

**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

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



26 AMENDS:

27 [17-27a-506](#), as last amended by Laws of Utah 2005, Chapter 245 and renumbered and  
28 amended by Laws of Utah 2005, Chapter 254

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

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

32 **17-27a-506. Conditional uses -- Merchant electric transmission line.**

33 (1) As used in this section:

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

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

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

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

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

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

48 (d) "Merchant electric transmission line" means a transmission line that does not  
49 provide electricity to retail customers within the boundaries of Utah.

50 (e) "Office" means the Office of Energy Development established in Section  
51 [63M-4-401](#).

52 [~~1~~] (2) A land use ordinance may include conditional uses and provisions for  
53 conditional uses that require compliance with standards set forth in an applicable ordinance.

54 [~~2~~] (3) (a) A conditional use shall be approved if reasonable conditions are proposed,  
55 or can be imposed, to mitigate the reasonably anticipated detrimental effects of the proposed  
56 use in accordance with applicable standards.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

101 (c) If a person has demonstrated that the proposed merchant electric transmission line  
102 can fulfill present and future needs as calculated in Subsection (4)(d)(ii), the office shall issue  
103 to the person described in Subsection (4)(b)(i) a certificate of in-state need.

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

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

112 (b) (i) At the meeting required under Subsection (6)(a), the office, each in-state  
113 merchant generator that submitted an expression of need, and the person proposing a merchant  
114 electric transmission line shall agree to the designation of the location of a transmission  
115 interconnection that provides transmission needs for export for each in-state merchant  
116 generator.

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

119 (c) After the meeting, the person shall include in the person's solicitation required by  
120 18 C.F.R. Parts 2 & 35, Allocation of Capacity, 142 F.E.R.C. P61,038 the transmission  
121 interconnection location as designated in accordance with Subsection (6)(b)(i).

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

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

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

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

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

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

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

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

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

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

143 (9) Subsections (4) through (7) do not apply to a land use application for a conditional  
144 use for a transmission line that is, or is proposed to be, owned or operated by a project entity as  
145 defined in Section [11-13-103](#).