Part 3
Project Entity Provisions

11-13-301 Project entity and generation output requirements.

(1) Each project entity:

(a) shall:

(i) except for construction of facilities providing replacement project capacity, before undertaking the construction of a project and before undertaking the construction of facilities to provide additional project capacity, offer to sell or make available at least 50% of the generation output of or electric energy produced by the project or additional project capacity, respectively;

(ii) establish rules and procedures for an offer under Subsection (1)(a)(i) that provide at least 60 days for a prospective power purchaser to accept the offer before the offer is considered rejected; and

(iii) make each offer under Subsection (1)(a)(i):

(A) under a long-term arrangement that may be an undivided ownership interest, a participation interest, a power sales agreement, or otherwise; and

(B) to one or more power purchasers in the state that supply electric energy at wholesale or retail; and

(b) may undertake construction of facilities providing replacement project capacity for its project.

(2)

(a) The generation output or electric energy production available to power purchasers in the state from a project shall be at least 5% of the total generation output or electric energy production of the project.

(b)

(i) Subject to Subsection (2)(b)(ii)(B), at least a majority of the generation capacity, generation output, or electric energy production facilities providing additional project capacity shall be:

(A) made available as needed to meet the estimated electric requirements of entities or consumers within the state; and

(B) owned, purchased, or consumed by entities or consumers within the state.

(ii)

(A) As used in this Subsection (2)(b)(ii), "default provision" means a provision authorizing a nondefaulting party to succeed to or require the disposition of the rights and interests of a defaulting party.

(B) The requirements of Subsection (2)(b)(i) do not apply to the extent that those requirements are not met due to the operation of a default provision in an agreement providing for ownership or other interests in facilities providing additional project capacity.

Amended by Chapter 382, 2016 General Session

11-13-302 Payment of fee in lieu of ad valorem property tax by certain energy suppliers -- Method of calculating -- Collection -- Extent of tax lien.

(1)

(a) Each project entity created under this chapter that owns a project and that sells any capacity, service, or other benefit from it to an energy supplier or suppliers whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem

property tax, shall pay an annual fee in lieu of ad valorem property tax as provided in this section to each taxing jurisdiction within which the project or any part of it is located.

(b) For purposes of this section, "annual fee" means the annual fee described in Subsection (1)(a) that is in lieu of ad valorem property tax.

(c) The requirement to pay an annual fee shall commence:

(i) with respect to each taxing jurisdiction that is a candidate receiving the benefit of impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the last generating unit, other than any generating unit providing additional project capacity, of the project occurs, or, in the case of any facilities providing additional project capacity, with the fiscal year of the candidate following the fiscal year of the candidate in which the date of commercial operation of the generating unit providing the additional project capacity occurs; and

(ii) with respect to any taxing jurisdiction other than a taxing jurisdiction described in Subsection (1)(c)(i), with the fiscal year of the taxing jurisdiction in which construction of the project commences, or, in the case of facilities providing additional project capacity, with the fiscal year of the taxing jurisdiction in which construction of those facilities commences.

(d) The requirement to pay an annual fee shall continue for the period of the useful life of the project or facilities.

(2)

(a) The annual fees due a school district shall be as provided in Subsection (2)(b) because the ad valorem property tax imposed by a school district and authorized by the Legislature represents both:

(i) a levy mandated by the state for the state minimum school program under Section 53F-2-301; and

(ii) local levies for capital outlay and other purposes under Sections 53F-8-303, 53F-8-301, and 53F-8-302.

(b) The annual fees due a school district shall be as follows:

(i) the project entity shall pay to the school district an annual fee for the state minimum school program at the rate imposed by the school district and authorized by the Legislature under Section 53F-2-301; and

(ii) for all other local property tax levies authorized to be imposed by a school district, the project entity shall pay to the school district either:

(A) an annual fee; or

(B) impact alleviation payments under contracts or determination orders provided for in Sections 11-13-305 and 11-13-306.

