

PUBLIC UTILITIES AMENDMENTS

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Kevin T. Van Tassell

House Sponsor: John G. Mathis

LONG TITLE

General Description:

This bill amends provisions related to electrical service.

Highlighted Provisions:

This bill:

- ▶ amends provisions related to an electrical corporation or a municipality providing electrical service; and
- ▶ makes technical and conforming changes.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

AMENDS:

10-8-14, as last amended by Laws of Utah 2013, Chapter 242

54-3-30, as enacted by Laws of Utah 2013, Chapter 242

54-3-31, as enacted by Laws of Utah 2013, Chapter 242

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

Section 1. Section **10-8-14** is amended to read:

10-8-14. Water, sewer, gas, electricity, and public transportation -- Service beyond municipal limits -- Retainage -- Notice of service and agreement -- Cable television and public telecommunications services.

30 (1) A municipality may:

31 (a) construct, maintain, and operate waterworks, sewer collection, sewer treatment
32 systems, gas works, electric light works, telecommunications lines, cable television lines, or
33 public transportation systems;

34 (b) authorize the construction, maintenance and operation of the works or systems
35 listed in Subsection (1)(a) by others;

36 (c) purchase or lease the works or systems listed in Subsection (1)(a) from any person
37 or corporation; and

38 (d) sell and deliver the surplus product or service capacity of any works or system
39 listed in Subsection (1)(a), not required by the municipality or the municipality's inhabitants, to
40 others beyond the limits of the municipality, except the sale and delivery of:

41 (i) retail electricity beyond the municipal boundary is governed by Subsections (3)
42 through (8); and

43 (ii) cable television services or public telecommunications services is governed by
44 Subsection (11).

45 (2) If any payment on a contract with a private person, firm, or corporation to construct
46 waterworks, sewer collection, sewer treatment systems, gas works, electric works,
47 telecommunications lines, cable television lines, or public transportation systems is retained or
48 withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

49 (3) (a) Except as provided in Subsection (3)(b), (5), or (9), a municipality may not sell
50 or deliver the electricity produced or distributed by its electric works constructed, maintained,
51 or operated in accordance with Subsection (1) to a retail customer located beyond its municipal
52 boundary.

53 (b) A municipality that provides retail electric service to a customer beyond its
54 municipal boundary on or before June 15, 2013, may continue to serve that customer if:

55 (i) on or before December 15, 2013, the municipality provides the electrical
56 corporation, as defined in Section 54-2-1, that is obligated by its certificate of public
57 convenience and necessity to serve the customer with an accurate and complete verified written

58 notice described in Subsection (3)(c) that identifies each customer served by the municipality
59 beyond its municipal boundary;

60 (ii) no later than June 15, 2014, the municipality enters into a written filing agreement
61 for the provision of electric service with the electrical corporation; and

62 (iii) the Public Service Commission approves the written filing agreement in
63 accordance with Section 54-4-40.

64 (c) The municipality shall include in the written notice required in Subsection (3)(b)(i)
65 for each customer:

66 (i) the customer's meter number;

67 (ii) the location of the customer's meter by street address, global positioning system
68 coordinates, metes and bounds description, or other similar method of meter location;

69 (iii) the customer's class of service; and

70 (iv) a representation that the customer was receiving service from the municipality on
71 or before June 15, 2013.

72 (4) The written filing agreement entered into in accordance with Subsection (3)(b)(ii)
73 shall require the following:

74 (a) The municipality shall provide electric service to a customer identified in
75 accordance with Subsection (3)(b)(i) unless the municipality and the electrical corporation
76 subsequently agree in writing that the electrical corporation will provide electric service to the
77 customer.

78 (b) If a customer who is located outside the municipal boundary and who is not
79 identified in accordance with Subsection (3)(b)(i) requests service from the municipality after
80 June 15, 2013, the municipality may not provide that customer electric service unless the
81 municipality submits a request to and enters into a written agreement with the electric
82 corporation in accordance with Subsection (5).

83 (5) (a) A municipality may submit to the electrical corporation a request to provide
84 electric service to an electric customer described in Subsection (4)(b).

85 (b) If a municipality submits a request, the electrical corporation shall respond to the

86 request within 60 days.

87 (c) If the electrical corporation agrees to allow the municipality to provide electric
88 service to the customer:

89 (i) the electrical corporation and the municipality shall enter into a written agreement;

90 (ii) the municipality shall agree in the written agreement to subsequently transfer
91 service to the customer described in Subsection (4)(b) if the electrical corporation notifies, in
92 writing, the municipality that the electrical corporation has installed a facility capable of
93 providing electric service to the customer; and

94 (iii) the municipality may provide the service if:

95 (A) except as provided in Subsection (5)(c)(iii)(B), the Public Service Commission
96 approves the agreement in accordance with Section 54-4-40[-]; or

97 (B) for an electrical cooperative that meets the requirements of Subsection 54-7-12(7),
98 the governing board of the electrical cooperative approves the agreement.

