourage independent
311 energy producers and qualifying power producers to competitively develop sources of electric
312 energy not otherwise available to Utah businesses, residences, and industries served by
313 electrical corporations, and to remove unnecessary barriers to energy transactions involving
314 independent energy producers, qualifying power producers, and electrical corporations.

315 (2) It is the policy of this state to encourage the development of independent and
316 qualifying power production and cogeneration facilities, to promote a diverse array of
317 economical and permanently sustainable energy resources in an environmentally acceptable
318 manner, and to conserve our finite and expensive energy resources and provide for their most
319 efficient and economic utilization.

320 Section 3. Section **54-12-2** is amended to read:

321 **54-12-2. Purchase of power from qualifying power producers.**

322 (1) Purchasing utilities shall offer to purchase power from qualifying power producers.

323 (2) The commission shall establish reasonable rates, terms, and conditions for the
324 purchase or sale of electricity or electrical generating capacity, or both, between a purchasing
325 utility and a qualifying power producer. In establishing these rates, terms, and conditions, the
326 commission shall either establish a procedure under which qualifying power producers offer
327 competitive bids for the sale of power to purchasing utilities or devise an alternative method
328 which considers the purchasing utility's avoided costs. The capacity component of avoided
329 costs shall reflect the purchasing utility's long-term deferral or cancellation of generating units
330 which may result from the purchase of power from qualifying power producers.

331 (3) Purchasing utilities and qualifying power producers may agree to rates, terms, or
332 conditions for the sale of electricity or electrical capacity which differ from the rates, terms,
333 and conditions adopted by the commission under Subsection (2).

334 (4) The commission may adopt further rules which encourage the development of
335 ~~small~~ qualifying power production and cogeneration facilities.

336 Section 4. Section **54-17-102** is amended to read:

337 **54-17-102. Definitions.**

338 As used in this chapter:

339 (1) "Affected electrical utility" means an electrical corporation with at least 200,000
340 retail customers in the state.

341 (2) "Benchmark option" means an energy resource against which bids in an open bid
342 process may be evaluated that:

343 (a) could be constructed or owned by:

344 (i) an affected electrical utility; or

345 (ii) an affiliate of an affected electrical utility; or

346 (b) may be a purchase of:

347 (i) electricity;

348 (ii) electric generating capacity; or

349 (iii) electricity and electric generating capacity.

350 (3) "Integrated resource plan" means a plan that contains:

351 (a) the demand and energy forecast by the affected electrical utility for at least a
352 ten-year period;

353 (b) the affected electrical utility's options for meeting the requirements shown in its
354 load and resource forecast in an economic and reliable manner, including:

355 (i) demand-side and supply-side options; and

356 (ii) a brief description and summary cost-benefit analysis, if available, of each option
357 that was considered;

358 (c) the affected electrical utility's assumptions and conclusions with respect to the
359 effect of the plan on the cost and reliability of energy service;

360 (d) a description of the external environmental and economic consequences of the plan
361 to the extent practicable; and

362 (e) any other data and analyses as the commission may require.

363 (4) "Significant energy resource" for an affected electrical utility means a resource that
364 consists of:

365 (a) a total of 100 megawatts or more of new generating capacity that has a dependable
366 life of ten or more years;

367 (b) a purchase of the following if the contract is for a term of ten or more years and not
368 less than 100 megawatts:

369 (i) electricity;

370 (ii) electric generating capacity; or

371 (iii) electricity and electrical generating capacity;

372 (c) the purchase or lease by an affected electrical utility from an affiliated company of:

373 (i) a [~~generating~~] generation facility;

374 (ii) electricity;

375 (iii) electrical generating capacity; or

376 (iv) electricity and electrical generating capacity;

377 (d) a contract with an option for the affected electrical utility or an affiliate to purchase
378 a resource that consists of not less than 100 megawatts or more of new generating capacity that
379 has a remaining dependable life of ten or more years; or

380 (e) a type of resource designated by the commission as a significant energy resource in
381 rules made by the commission in accordance with Title 63G, Chapter 3, Utah Administrative
382 Rulemaking Act, after considering the affected electrical utility's integrated resource plan and
383 action plan.

384 (5) "Solicitation" means a request for proposals or other invitation for persons to
385 submit a bid or proposal through an open bid process for construction or acquisition of a
386 significant energy resource.

387 Section 5. Section **54-17-201** is amended to read:

388 **54-17-201. Solicitation process required -- Exception.**

389 (1) (a) An affected electrical utility shall comply with this chapter to acquire or
390 construct a significant energy resource after February 25, 2005.

391 (b) Notwithstanding Subsection (1)(a), this chapter does not apply to a significant
392 energy resource for which the affected electrical utility has issued a solicitation before February
393 25, 2005.

394 (2) (a) Except as provided in Subsection (3), to acquire or construct a significant
395 energy resource, an affected electrical utility shall conduct a solicitation process that is
396 approved by the commission.