(3)

(a) An annual fee due a taxing jurisdiction for a particular year shall be calculated by multiplying the tax rate or rates of the jurisdiction for that year by the product obtained by multiplying the fee base or value determined in accordance with Subsection (4) for that year of the portion of the project located within the jurisdiction by the percentage of the project which is used to produce the capacity, service, or other benefit sold to the energy supplier or suppliers.

(b) As used in this section, "tax rate," when applied in respect to a school district, includes any assessment to be made by the school district under Subsection (2) or Section 63M-5-302.

(c) There is to be credited against the annual fee due a taxing jurisdiction for each year, an amount equal to the debt service, if any, payable in that year by the project entity on bonds, the proceeds of which were used to provide public facilities and services for impact alleviation in the taxing jurisdiction in accordance with Sections 11-13-305 and 11-13-306.

(d) The tax rate for the taxing jurisdiction for that year shall be computed so as to:
(i) take into account the fee base or value of the percentage of the project located within the taxing jurisdiction determined in accordance with Subsection (4) used to produce the capacity, service, or other benefit sold to the supplier or suppliers; and
(ii) reflect any credit to be given in that year.
(4)
(a) Except as otherwise provided in this section, the annual fees required by this section shall be paid, collected, and distributed to the taxing jurisdiction as if:
(i) the annual fees were ad valorem property taxes; and
(ii) the project were assessed at the same rate and upon the same measure of value as taxable property in the state.
(b)
(i) Notwithstanding Subsection (4)(a), for purposes of an annual fee required by this section, the fee base of a project may be determined in accordance with an agreement among:
(A) the project entity; and
(B) any county that:
(I) is due an annual fee from the project entity; and
(II) agrees to have the fee base of the project determined in accordance with the agreement described in this Subsection (4).
(ii) The agreement described in Subsection (4)(b)(i):
(A) shall specify each year for which the fee base determined by the agreement shall be used for purposes of an annual fee; and
(B) may not modify any provision of this chapter except the method by which the fee base of a project is determined for purposes of an annual fee.
(iii) For purposes of an annual fee imposed by a taxing jurisdiction within a county described in Subsection (4)(b)(i)(B), the fee base determined by the agreement described in Subsection (4)(b)(i) shall be used for purposes of an annual fee imposed by that taxing jurisdiction.
(iv)
(A) If there is not agreement as to the fee base of a portion of a project for any year, for purposes of an annual fee, the State Tax Commission shall determine the value of that portion of the project for which there is not an agreement:
(I) for that year; and
(II) using the same measure of value as is used for taxable property in the state.
(B) The valuation required by Subsection (4)(b)(iv)(A) shall be made by the State Tax Commission in accordance with rules made by the State Tax Commission.
(c) Payments of the annual fees shall be made from:
(i) the proceeds of bonds issued for the project; and
(ii) revenues derived by the project entity from the project.
(d)
(i) The contracts of the project entity with the purchasers of the capacity, service, or other benefits of the project whose tangible property is not exempted by Utah Constitution Article XIII, Section 3, from the payment of ad valorem property tax shall require each purchaser, whether or not located in the state, to pay, to the extent not otherwise provided for, its share, determined in accordance with the terms of the contract, of these fees.
(ii) It is the responsibility of the project entity to enforce the obligations of the purchasers.
(5)
(a) The responsibility of the project entity to make payment of the annual fees is limited to the extent that there is legally available to the project entity, from bond proceeds or revenues,

money to make these payments, and the obligation to make payments of the annual fees is not otherwise a general obligation or liability of the project entity.

(b) No tax lien may attach upon any property or money of the project entity by virtue of any failure to pay all or any part of an annual fee.

(c) The project entity or any purchaser may contest the validity of an annual fee to the same extent as if the payment was a payment of the ad valorem property tax itself.

(d) The payments of an annual fee shall be reduced to the extent that any contest is successful.

