

HB0044S03 compared with HB0044S02

~~{deleted text}~~ shows text that was in HB0044S02 but was deleted in HB0044S03.

inserted text shows text that was not in HB0044S02 but was inserted into HB0044S03.

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~~{Representative Stephen G. Handy}~~Senator Curtis S. Bramble proposes the following substitute bill:

INTERSTATE ELECTRIC TRANSMISSION LINES

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: ~~{~~Curtis S. Bramble~~}~~

LONG TITLE

General Description:

This bill enacts language related to a conditional use application for a merchant electric transmission line.

Highlighted Provisions:

This bill:

- ▶ defines terms;~~{and}~~
- ▶ requires an applicant for a merchant electric transmission line to include with the land use application a certificate of in-state need from the Office of Energy Development~~{with the land use application.~~

~~{~~and~~}~~

- ▶ requires an applicant for a certificate of in-state need to demonstrate that the

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applicant can fulfill present and future needs or has designated an appropriate location of transmission interconnection for in-state merchant generators; and

▶ makes technical corrections.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

17-27a-506, as last amended by Laws of Utah 2005, Chapter 245 and renumbered and amended by Laws of Utah 2005, Chapter 254

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

Section 1. Section **17-27a-506** is amended to read:

17-27a-506. Conditional uses -- Merchant electric transmission line.

(1) As used in this section:

(a) "Certificate of in-state need" means a certificate issued by the office in accordance with Subsection (5) or (6).

(b) "Expression of need" means a document prepared and submitted by an in-state merchant generator that describes or otherwise documents:

(i) present and future transmission needs from a proposed merchant electric transmission line;

(ii) the state and local economic impacts resulting from the use of the transmission in the in-state merchant generator project; and

(iii) that the in-state merchant generator has received one or more required permits or other approval condition required by a state or local authority for an in-state merchant generation project.

(c) "In-state merchant generator" or "in-state merchant generation" means an electric power provider that generates power in Utah and does not provide service to retail customers within the boundaries of Utah.

(d) "Merchant electric transmission line" means a transmission line that does not

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provide electricity to retail customers within the boundaries of Utah.

(e) "Office" means the Office of Energy Development established in Section 63M-4-401.

~~[(+)]~~ (2) A land use ordinance may include conditional uses and provisions for conditional uses that require compliance with standards set forth in an applicable ordinance.

~~[(2)]~~ (3) (a) A conditional use shall be approved if reasonable conditions are proposed, or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed use in accordance with applicable standards.

(b) If the reasonably anticipated detrimental effects of a proposed conditional use cannot be substantially mitigated by the proposal or the imposition of reasonable conditions to achieve compliance with applicable standards, the conditional use may be denied.

~~{3}~~ (a) As used in this Subsection (3):

~~——~~ (i) "Certificate of in-state need" means a certificate issued by the office in accordance with this Subsection (3) certifying that a proposed merchant electric transmission line can fulfill present and future in-state electric power needs as demonstrated by an expression of need.

~~——~~ (ii) "In-state merchant generator" or "in-state merchant generation" means an electric power provider that generates power in Utah and does not provide service to retail customers within the boundaries of Utah.

~~——~~ (iii) "Merchant electric transmission line" means a transmission line that does not provide electricity to retail customers within the boundaries of Utah.

~~——~~ (iv) "Expression of need" means a document prepared and submitted by an in-state merchant generator that describes or otherwise documents:

~~——~~ (A) present and future transmission needs from a proposed merchant electric transmission line;

~~——~~ (B) the state and local economic impacts resulting from the use of the transmission in the in-state merchant generator project; and

~~——~~ (C) that the in-state merchant generator has received one or more required permits or other approval condition required by a state or local authority for an in-state merchant generation project.

~~——~~ (v) "Office" means the Office of Energy Development established in Section

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~~63M-4-401-~~

~~(b)4(a)~~ A county may not consider a land use application for a conditional use for a proposed merchant electric transmission line unless the person filing the application includes a certificate of in-state need for that merchant electric transmission line.

~~(c)b(i)~~ To receive a certificate of in-state need, the person described in Subsection ~~(3)4(b)a~~ shall request a certificate of in-state need from the office by filing a written request that describes the proposed merchant electric transmission line and includes:

~~(A)~~ the name and contact information of the person;

~~(d); and~~

~~(B) whether the person proposes to qualify for the certificate by demonstrating that the person can fulfill present and future needs in accordance with Subsection (5) or by designating an appropriate location of transmission interconnection in accordance with Subsection (6).~~

~~(ii) A person may, under this section, qualify for a certificate of in-state need by complying with Subsection (5) or (6).~~

~~(c) (i)~~ If the office receives a request described in Subsection ~~(3)4(c)b(i)~~, the office shall:

~~(A)~~ publish notice on the Utah Public Notice Website created under Section 63F-1-701 that the office has received a request for a certificate of in-state need;

~~(B)~~ identify the requesting person and briefly describe the proposed merchant electric transmission line; and

~~(C)~~ include contact information and provide the deadline date for submission as described in Subsection ~~(3)4(c)(ii)(A)~~ for an in-state merchant generator to submit an expression of need for the merchant electric transmission line.