397 (b) To obtain the approval of the commission of a solicitation process, the affected

398 electrical utility shall file with the commission a request for approval that includes:

- 399 (i) a description of the solicitation process the affected electrical utility will use;
- 400 (ii) a complete proposed solicitation; and
- 401 (iii) any other information the commission requires by rule made in accordance with

402 Title 63G, Chapter 3, Utah Administrative Rulemaking Act.

403 (c) In ruling on the request for approval of a solicitation process, the commission shall
404 determine whether the solicitation process:

405 (i) complies with this chapter and rules made in accordance with Title 63G, Chapter 3,
406 Utah Administrative Rulemaking Act; and

407 (ii) is in the public interest taking into consideration:

408 (A) whether it will most likely result in the acquisition, production, and delivery of
409 electricity at the lowest reasonable cost to the retail customers of an affected electrical utility
410 located in this state;

411 (B) long-term and short-term impacts;

412 (C) risk;

413 (D) reliability;

414 (E) financial impacts on the affected electrical utility; and

415 (F) other factors determined by the commission to be relevant.

416 (d) Before approving a solicitation process under this section the commission:

417 (i) may hold a public hearing; and

418 (ii) shall provide an opportunity for public comment.

419 (e) As part of its review of a solicitation process, the commission may provide the
420 affected electrical utility guidance on any additions or changes to its proposed solicitation
421 process.

422 (f) Unless the commission determines that additional time to analyze a solicitation
423 process is warranted and is in the public interest, within 60 days of the day on which the
424 affected electrical utility files a request for approval of the solicitation process, the commission
425 shall:

426 (i) approve a proposed solicitation process;

427 (ii) suggest modifications to a proposed solicitation process; or

428 (iii) reject a proposed solicitation process.

429 (3) Notwithstanding Subsection (2), an affected electrical utility may acquire or
430 construct a significant energy resource without conducting a solicitation process if it obtains a
431 waiver of the solicitation requirement in accordance with Section 54-17-501.

432 (4) In accordance with the commission's authority under Subsection 54-12-2(2), the
433 commission shall determine:

434 (a) whether this chapter or another competitive bidding procedure shall apply to a
435 purchase of a significant energy resource by an affected electrical utility from a [small]
436 qualifying power producer or cogenerator; and

437 (b) if this chapter applies as provided in Subsection (4)(a), the manner in which this
438 chapter applies to a purchase of a significant energy resource by an affected electrical utility
439 from a [small] qualifying power producer or cogenerator.

440 Section 6. Section **54-17-601** is amended to read:

441 **54-17-601. Definitions.**

442 As used in this part:

443 (1) "Adjusted retail electric sales" means the total kilowatt-hours of retail electric sales
444 of an electrical corporation to customers in this state in a calendar year, reduced by:

445 (a) the amount of those kilowatt-hours attributable to electricity generated or purchased
446 in that calendar year from qualifying zero carbon emissions generation and qualifying carbon
447 sequestration generation;

448 (b) the amount of those kilowatt-hours attributable to electricity generated or purchased
449 in that calendar year from generation located within the geographic boundary of the Western
450 Electricity Coordinating Council that derives its energy from one or more of the following but
451 that does not satisfy the definition of a renewable energy source or that otherwise has not been
452 used to satisfy Subsection 54-17-602(1):

453 (i) wind energy;

454 (ii) solar photovoltaic and solar thermal energy;

455 (iii) wave, tidal, and ocean thermal energy;

456 (iv) except for combustion of wood that has been treated with chemical preservatives
457 such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass
458 byproducts, including:

459 (A) organic waste;

460 (B) forest or rangeland woody debris from harvesting or thinning conducted to improve
461 forest or rangeland ecological health and to reduce wildfire risk;

462 (C) agricultural residues;

463 (D) dedicated energy crops; and

464 (E) landfill gas or biogas produced from organic matter, wastewater, anaerobic
465 digesters, or municipal solid waste;

466 (v) geothermal energy;

467 (vi) hydroelectric energy; or

468 (vii) waste gas and waste heat capture or recovery; and

469 (c) the number of kilowatt-hours attributable to reductions in retail sales in that
470 calendar year from demand side management as defined in Section 54-7-12.8, with the
471 kilowatt-hours for an electrical corporation whose rates are regulated by the commission and
472 adjusted by the commission to exclude kilowatt-hours for which a renewable energy certificate
473 is issued under Subsection 54-17-603(4)(b).

474 (2) "Amount of kilowatt-hours attributable to electricity generated or purchased in that
475 calendar year from qualifying carbon sequestration generation," for qualifying carbon
476 sequestration generation, means the kilowatt-hours supplied by a facility during the calendar
477 year multiplied by the ratio of the amount of carbon dioxide captured from the facility and
478 sequestered to the sum of the amount of carbon dioxide captured from the facility and
479 sequestered plus the amount of carbon dioxide emitted from the facility during the same
480 calendar year.

481 (3) "Banked renewable energy certificate" means a bundled or unbundled renewable
482 energy certificate that is:

483 (a) not used in a calendar year to comply with this part or with a renewable energy
484 program in another state; and

485 (b) carried forward into a subsequent year.