(6)

(a) The annual fee described in Subsection (1):

(i) shall be paid by a public agency that:

(A) is not a project entity; and

(B) owns an interest in a facility providing additional project capacity if the interest is otherwise exempt from taxation pursuant to Utah Constitution, Article XIII, Section 3; and

(ii) for a public agency described in Subsection (6)(a)(i), shall be calculated in accordance with Subsection (6)(b).

(b) The annual fee required under Subsection (6)(a) shall be an amount equal to the tax rate or rates of the applicable taxing jurisdiction multiplied by the product of the following:

(i) the fee base or value of the facility providing additional project capacity located within the jurisdiction;

(ii) the percentage of the ownership interest of the public agency in the facility; and

(iii) the portion, expressed as a percentage, of the public agency's ownership interest that is attributable to the capacity, service, or other benefit from the facility that is sold, including any subsequent sale, resale, or layoff, by the public agency to an energy supplier or suppliers whose tangible property is not exempted by Utah Constitution, Article XIII, Section 3, from the payment of ad valorem property tax.

(c) A public agency paying the annual fee pursuant to Subsection (6)(a) shall have the obligations, credits, rights, and protections set forth in Subsections (1) through (5) with respect to its ownership interest as though it were a project entity.

(d) On or before March 1 of each year, a project entity that owns a project and that provides any capacity, service, or other benefit to an energy supplier or a public agency shall file an electronic report with the State Tax Commission that identifies:

(i) each energy supplier and public agency to which the project entity delivers capacity, service, or other benefit; and

(ii) the amount of capacity, service, or other benefit delivered to each energy supplier and public agency.

Amended by Chapter 7, 2023 General Session

11-13-303 Source of project entity's payment of sales and use tax -- Gross receipts taxes for facilities providing additional project capacity.

(1) A project entity is not exempt from sales and use taxes under Title 59, Chapter 12, Sales and Use Tax Act, to the extent provided in Subsection 59-12-104(2).

(2) A project entity may make payments or prepayments of sales and use taxes, as provided in Title 63M, Chapter 5, Resource Development Act, from the proceeds of revenue bonds issued under Section 11-13-218 or other revenues of the project entity.

(3)

(a) This Subsection (3) applies with respect to facilities providing additional project capacity.

(b)

(i) The in lieu excise tax imposed under Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, shall be imposed collectively on all gross receipts derived with respect to the ownership interests of all project entities and other public agencies in facilities providing additional project capacity as though all such ownership interests were held by a single project entity.

(ii) The in lieu excise tax shall be calculated as though the gross receipts derived with respect to all such ownership interests were received by a single taxpayer that has no other gross receipts.

(iii) The gross receipts attributable to such ownership interests shall consist solely of gross receipts that are expended by each project entity and other public agency holding an ownership interest in the facilities for the operation or maintenance of or ordinary repairs or replacements to the facilities.

(iv) For purposes of calculating the in lieu excise tax, the determination of whether there is a tax rate and, if so, what the tax rate is shall be governed by Section 59-8-104, except that the $10,000,000 figures in Section 59-8-104 indicating the amount of gross receipts that determine the applicable tax rate shall be replaced with $5,000,000.

(c) Each project entity and public agency owning an interest in the facilities providing additional project capacity shall be liable only for the portion of the gross receipts tax referred to in Subsection (3)(b) that is proportionate to its percentage ownership interest in the facilities and may not be liable for any other gross receipts taxes with respect to its percentage ownership interest in the facilities.

(d) No project entity or other public agency that holds an ownership interest in the facilities may be subject to the taxes imposed under Title 59, Chapter 7, Corporate Franchise and Income Taxes, with respect to those facilities.

(4) For purposes of calculating the gross receipts tax imposed on a project entity or other public agency under Title 59, Chapter 8, Gross Receipts Tax on Certain Corporations Not Required to Pay Corporate Franchise or Income Tax Act, or Subsection (3), gross receipts include only gross receipts from the first sale of capacity, services, or other benefits and do not include gross receipts from any subsequent sale, resale, or layoff of the capacity, services, or other benefits.