99 (d) The municipality or the electrical corporation may terminate the agreement for the
100 provision of electric service if the Public Service Commission imposes a condition authorized
101 in Section 54-4-40 that is a material change to the agreement.

102 (6) If the municipality and electrical corporation make a transfer described in
103 Subsection (5)(c)(ii):

104 (a) (i) the municipality shall transfer the electric service customer to the electrical
105 corporation; and

106 (ii) the electrical corporation shall provide electric service to the customer; and

107 (b) the municipality shall transfer a facility in accordance with and for the value as
108 provided in Section 10-2-421.

109 (7) (a) In accordance with Subsection (7)(b), the municipality shall establish a
110 reasonable mechanism for resolving potential future complaints by an electric customer located
111 outside its municipal boundary.

112 (b) The mechanism shall require:

113 (i) that the rates and conditions of service for a customer outside the municipality's

114 boundary are at least as favorable as the rates and conditions of service for a similarly situated
115 customer within the municipality's boundary; and

116 (ii) if the municipality provides a general rebate, refund, or other payment to a
117 customer located within the municipality's boundary, that the municipality also provide the
118 same general rebate, refund, or other payment to a similarly situated customer located outside
119 the municipality's boundary.

120 (8) The municipality is relieved of any obligation to transfer a customer described in
121 Subsection (4)(b) or facility used to serve the customer in accordance with Subsection (5)(c)(ii)
122 if the municipality annexes the property on which the customer is being served.

123 (9) (a) A municipality may provide electric service outside of its municipal boundary to
124 a facility that is solely owned and operated by the municipality for municipal service.

125 (b) A municipality's provision of electric service to a facility that is solely owned and
126 operated by the municipality does not expand the municipality's electric service area.

127 (10) Nothing in this section expands or diminishes the ability of a municipality to enter
128 into a wholesale electrical sales contract with another municipality that serves electric
129 customers to sell and deliver wholesale electricity to the other municipality.

130 (11) A municipality's actions under this section related to works or systems involving
131 public telecommunications services or cable television services are subject to the requirements
132 of Chapter 18, Municipal Cable Television and Public Telecommunications Services Act.

133 Section 2. Section **54-3-30** is amended to read:

134 **54-3-30. Electric utility service within a provider municipality -- Electrical**
135 **corporation prohibited as provider -- Exceptions -- Notice and agreement -- Transfer of**
136 **customer.**

137 (1) This section applies to an electrical corporation that intends to provide electric
138 service to a customer:

139 (a) who is located within the municipal boundary of a municipality that provides
140 electric service; and

141 (b) who is not described in Subsection [54-3-31\(2\)](#).

142 (2) (a) If an electrical corporation is authorized by the commission to provide electric
143 service to a customer in an area adjacent to a municipality, and the municipality provides
144 electric service to a customer located within its municipal boundary, the electrical corporation
145 may not provide electric service to a customer within the municipal boundary unless:

146 (i) the electrical corporation has entered into a written agreement with the municipality
147 authorizing the electrical corporation to provide electric service:

148 (A) to a specified customer or to customers located within a specified area
149 within the municipal boundary; and

150 (B) in accordance with the terms and conditions of the electrical corporation's tariffs
151 and regulations approved by the commission, or approved by the governing board for an
152 electrical cooperative that meets the requirements of Subsection 54-7-12(7); and

153 (ii) (A) except as provided in Subsection (2)(a)(ii)(B), the commission approves the
154 agreement in accordance with Section 54-4-40[-]; or

155 (B) for an electrical cooperative that meets the requirements of Subsection 54-7-12(7),
156 the governing board of the electrical cooperative approves the agreement.

157 (b) The municipality or the electrical corporation may terminate the agreement for the
158 provision of electric service if the commission imposes a condition authorized in Section
159 54-4-40 that is a material change to the agreement.

160 (3) An electrical corporation that enters into an agreement described in Subsection
161 (2)(a) shall transfer service to a customer described in Subsection (2):

162 (a) at the conclusion of a term specified in the agreement; or

163 (b) upon termination of the agreement by the electrical corporation in accordance with
164 Subsection (4).

165 (4) Unless otherwise agreed in writing by the electrical corporation and the
166 municipality, the electrical corporation may terminate an agreement entered into in accordance
167 with Subsection (2)(a) by giving written notice of termination to the municipality:

168 (a) no earlier than two years before the day of termination; or

169 (b) within a period of time shorter than two years if otherwise agreed to with the

170 municipality.