486 (4) "Bundled renewable energy certificate" means a renewable energy certificate for
487 qualifying electricity that is acquired:

488 (a) by an electrical corporation by a trade, purchase, or other transfer of electricity that
489 includes the renewable energy attributes of, or certificate that is issued for, the electricity; or

490 (b) by an electrical corporation by generating the electricity for which the renewable

491 energy certificate is issued.

492 (5) "Electrical corporation":

493 (a) is as defined in Section 54-2-1; and

494 (b) does not include a person generating electricity that is not for sale to the public.

495 (6) "Qualifying carbon sequestration generation" means a fossil-fueled [~~generating~~]

496 generation facility located within the geographic boundary of the Western Electricity

497 Coordinating Council that:

498 (a) becomes operational or is retrofitted on or after January 1, 2008; and

499 (b) reduces carbon dioxide emissions into the atmosphere through permanent
500 geological sequestration or through another verifiably permanent reduction in carbon dioxide
501 emissions through the use of technology.

502 (7) "Qualifying electricity" means electricity generated on or after January 1, 1995

503 from a renewable energy source if:

504 (a) (i) the renewable energy source is located within the geographic boundary of the
505 Western Electricity Coordinating Council; or

506 (ii) the qualifying electricity is delivered to the transmission system of an electrical
507 corporation or a delivery point designated by the electrical corporation for the purpose of
508 subsequent delivery to the electrical corporation; and

509 (b) the renewable energy attributes of the electricity are not traded, sold, transferred, or
510 otherwise used to satisfy another state's renewable energy program.

511 (8) "Qualifying zero carbon emissions generation":

512 (a) means a generation facility located within the geographic boundary of the Western
513 Electricity Coordinating Council that:

514 (i) becomes operational on or after January 1, 2008; and

515 (ii) does not produce carbon as a byproduct of the generation process;

516 (b) includes generation powered by nuclear fuel; and

517 (c) does not include renewable energy sources used to satisfy the requirement
518 established under Subsection 54-17-602(1).

519 (9) "Renewable energy certificate" means a certificate issued under Section 54-17-603.

520 (10) "Renewable energy source" means:

521 (a) an electric generation facility or generation capability or upgrade that becomes

522 operational on or after January 1, 1995 that derives its energy from one or more of the
523 following:

- 524 (i) wind energy;
- 525 (ii) solar photovoltaic and solar thermal energy;
- 526 (iii) wave, tidal, and ocean thermal energy;
- 527 (iv) except for combustion of wood that has been treated with chemical preservatives
528 such as creosote, pentachlorophenol or chromated copper arsenate, biomass and biomass
529 byproducts, including:
 - 530 (A) organic waste;
 - 531 (B) forest or rangeland woody debris from harvesting or thinning conducted to improve
532 forest or rangeland ecological health and to reduce wildfire risk;
 - 533 (C) agricultural residues;
 - 534 (D) dedicated energy crops; and
 - 535 (E) landfill gas or biogas produced from organic matter, wastewater, anaerobic
536 digesters, or municipal solid waste;
- 537 (v) geothermal energy located outside the state;
- 538 (vi) waste gas and waste heat capture or recovery; or
- 539 (vii) efficiency upgrades to a hydroelectric facility, without regard to the date upon
540 which the facility became operational, if the upgrades become operational on or after January
541 1, 1995;

- 542 (b) any of the following:
 - 543 (i) up to 50 average megawatts of electricity per year per electrical corporation from a
544 certified low-impact hydroelectric facility, without regard to the date upon which the facility
545 becomes operational, if the facility is certified as a low-impact hydroelectric facility on or after
546 January 1, 1995, by a national certification organization;
 - 547 (ii) geothermal energy if located within the state, without regard to the date upon which
548 the facility becomes operational; or
 - 549 (iii) hydroelectric energy if located within the state, without regard to the date upon
550 which the facility becomes operational;
- 551 (c) hydrogen gas derived from any source of energy described in Subsection (10)(a) or
552 (b);

553 (d) if an electric generation facility employs multiple energy sources, that portion of the
554 electricity generated that is attributable to energy sources described in Subsections (10)(a)
555 through (c); and

556 (e) any of the following located in the state and owned by a user of energy:

557 (i) a demand side management measure, as defined by Subsection 54-7-12.8(1), with
558 the quantity of renewable energy certificates to which the user is entitled determined by the
559 equivalent energy saved by the measure;

560 (ii) a solar thermal system that reduces the consumption of fossil fuels, with the
561 quantity of renewable energy certificates to which the user is entitled determined by the
562 equivalent kilowatt-hours saved, except to the extent the commission determines otherwise
563 with respect to net-metered energy;

564 (iii) a solar photovoltaic system that reduces the consumption of fossil fuels with the
565 quantity of renewable energy certificates to which the user is entitled determined by the total
566 production of the system, except to the extent the commission determines otherwise with
567 respect to net-metered energy;

568 (iv) a hydroelectric or geothermal facility with the quantity of renewable energy
569 certificates to which the user is entitled determined by the total production of the facility,
570 except to the extent the commission determines otherwise with respect to net-metered energy;

571 (v) a waste gas or waste heat capture or recovery system, other than from a combined
572 cycle combustion turbine that does not use waste gas or waste heat, with the quantity of
573 renewable energy certificates to which the user is entitled determined by the total production of
574 the system, except to the extent the commission determines otherwise with respect to
575 net-metered energy; and

576 (vi) the station use of solar thermal energy, solar photovoltaic energy, hydroelectric
577 energy, geothermal energy, waste gas, or waste heat capture and recovery.