Amended by Chapter 189, 2014 General Session

11-13-304 Certificate of public convenience and necessity required -- Exceptions.

(1) Before proceeding with the construction of any electrical generating plant or transmission line, each interlocal entity and each out-of-state public agency shall first obtain from the public service commission a certificate, after hearing, that public convenience and necessity requires such construction and in addition that such construction will in no way impair the public convenience and necessity of electrical consumers of the state of Utah at the present time or in the future.

(2) The requirement to obtain a certificate of public convenience and necessity applies to each project initiated after the section's effective date but does not apply to:

(a) a project for which a feasibility study was initiated prior to the effective date;

(b) any facilities providing additional project capacity;

(c) any facilities providing replacement project capacity; or

(d) transmission lines required for the delivery of electricity from a project described in Subsection (2)(a), or facilities providing additional project capacity, or facilities providing

replacement project capacity within the corridor of a transmission line, with reasonable deviation, of a project producing as of April 21, 1987.

Amended by Chapter 382, 2016 General Session

11-13-305 Impact alleviation requirements -- Payments in lieu of ad valorem tax -- Source of impact alleviation payment.

(1)

(a)

(i) A project entity may assume financial responsibility for or provide for the alleviation of the direct impacts of its project, and make loans to candidates to alleviate impacts created by the construction or operation of any facility owned by others which is utilized to furnish fuel, construction or operation materials for use in the project to the extent the impacts were attributable to the project.

(ii) Provision for the alleviation may be made by contract as provided in Subsection (2) or by the terms of a determination order as provided in Section 11-13-306.

(b) A Utah public agency that is not a project entity may take the actions set forth in this Subsection (1) as though it were a project entity with respect to its ownership interest in facilities providing additional project capacity.

(2) A candidate may, except as otherwise provided in Section 11-13-306, require the project entity or, in the case of facilities providing additional project capacity, any other public agency that owns an interest in those facilities, to enter into a contract with the candidate requiring the project entity or other public agency to assume financial responsibility for or provide for the alleviation of any direct impacts experienced by the candidate as a result of the project or facilities providing additional project capacity, as the case may be. Each contract with respect to a project or facilities providing additional project capacity shall be for a term ending at or before the end of the fiscal year of the candidate who is party to the contract immediately before the fiscal year in which the project becomes, or, in the case of facilities providing additional project capacity, those facilities become subject to the fee set forth in Section 11-13-302, unless terminated earlier as provided in Section 11-13-310, and shall specify the direct impacts or methods to determine the direct impacts to be covered, the amounts, or methods of computing the amounts, of the alleviation payments, or the means to provide for impact alleviation, provisions assuring the timely completion of the project or facilities providing additional project capacity and the furnishing of the services, and such other pertinent matters as shall be agreed to by the project entity or other public agency and the candidate.

(3) Beginning at the time specified in Subsection 11-13-302(1), the project entity or other public agency shall make in lieu ad valorem tax payments to that candidate to the extent required by, and in the manner provided in, Section 11-13-302.

(4) Payments under any impact alleviation contract or pursuant to a determination by the board shall be made from the proceeds of bonds issued for the project or for the facilities providing additional project capacity or from any other sources of funds available with respect to the project or the facilities providing additional project capacity.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-306 Procedure in case of inability to formulate contract for impact alleviation.

(1) If the project entity or other public agency and a candidate are unable to agree upon the terms of an impact alleviation contract or to agree that the candidate has or will experience any direct

impacts, the project entity or other public agency and the candidate shall each have the right to submit the question of whether or not these direct impacts have been or will be experienced, and any other questions regarding the terms of the impact alleviation contract to the board for its determination.