~~(ii)~~ An in-state merchant generator that submits an expression of need under Subsection ~~(3)4(d)c(i)(C)~~ shall:

~~(A)~~ submit the expression of need no later than 30 days after the public notice is published in accordance with Subsection ~~(3)4(d)c(i)(A)~~; and

~~(B)~~ include a description of the in-state merchant generator's project or proposed project.

~~(c)d)~~ No later than 30 days after the expiration of the 30-day period described in Subsection ~~(3)4(d)c(ii)(A)~~, the office shall:

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(i) review all expressions of need submitted under Subsection ~~(3)4~~~~(d)c~~(i)(C); and
(ii) calculate the present and future needs of each in-state merchant generator based on each submitted expression of need.

~~(f)5~~ (a) A person described in Subsection ~~(3)c~~~~4~~(b)(i), who indicated under Subsection (4)(b)(i)(B) that the person proposed to qualify for a certificate of in-state need by complying with this Subsection (5), shall no later than 180 days after notice is published in accordance with Subsection ~~(3)4~~~~(d)c~~(i)(A) submit a copy of each signed transmission agreement for in-state merchant generation entered into with the person.

~~(g)b~~ No later than 15 days after the expiration of the 180-day period described in Subsection ~~(3)5~~~~(f)a~~, the office shall determine whether the person described in Subsection ~~(3)4~~~~(c)b~~(i) has demonstrated in the submitted agreements for in-state merchant generation that the person can fulfill the present and future needs, whether in a proposed build or by future upgrades as described in the agreements, calculated in accordance with Subsection ~~(3)4~~~~(e)d~~(ii).

~~(h)c~~ If a person has demonstrated that the proposed merchant electric transmission line can fulfill present and future needs as calculated in Subsection ~~(3)4~~~~(e)d~~(ii), the office:

—— ~~(i)~~ shall issue to the person described in Subsection ~~(3)4~~~~(c)b~~(i) a certificate of in-state need; and

—— ~~(ii)~~ may charge the person a fee, in accordance with Section 63J-1-504, for the cost of reviewing an agreement described in Subsection (3)(f) or an expression of need described in Subsection (3)(e)(i).

~~(i)d~~ A certificate of in-state need issued in accordance with this Subsection ~~(3)5~~ is valid only to the extent that a transmission agreement for in-state merchant generation submitted under Subsection ~~(3)5~~~~(f)a~~ continues to reflect the agreements of the parties.

(6) (a) If a person described in Subsection (4)(b)(i) indicates under Subsection (4)(b)(i)(B) that the person proposed to qualify for a certificate of in-state need by complying with this Subsection (6), the office shall no later than 30 days after calculating present and future needs under Subsection (4)(d)(ii) schedule a meeting with the person and each in-state merchant generator who submits an expression of need.

(b) (i) At the meeting required under Subsection (6)(a), the office, each in-state

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merchant generator that submitted an expression of need, and the person proposing a merchant electric transmission line shall agree to the designation of the location of a transmission interconnection that provides transmission needs for export for each in-state merchant generator.

(ii) If the parties described in Subsection (6)(b)(i) cannot agree to a location of a transmission interconnection, the office may not issue a certificate of in-state need.

(c) After the meeting, the person shall include in the person's solicitation required by 18 C.F.R. Parts 2 & 35, Allocation of Capacity, 142 F.E.R.C. P61,038 the transmission interconnection location as designated in accordance with Subsection (6)(b)(i).

(d) A person shall provide to the office proof of the solicitation described in Subsection (6)(c).

(e) No later than 30 days after receiving proof of solicitation under Subsection (6)(d), the office shall issue to the person described in Subsection (4)(b)(i) a certificate of in-state need.

(f) A certificate of in-state need issued in accordance with this Subsection (6) is valid only to the extent that a solicitation required under 18 C.F.R. Parts 2 & 35, Allocation of Capacity, 142 F.E.R.C. P61,038 continues to reflect the designation agreed to in accordance with Subsection (6)(b)(i).

(7) The office may charge a person described in Subsection (4)(b)(i) a fee, in accordance with Section 63J-1-504, for the cost of reviewing:

(a) an expression of need described in Subsection (4)(d)(i);

(b) an agreement described in Subsection (5)(a); and

(c) a proof of solicitation under Subsection (6)(d).

(8) "Subsections (4) through (6) may not be interpreted to:

(a) create an obligation of a merchant electric transmission line to pay for, or construct any portion of, the transmission line on behalf of an in-state merchant generator; or

(b) preempt, supersede, or otherwise conflict with Federal Energy Regulatory Commission rules and regulations applicable to a commercial transmission agreement, including agreements or terms of agreements as to cost, terms, transmission capacity, or key rates.

~~(4)9~~ ~~{Subsection}~~ Subsections ~~(3)4~~ through (7) ~~{does}~~ do not apply to a land use

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application for a conditional use for a transmission line that is, or is proposed to be, owned or operated by a project entity as defined in Section 11-13-103.