578 (11) "Unbundled renewable energy certificate" means a renewable energy certificate
579 associated with:

580 (a) qualifying electricity that is acquired by an electrical corporation or other person by
581 trade, purchase, or other transfer without acquiring the electricity for which the certificate was
582 issued; or

583 (b) activities listed in Subsection (10)(e).

584 Section 7. Section **63E-1-102** is amended to read:

585 **63E-1-102. Definitions.**

586 As used in this title:

587 (1) "Authorizing statute" means the statute creating an entity as an independent entity.

588 (2) "Committee" means the Retirement and Independent Entities Committee created in
589 Section 63E-1-201.

590 (3) "Independent corporation" means a corporation incorporated in accordance with
591 Chapter 2, Independent Corporations Act.

592 (4) (a) "Independent entity" means an entity having a public purpose relating to the
593 state or its citizens that is individually created by the state or is given by the state the right to
594 exist and conduct its affairs as an:

595 (i) independent state agency; or

596 (ii) independent corporation.

597 (b) "Independent entity" includes the:

598 (i) Dairy Commission created in Title 4, Chapter 22, Dairy Promotion Act;

599 (ii) Heber Valley Railroad Authority created in Title 9, Chapter 3, Part 3, Heber Valley
600 Historic Railroad Authority;

601 (iii) Utah Science Center Authority created in Title 9, Chapter 3, Part 4, Utah Science
602 Center Authority;

603 (iv) Utah Housing Corporation created in Title 9, Chapter 4, Part 9, Utah Housing
604 Corporation Act;

605 (v) Utah State Fair Corporation created in Title 9, Chapter 4, Part 11, Utah State Fair
606 Corporation Act;

607 (vi) Workers' Compensation Fund created in Title 31A, Chapter 33, Workers'
608 Compensation Fund;

609 (vii) Utah State Retirement Office created in Title 49, Chapter 11, Utah State
610 Retirement Systems Administration;

611 (viii) School and Institutional Trust Lands Administration created in Title 53C,
612 Chapter 1, Part 2, School and Institutional Trust Lands Administration;

613 (ix) Utah Communications Agency Network created in Title 63C, Chapter 7, Utah
614 Communications Agency Network Act; [~~and~~]

646 Authority Act."

647 Section 9. Section **63H-2-102** is enacted to read:

648 **63H-2-102. Definitions.**

649 As used in this chapter:

650 (1) "Authority" means the Utah Generated Renewable Energy Electricity Network
651 Authority created in Section 63H-2-201.

652 (2) "Authority bond" means a bond issued by the authority in accordance with Part 4.

653 Bonding.

654 (3) "Board" means the board created under Section 63H-2-202.

655 (4) "Community" means the county, city, or town in which is located a qualifying
656 transmission project financed by an authority bond.

657 (5) "Electric interlocal entity" means an interlocal entity defined in Section 11-13-103.

658 (6) "Generation facility" is as defined in Section 54-2-1.

659 (7) "Independent state agency" is as defined in Section 63E-1-102.

660 (8) "Public entity" means:

661 (a) the United States or an agency of the United States;

662 (b) the state or an agency of the state;

663 (c) a political subdivision of the state or an agency of a political subdivision of the
664 state;

665 (d) another state or an agency of that state; or

666 (e) a political subdivision of another state or an agency of that political subdivision.

667 (9) "Qualifying transmission project" means a transmission project approved by the
668 board in accordance with Part 3, Qualifying Transmission Projects.

669 (10) "Record" means information that is:

670 (a) inscribed on a tangible medium; or

671 (b) (i) stored in an electronic or other medium; and

672 (ii) retrievable in perceivable form.

673 (11) "Related facility" means a facility related to the effective operation of a
674 transmission line although the facility is not directly a part of a transmission line, including:

675 (a) a substation; or

676 (b) an access road.

677 (12) "Renewable energy resource" is as defined in Section 10-19-102.

678 (13) "Transmission project" means a project that is designed to:

679 (a) increase capacity for transmission of electric power or energy to an electric load

680 within this state; or

681 (b) otherwise increase the capability of an existing electric transmission line or related

682 facility to transmit electric power and energy from a renewal energy resource located to electric

683 load:

684 (i) within this state; or

685 (ii) outside of the state.