(2) Within 40 days after receiving a notice of a request for determination, the board shall hold a public hearing on the questions at issue, at which hearing the parties shall have an opportunity to present evidence. Within 20 days after the conclusion of the hearing, the board shall enter an order embodying its determination and directing the parties to act in accordance with it. The order shall contain findings of facts and conclusions of law setting forth the reasons for the board's determination. To the extent that the order pertains to the terms of an impact alleviation contract, the terms of the order shall satisfy the criteria for contract terms set forth in Section 11-13-305.

(3) At any time 20 or more days before the hearing begins, either party may serve upon the adverse party an offer to agree to specific terms or payments. If within 10 days after the service of the offer the adverse party serves written notice that the offer is accepted, either party may then file the offer and notice of acceptance, together with proof of service thereof, and the board shall enter a corresponding order. An offer not accepted shall be deemed withdrawn and evidence concerning it is not admissible except in a proceeding to determine costs. If the order finally obtained by the offeree is not more favorable than the offer, the offeree shall pay the costs incurred after the making of the offer, including a reasonable attorney's fee. The fact that an offer is made but not accepted does not preclude a subsequent offer.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-307 Method of amending impact alleviation contract.

An impact alleviation contract or a determination order may be amended with the consent of the parties, or otherwise in accordance with their provisions. In addition, any party may propose an amendment to a contract or order which, if not agreed to by the other parties, may be submitted by the proposing party to the board for a determination of whether or not the amendment shall be incorporated into the contract or order. The board shall determine whether or not a contract or determination order shall be amended under the procedures and standards set forth in Sections 11-13-305 and 11-13-306.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-308 Effect of failure to comply.

The construction or operation of a project or of facilities providing additional project capacity may commence and proceed, notwithstanding the fact that all impact alleviation contracts or determination orders with respect to the project or facilities providing additional project capacity have not been entered into or made or that any appeal or review concerning the contract or determination has not been finally resolved. The failure of the project entity or other public agency to comply with the requirements of this chapter or with the terms of any alleviation contract or determination order or any amendment to them may not be grounds for enjoining the construction or operation of the project or facilities providing additional project capacity.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-309 Venue for civil action -- No trial de novo.

(1)
(a) A person may bring a civil action seeking to challenge, enforce, or otherwise have reviewed, any order of the board, or any alleviation contract.
(2) Notwithstanding Title 78B, Chapter 3a, Venue for Civil Actions, if a person brings an action described in Subsection (1)(a) in the district court, the person shall bring the action in:
(a) the county in which the candidate, to which the order or contract pertains, is located; or
(b) Salt Lake County if the candidate is the state of Utah.
(3) Any action brought in any judicial district shall be ordered transferred to the court where venue is proper under this section.
(4) In any civil action seeking to challenge, enforce, or otherwise review, any order of the board, a trial de novo may not be held.
(5) The matter shall be considered on the record compiled before the board, and the findings of fact made by the board may not be set aside by the court unless the board clearly abused its discretion.

Amended by Chapter 158, 2024 General Session

11-13-310 Termination of impact alleviation contract.
(1) If the project or any part of it or the facilities providing additional project capacity or any part of them, or the output from the project or facilities providing additional project capacity become subject, in addition to the requirements of Section 11-13-302, to ad valorem property taxation or other payments in lieu of ad valorem property taxation, or other form of tax equivalent payments to any candidate which is a party to an impact alleviation contract with respect to the project or facilities providing additional project capacity or is receiving impact alleviation payments or means with respect to the project or facilities providing additional project capacity pursuant to a determination by the board, then the impact alleviation contract or the requirement to make impact alleviation payments or provide means therefor pursuant to the determination, as the case may be, shall, at the election of the candidate, terminate.
(2) In any event, each impact alleviation contract or determination order shall terminate upon the project, or, in the case of facilities providing additional project capacity, those facilities becoming subject to the provisions of Section 11-13-302, except that no impact alleviation contract or agreement entered by a school district shall terminate because of in lieu ad valorem property tax fees levied under Subsection 11-13-302(2)(b)(i) or because of ad valorem property taxes levied under Section 53F-2-301 for the state minimum school program.
(3) In addition, if the construction of the project, or, in the case of facilities providing additional project capacity, of those facilities, is permanently terminated for any reason, each impact alleviation contract and determination order, and the payments and means required thereunder, shall terminate.
(4) No termination of an impact alleviation contract or determination order may terminate or reduce any liability previously incurred pursuant to the contract or determination order by the candidate beneficiary under it.
(5) If the provisions of Section 11-13-302, or its successor, are held invalid by a court of competent jurisdiction, and no ad valorem taxes or other form of tax equivalent payments are payable, the remaining provisions of this chapter shall continue in operation without regard to the commencement of commercial operation of the last generating unit of that project or of facilities providing additional project capacity.