171 (5) Upon termination of an agreement in accordance with Subsection (3)(a), (3)(b), or
172 (4):

173 (a) (i) the electrical corporation shall transfer the electric service customer to the
174 municipality; and

175 (ii) the municipality shall provide electric service to the customer; and

176 (b) the electrical corporation shall transfer a facility in accordance with and for the
177 value as provided in Section 10-2-421.

178 (6) This section may not be construed to modify or terminate any written franchise
179 agreement or other agreement that expressly provides for electric service by an electrical
180 corporation to a customer within a municipality that was entered into between an electrical
181 corporation and a municipality on or before June 15, 2013.

182 Section 3. Section 54-3-31 is amended to read:

183 **54-3-31. Electric utility service within a provider municipality -- Electrical**
184 **corporation authorized as continuing provider for service provided on or before June 15,**
185 **2013 -- Notice of service and agreement -- Transfer of customer.**

186 (1) This section applies to an electrical corporation that:

187 (a) (i) provides electric service to a customer on or before June 15, 2013, within the
188 municipal boundary of a municipality that provides electric service; ~~and~~ or

189 (ii) provides electric service to a customer within an area:

190 (A) established by an agreement dated on or before June 15, 2013, with a municipality;
191 and

192 (B) within the municipal boundary of a municipality that provides electric service; and

193 (b) intends to continue providing service to that customer.

194 (2) Notwithstanding Section 54-3-30, if an electrical corporation provides electric
195 service to a customer ~~[within the municipal boundary of a municipality on or before June 15,~~
196 ~~2013]~~ as described in Subsection (1), and the municipality provides electric service to another
197 customer within its municipal boundary, the electrical corporation may continue to provide

198 electric service to the customer within the municipality's boundary after the termination of, or
199 in the absence of, a written agreement, if:

200 (a) the electrical corporation provides, on or before December 15, 2013, the
201 municipality with an accurate and complete verified written notice, in accordance with
202 Subsection (3), identifying each customer within the municipality served by the electrical
203 corporation on or before June 15, 2013;

204 (b) the electrical corporation enters into a written agreement with the municipality:

205 (i) (A) prior to the termination of any prior written agreement; or

206 (B) in the absence of a written agreement; and

207 (ii) no later than June 15, 2014; and

208 (c) (i) except as provided in Subsection (2)(c)(ii), the commission approves the
209 agreement in accordance with Section 54-4-40[-]; or

210 (ii) for an electrical cooperative that meets the requirements of Subsection 54-7-12(7),
211 the governing board of the electrical cooperative approves the agreement.

212 (3) The written notice provided in accordance with Subsection (2)(a) shall include for
213 each customer:

214 (a) the customer's meter number;

215 (b) the location of the customer's meter by street address, global positioning system
216 coordinates, metes and bounds description, or other similar method of meter location;

217 (c) the customer's class of service; and

218 (d) a representation that the customer was receiving service from the electrical
219 corporation on or before June 15, 2013.

220 (4) The agreement entered into in accordance with Subsection (2) shall require the
221 following:

222 (a) The electrical corporation is the exclusive electric service provider to a customer
223 identified in the notice described in Subsection (2)(a) unless the municipality and electrical
224 corporation subsequently agree, in writing, that the municipality may provide electric service to
225 the identified customer.

226 (b) If a customer who is located within the municipal boundary and who is not
227 identified in Subsection (2)(a) requests service after June 15, 2013, from the electrical
228 corporation, the electrical corporation may not provide that customer electric service unless the
229 electrical corporation subsequently submits a request to and enters into a written agreement
230 with the municipality in accordance with Section 54-4-30.

231 (5) (a) Unless otherwise agreed in writing by the electrical corporation and the
232 municipality, the electrical corporation may terminate an agreement entered into in accordance
233 with Subsection (2)(b) by giving written notice of termination to the municipality:

- 234 (i) no earlier than two years before the day of termination; or
- 235 (ii) within a period of time shorter than two years if otherwise agreed to with the
236 municipality.

237 (b) Upon termination of an agreement in accordance with Subsection (5)(a):

238 (i) (A) the electrical corporation shall transfer an electric service customer located
239 within the municipality to the municipality; and

240 (B) the municipality shall provide electric service to the customer; and

241 (ii) the electrical corporation shall transfer a facility in accordance with and for the
242 value as provided in Section 10-2-421.

243 (6) This section may not be construed to modify or terminate any written franchise
244 agreement or other agreement that expressly provides for electric service by an electrical
245 corporation to a customer within a municipality that was entered into between an electrical
246 corporation and a municipality on or before June 15, 2013.