686 (14) "Wholesale electrical cooperative" is as defined in Section 54-2-1.

687 Section 10. Section **63H-2-201** is enacted to read:

688 **Part 2. Organization or Dissolution**

689 **63H-2-201. Creation of Utah Generated Renewable Energy Electricity Network**

690 **Authority.**

691 (1) There is created an independent state agency known as the "Utah Generated

692 Renewable Energy Electricity Network Authority."

693 (2) Subject to Section 63H-2-203, the authority may:

694 (a) sue and be sued;

695 (b) enter into contracts generally;

696 (c) (i) accept financial or other assistance from a public or private source for the

697 authority's activities, powers, and duties; and

698 (ii) expend monies received under Subsection (2)(c)(i) for a qualifying transmission

699 project;

700 (d) (i) for the purpose of studying a qualifying transmission project, borrow money or

701 accept financial or other assistance from:

702 (A) a public entity; or

703 (B) any other source; and

704 (ii) comply with a condition of a loan or assistance described in Subsection (2)(d)(i);

705 (e) in accordance with Part 4, Bonding, issue one or more bonds to finance a qualifying

706 transmission project;

707 (f) hire one or more employees, including:

- 708 (i) a contract employee; and
709 (ii) legal counsel;
710 (g) enter into a partnership agreement with a business entity related to a qualifying
711 transmission project;
712 (h) enter into an agreement with a public entity related to a qualifying transmission
713 project;
714 (i) use monies available to the authority:
715 (i) for administrative, overhead, legal, or other operating expenses of the authority; and
716 (ii) to pay the principal and interest on an authority bond;
717 (j) create one or more subsidiaries to engage in an activity that the authority may
718 engage in under this chapter;
719 (k) transact other business related to a qualifying transmission project; or
720 (l) exercise a power provided for in this chapter.
721 (3) Unless expressly provided in this chapter, the state is not liable for an obligation,
722 expense, debt, or liability of the authority.
723 Section 11. Section **63H-2-202** is enacted to read:
724 **63H-2-202. Authority board.**
725 (1) There is created a board of the authority that consists of seven members, appointed
726 by the governor, except that the governor shall appoint:
727 (a) one member from the Governor's Office of Economic Development;
728 (b) three members from a public utility or electric interlocal entity that operates electric
729 transmission facilities within the state as follows:
730 (i) one member is to be appointed from recommendations from an investor-owned
731 electric corporation that operates in this state;
732 (ii) one member is to be appointed from recommendations from a wholesale electrical
733 cooperative in the state; and
734 (iii) one member is to be appointed from recommendations from an electric interlocal
735 entity;
736 (c) one member of the School and Institutional Trust Lands Board of Trustees created
737 in Section 53C-1-202;
738 (d) one member of a business entity that produces a renewable energy resource; and

- 739 (e) one member of the general public.
- 740 (2) (a) The term of a board member is four years.
- 741 (b) Notwithstanding Subsection (2)(a), the governor shall, at the time of appointment
742 or reappointment, adjust the length of terms to ensure that the terms of board members are
743 staggered so that approximately half of the board is appointed every two years.
- 744 (c) The governor may remove a member of the board for cause.
- 745 (d) The governor shall fill a vacancy in the board in the same manner under this section
746 as the appointment of the member whose vacancy is being filled.
- 747 (e) An individual appointed to fill a vacancy shall serve the remaining unexpired term
748 of the member whose vacancy the individual is filling.
- 749 (f) A board member shall serve until a successor is appointed and qualified.
- 750 (3) The governor shall appoint a member of the board to be the chair of the board,
751 except that the member appointed as chair must be the member appointed under Subsection
752 (1)(a).
- 753 (4) (a) Four members of the board is a quorum for conducting board business.
- 754 (b) A majority vote of the quorum present is required for an action to be taken by the
755 board.
- 756 (5) (a) The board shall meet at least quarterly on a date the board sets.
- 757 (b) The chair of the board or any two members of the board may call additional
758 meetings.
- 759 (6) (a) (i) A member who is not a government employee may not receive compensation
760 or benefits for the member's service, but may receive per diem and expenses incurred in the
761 performance of the member's official duties at the rates established by the Division of Finance
762 under Sections 63A-3-106 and 63A-3-107.
- 763 (ii) A member who is not a government employee may decline to receive per diem and
764 expenses for the member's service.
- 765 (b) (i) A state government officer or employee member who does not receive salary,
766 per diem, or expenses from the agency the member represents for the member's service may
767 receive per diem and expenses incurred in the performance of the member's official duties at
768 the rates established by the Division of Finance under Sections 63A-3-106 and 63A-3-107.
- 769 (ii) A state government officer or employee member may decline to receive per diem

770 and expenses for the member's service.

771 Section 12. Section **63H-2-203** is enacted to read:

772 **63H-2-203. Powers of the board and authority -- Officers.**

773 (1) (a) The authority is governed by the board.

774 (b) Only the board may exercise a power of the authority.