Amended by Chapter 7, 2023 General Session

11-13-311 Credit for impact alleviation payments against in lieu of ad valorem property taxes -- Federal or state assistance.

(1) In consideration of the impact alleviation payments and means provided by the project entity or other public agency pursuant to the contracts and determination orders, the project entity or other public agency, as the case may be, shall be entitled to a credit against the fees paid in lieu of ad valorem property taxes as provided by Section 11-13-302, ad valorem property or other taxation by, or other payments in lieu of ad valorem property taxation or other form of tax equivalent payments required by any candidate which is a party to an impact alleviation contract or board order.

(2) Each candidate may make application to any federal or state governmental authority for any assistance that may be available from that authority to alleviate the impacts to the candidate. To the extent that the impact was attributable to the project or to the facilities providing additional project capacity, any assistance received from that authority shall be credited to the alleviation obligation with respect to the project or the facilities providing additional project capacity, as the case may be, in proportion to the percentage of impact attributable to the project or facilities providing additional project capacity, but in no event shall the candidate realize less revenues than would have been realized without receipt of any assistance.

(3) With respect to school districts the fee in lieu of ad valorem property tax for the state minimum school program required to be paid by the project entity or other public agency under Subsection 11-13-302(2)(b)(i) shall be treated as a separate fee and does not affect any credits for alleviation payments received by the school districts under Subsection 11-13-302(2)(b)(i), or Sections 11-13-305 and 11-13-306.

Amended by Chapter 378, 2010 General Session

11-13-312 Exemption from privilege tax.

Title 59, Chapter 4, Privilege Tax, does not apply to a project, or any part of it, or to facilities providing additional project capacity, or any part of them, or to the possession or other beneficial use of a project or facilities providing additional project capacity as long as there is a requirement to make impact alleviation payments, fees in lieu of ad valorem property taxes, or ad valorem property taxes, with respect to the project or facilities providing additional project capacity pursuant to this chapter.

Renumbered and Amended by Chapter 286, 2002 General Session

11-13-313 Arbitration of disputes.

Any impact alleviation contract may provide that disputes between the parties will be submitted to arbitration pursuant to Title 78B, Chapter 11, Utah Uniform Arbitration Act.

Amended by Chapter 3, 2008 General Session

11-13-314 Eminent domain authority of certain commercial project entities.

(1)

(a) Subject to Subsections (2) and (3), a commercial project entity that existed as a project entity before January 1, 1980, may, with respect to a project or facilities providing additional project capacity in which the commercial project entity has an interest, acquire property within the

state through eminent domain, subject to restrictions imposed by Title 78B, Chapter 6, Part 5, Eminent Domain, and general law for the protection of other communities.

(b) Subsection (1)(a) may not be construed to:

(i) give a project entity the authority to acquire water rights by eminent domain; or

(ii) diminish any other authority a project entity may claim to have under the law to acquire property by eminent domain.

(2) Each project entity that intends to acquire property by eminent domain under Subsection (1)(a) shall comply with the requirements of Section 78B-6-505.