775 (2) Subject to the other provisions of this chapter, the board shall:

776 (a) manage and conduct the activities of the authority; and

777 (b) determine the policies of the authority.

778 (3) In accordance with Title 63G, Chapter 3, Utah Administrative Rulemaking Act, the
779 board may make rules necessary to implement this chapter.

780 (4) The board may:

781 (a) appoint one or more officers and employees required for the performance of the
782 board's duties under this chapter; and

783 (b) fix and determine the qualifications and duties of an officer or employee described
784 in Subsection (4)(a).

785 Section 13. Section **63H-2-204** is enacted to read:

786 **63H-2-204. Dissolution of authority.**

787 (1) Subject to the other provisions of this section, the board may dissolve the authority:

788 (a) if the board determines that the authority can no longer comply with the
789 requirements of this chapter; and

790 (b) by a vote of at least five members of the board.

791 (2) The authority may not be dissolved if the authority has any of the following:

792 (a) an outstanding bonded indebtedness;

793 (b) an unpaid loan, indebtedness, or advance; or

794 (c) a legally binding contractual obligation with a person other than the state.

795 (3) Upon the dissolution of the authority:

796 (a) the Governor's Office of Economic Development shall publish a notice of
797 dissolution in a newspaper of general circulation in each county in which a qualifying

798 transmission project is located; and

799 (b) the authority shall deposit its record with the state auditor, to be retained for the
800 time period determined by the state auditor.

801 (4) The authority shall pay the expenses of dissolution and winding up the affairs of the
802 authority.

803 (5) If a dissolution under this section is part of a privatization of the authority, the
804 dissolution is subject to Title 63E, Chapter 1, Part 4, Privatization of Independent Entities.

805 Section 14. Section **63H-2-301** is enacted to read:

806 **Part 3. Qualifying Transmission Projects**

807 **63H-2-301. Prioritization of transmission projects.**

808 (1) The board shall review the location and availability of renewable energy resources
809 servicing electric loads in the state.

810 (2) The board shall:

811 (a) determine if there is adequate transmission infrastructure and capacity to bring
812 renewable energy resources to market;

813 (b) prioritize transmission projects on the basis of:

814 (i) location;

815 (ii) supporting potential renewable energy resource development;

816 (iii) feasibility of development; and

817 (iv) economic development factors; and

818 (c) provide available funding to develop energy resource plans to provide for
819 connecting to transmission lines a renewable energy resource, including development of an
820 integrated resource plan.

821 Section 15. Section **63H-2-302** is enacted to read:

822 **63H-2-302. Approval of qualifying transmission project.**

823 To approve a qualifying transmission project, the board shall determine that the
824 transmission project:

825 (1) contributes to the economic development of the state and community where the
826 transmission project is located;

827 (2) is strategically situated to maximize connections to a renewal energy resource
828 generation facility that is:

829 (a) existing;

830 (b) under construction;

831 (c) planned; or

- 832 (d) foreseeable;
- 833 (3) is supported by a business case for providing the revenue necessary to:
- 834 (a) service an authority bond issued to finance the transmission project; and
- 835 (b) finance the construction and operation of a transmission project;
- 836 (4) is supported by a transmission project plan related to:
- 837 (a) engineering;
- 838 (b) environmental issues;
- 839 (c) energy production;
- 840 (d) load capacity; and
- 841 (e) any other issue related to the building and operation of a transmission line; and
- 842 (5) complies with the regulations of the following regarding the building of a
- 843 transmission line or connection:
- 844 (a) the Federal Energy Regulatory Commission;
- 845 (b) the North American Electric Reliability Council; and
- 846 (c) the Public Service Commission of Utah.

847 Section 16. Section **63H-2-401** is enacted to read:

848 **Part 4. Bonding**

849 **63H-2-401. Resolution authorizing issuance of authority bond -- Characteristics**
850 **of bond.**

- 851 (1) (a) The authority may issue a bond subject to the requirements of this part to
- 852 finance, in whole or in part, a qualifying transmission project.
- 853 (b) The authority may not issue a bond under this part unless before the issuance of the
- 854 bond, the board adopts a resolution authorizing the issuance of the bond.
- 855 (2) (a) If provided in a resolution authorizing the issuance of an authority bond or in
- 856 the trust indenture under which the authority bond is issued, an authority bond may be:
- 857 (i) issued in one or more series; and
- 858 (ii) sold:
- 859 (A) at a public or private sale; and
- 860 (B) in the manner provided in the resolution or indenture.
- 861 (b) An authority bond shall:
- 862 (i) bear the date provided in the resolution authorizing the issuance of the authority

863 bond or the trust indenture under which the authority bond is issued;

864 (ii) be payable at the time provided in the resolution authorizing the issuance of the
865 authority bond or the trust indenture under which the authority bond is issued;

866 (iii) bear interest at the rate provided in the resolution authorizing the issuance of the
867 authority bond or the trust indenture under which the authority bond is issued;

868 (iv) be in the denomination and in the form provided in the resolution authorizing the
869 issuance of the authority bond or the trust indenture under which the authority bond is issued;

870 (v) carry the conversion or registration privileges provided in the resolution authorizing
871 the issuance of the authority bond or the trust indenture under which the authority bond is
872 issued;

873 (vi) have the rank or priority as provided in the resolution authorizing the issuance of
874 the authority bond or the trust indenture under which the authority bond is issued;

875 (vii) be executed in the manner as provided in the resolution authorizing the issuance
876 of the authority bond or the trust indenture under which the authority bond is issued;

877 (viii) be subject to the terms of redemption or tender, with or without premium, as
878 provided in the resolution authorizing the issuance of the authority bond or the trust indenture
879 under which the authority bond is issued;

880 (ix) be payable in the medium of payment and at the place as provided in the resolution
881 authorizing the issuance of the authority bond or the trust indenture under which the authority
882 bond is issued; and

883 (x) have other characteristics as provided in the resolution authorizing the issuance of
884 the authority bond or the trust indenture under which the authority bond is issued.

885 Section 17. Section **63H-2-402** is enacted to read:

886 **63H-2-402. Sources from which an authority bond may be made payable --**

887 **Authority powers regarding authority bond.**

888 (1) The principal and interest on an authority bond may be made payable from:

889 (a) the income and revenues related to a qualifying transmission project financed with
890 the proceeds of the authority bond;

891 (b) the income and revenues from a public or private source under 63H-2-201(2)(c);

892 (c) a contribution, loan, grant, or other financial assistance from a public entity under
893 63H-2-201(2)(d);

- 894 (d) authority revenues generally; or
895 (e) monies derived from a combination of the methods listed in Subsections (1)(a)
896 through (d).
- 897 (2) In connection with the issuance of an authority bond, the authority may:
898 (a) pledge all or any part of the authority's gross or net revenues to which the authority:
899 (i) has a right that exists at issuance of the authority bond; or
900 (ii) may have a right that comes into existence after issuance of the authority bond; and
901 (b) even if a covenant or action is not specifically enumerated in this chapter, make a
902 covenant or take an action that:
903 (i) may be necessary, convenient, or desirable to secure the authority bond; or
904 (ii) except as otherwise provided in this chapter, will tend to make the authority bond
905 more marketable.
- 906 (3) A member of the board or other person executing an authority bond is not liable
907 personally on the authority bond.
- 908 (4) (a) An authority bond:
909 (i) is not a general obligation or liability of the state or any of the state's political
910 subdivisions; and
911 (ii) does not constitute a charge against the general credit or taxing powers of the state
912 or any of the state's political subdivisions.
- 913 (b) An authority bond is not payable out of monies or properties other than those of the
914 authority.
- 915 (c) A community, the state, or a political subdivision of the state may not be liable on
916 an authority bond.
- 917 (d) An authority bond does not constitute indebtedness within the meaning of a
918 constitutional or statutory debt limitation.
- 919 (5) An authority bond is fully negotiable.
- 920 (6) An authority bond is:
921 (a) issued for an essential public and governmental purpose; and
922 (b) together with interest on the authority bond and income from the authority bond,
923 exempt from state taxes except the corporate franchise tax.
- 924 (7) Nothing in this section may be construed to limit the right of an obligee to pursue a

925 remedy for the enforcement of a pledge or lien given under this part by the authority on the
926 authority's rents, fees, grants, properties, or revenues.

927 Section 18. Section **63H-2-403** is enacted to read:

928 **63H-2-403. Purchaser of an authority bond.**

929 (1) The following may purchase an authority bond with funds owned or controlled by
930 the purchaser:

931 (a) a person;

932 (b) a political subdivision of the state;

933 (c) another entity; or

934 (d) a public or private officer.

935 (2) Nothing in this section or Section 63H-2-402 may be construed to relieve a
936 purchaser of an authority bond of a duty to exercise reasonable care in selecting securities.

937 (3) The authority may purchase its own authority bond at a price that the board
938 determines.

939 Section 19. Section **63H-2-404** is enacted to read:

940 **63H-2-404. Obligee rights -- Board may confer other rights.**

941 (1) In addition to a right that is conferred on an obligee of an authority bond under this
942 chapter and subject to contractual restrictions binding on the obligee, an obligee may:

943 (a) by mandamus, suit, action, or other proceeding:

944 (i) compel the authority and its board, officers, agents, or employees to perform every
945 term, provision, and covenant contained in a contract of the authority with or for the benefit of
946 the obligee; and

947 (ii) require the authority to carry out the covenants and agreements of the authority and
948 to fulfill the duties imposed on the authority by this part; and

949 (b) by suit, action, or proceeding in equity, enjoin an act or things that may be unlawful
950 or violate the rights of the obligee.

951 (2) (a) In a resolution authorizing the issuance of an authority bond or in a trust
952 indenture, mortgage, lease, or other contract, the board may confer upon an obligee holding or
953 representing a specified amount in an authority bond, a right described in Subsection (2)(b):

954 (i) to accrue upon the happening of an event or default prescribed in the resolution,
955 indenture, mortgage, lease, or other contract; and

956 (ii) to be exercised by suit, action, or proceeding in a court of competent jurisdiction.

957 (b) (i) A right that the board may confer under Subsection (2)(a) is a right to:

958 (A) cause possession of all or part of a qualifying transmission project to be

959 surrendered to an obligee;

960 (B) obtain the appointment of a receiver of all or part of:

961 (I) a qualifying transmission project; and

962 (II) the rents and profits from a qualifying transmission project; and

963 (C) require the authority, its board, and its employees to account as if the authority,

964 board, and employees were the trustees of an express trust.

965 (ii) If a receiver is appointed through the exercise of a right granted under Subsection

966 (2)(b)(i)(B), the receiver:

967 (A) may:

968 (I) enter and take possession of a qualifying transmission project or any part of the

969 qualifying transmission project;

970 (II) operate and maintain the qualifying transmission project; and

971 (III) collect and receive the fees, rents, revenues, or other charges arising from the

972 qualifying transmission project after the receiver's appointment; and

973 (B) shall:

974 (I) keep money collected as receiver for the authority in one or more separate accounts;

975 and

976 (II) apply the monies collected as receiver pursuant to the authority obligations as the

977 court directs.

978 Section 20. Section **63H-2-501** is enacted to read:

979 **Part 5. General Operational Requirements**

980 **63H-2-501. Fiscal year.**

981 The authority's fiscal year is the period:

982 (1) beginning on July 1; and

983 (2) ending on June 30 of the following calendar year.

984 Section 21. Section **63H-2-502** is enacted to read:

985 **63H-2-502. Annual authority budget -- Auditor forms -- Requirement to file form.**

986 (1) (a) The authority shall prepare an annual budget of revenues and expenditures for

987 the authority for each fiscal year.

988 (b) Before June 22 of each year and subject to the other provisions of this section, the
989 board shall adopt an annual budget of revenues and expenditures of the authority for the
990 immediately following fiscal year.

991 (2) (a) Before adopting an annual budget, the board shall hold a public hearing on the
992 annual budget.

993 (b) Before holding the public hearing required by this Subsection (2), the board shall
994 post notice of the public hearing on the Utah Public Notice Website created under Section
995 63F-1-701 no less than 14 days before the day on which the public hearing is to be held.

996 (3) The state auditor shall prescribe the budget forms and the categories to be contained
997 in each annual budget of the authority, including:

998 (a) revenues and expenditures for the budget year;

999 (b) the outstanding bonds and related expenses;

1000 (c) legal fees; and

1001 (d) administrative costs, including:

1002 (i) rent;

1003 (ii) supplies;

1004 (iii) other materials; and

1005 (iv) salaries of authority personnel.

1006 (4) Within 30 days after adopting an annual budget, the board shall file a copy of the
1007 annual budget with:

1008 (a) the State Tax Commission; and

1009 (b) the state auditor.

1010 (5) (a) Subject to Subsection (5)(b), the board may by resolution amend an annual
1011 budget of the authority.

1012 (b) The board may make an amendment of an annual budget that would increase total
1013 expenditures of the authority only after:

1014 (i) holding a public hearing; and

1015 (ii) before holding the public hearing required by this Subsection (5)(b), posting notice
1016 of the public hearing on the Utah Public Notice Website created under Section 63F-1-701 no
1017 less than 14 days before the day on which the public hearing is to be held.

1018 (6) The authority may not make expenditures in excess of the total expenditures
1019 established in the annual budget as it is adopted or amended.
1020 Section 22. Section **63H-2-503** is enacted to read:
1021 **63H-2-503. Audits.**
1022 The authority shall comply with the audit requirements of Title 51, Chapter 2a,
1023 Accounting Reports from Political Subdivisions, Interlocal Organizations, and Other Local
1024 Entities Act.
1025 Section 23. Section **63H-2-504** is enacted to read:
1026 **63H-2-504. Relation to other state statutes.**
1027 (1) The authority is subject to review by the Retirement and Independent Entities
1028 Committee in accordance with Title 63E, Chapter 1, Independent Entities Act.
1029 (2) The authority is subject to:
1030 (a) Title 51, Chapter 5, Funds Consolidation Act;
1031 (b) Title 51, Chapter 7, State Money Management Act;
1032 (c) Title 52, Chapter 4, Open and Public Meetings Act;
1033 (d) Title 63A, Utah Administrative Services Code;
1034 (e) Title 63G, Chapter 2, Government Records Access and Management Act;
1035 (f) Title 63G, Chapter 3, Utah Administrative Rulemaking Act;
1036 (g) Title 63G, Chapter 4, Administrative Procedures Act;
1037 (h) Title 63G, Chapter 6, Utah Procurement Code;
1038 (i) Title 63J, Chapter 1, Budgetary Procedures Act;
1039 (j) Title 63J, Chapter 2, Revenue Procedures and Control Act; and
1040 (k) Title 67, Chapter 19, Utah Personnel Management Act.