(3) A commercial project entity that has not taken a final vote to approve the filing of an eminent domain action as described in Subsection 78B-6-504(2)(c) prior to November 10, 2021, may not exercise the authority described in Subsection (1).

Amended by Chapter 7, 2021 Special Session 2

11-13-316 Project entity oversight.

(1) Notwithstanding any other provision of law, a project entity is a political subdivision that is subject to the authority of the legislative auditor general pursuant to Utah Constitution, Article VI, Section 33, and Section 36-12-15.

(2) A project entity shall comply with Title 63G, Chapter 6a, Utah Procurement Code, unless the governing board of the project entity adopts policies for procurement that enable the project entity to efficiently fulfill the project entity's responsibilities under the project entity's organization agreement.

(3) If a project entity does not adopt policies for procurement under Subsection (2), then for purposes of Title 63G, Chapter 6a, Utah Procurement Code:

(a) the project entity is a local government procurement unit, as defined in Section 63G-6a-103; and

(b) the governing board is a procurement official, as defined in Section 63G-6a-103.

(4) A project entity shall comply with Title 52, Chapter 4, Open and Public Meetings Act.

Amended by Chapter 21, 2023 General Session

11-13-318 Notice of decommissioning or disposal of project entity assets.

(1) As used in this section:

(a) "Critical switchyard equipment" means equipment located in a switchyard that is necessary for the delivery of electricity to the transmission or distribution system, including transformers, circuit breakers, disconnect switches, and other essential interconnection equipment.

(b) "Decommissioning" means to remove an electrical generation facility from active service.

(c) "Disposal" means the sale, transfer, dismantling, or other disposition of a project entity's assets.

(d) "Division" means the Division of Air Quality created in Section 19-1-105.

(e) "Fair market value" means the same as that term is defined in Section 79-6-408.

(f) "Interconnection" means the physical system that connects an electrical generation facility to the transmission or distribution system, including all switching stations, transformers, and other equipment necessary to deliver electricity to customers.

(g)

(i) "Project entity asset" means a project entity's:

(A) land;

(B) water;

(C) buildings; or
(D) essential equipment, including turbines, generators, transformers, and transmission lines.
(ii) "Project entity asset" does not include an asset that is not essential for the generation of electricity in the project entity's coal-powered electrical generation facility.
(h) "Project purchaser" means any entity that has the right to purchase power from the project entity.
(i) "Station service" means the electric supply required for the operation of an electrical generation facility and associated facilities, essential auxiliary equipment, and all facilities necessary to maintain electrical output.
(2) A project entity shall provide a notice of decommissioning or disposal to the Legislative Management Committee at least 180 days before:
(a) the disposal of any project entity assets; or
(b) the decommissioning of the project entity's coal-powered electrical generation facility.
(3) The notice of decommissioning or disposal described in Subsection (2) shall include:
(a) the date of the intended decommissioning or disposal;
(b) a description of the project entity's coal-powered electrical generation facility intended for decommissioning or any project entity asset intended for disposal; and
(c) the reasons for the decommissioning or disposal.
(4) A project entity may not intentionally prevent the functionality of the project entity's existing coal-powered electrical generation facility.
(5) A project entity shall:
(a) maintain:
(i) facilities that provide power to station service so as to ensure continued functionality;
(ii) at least one operational coal-powered electrical generation unit connected to existing interconnection facilities; and
(iii) existing interconnection and critical switchyard equipment in a manner that ensures the ability to reactivate any remaining coal-powered electrical generation units; and
(b) make available an interconnection with the switchyard for a project entity's coal-powered electrical generation facility that does not require a new interconnection request.
(6) Notwithstanding the requirements in Subsections (2) through (4), a project entity may take any action necessary to transition to a new electrical generation facility powered by natural gas, hydrogen, or a combination of natural gas and hydrogen, including any action that has been approved by a permitting authority, provided that such actions:
(a) do not violate the requirements in Subsection (5); or
(b) are specifically required by a permitting authority as an essential component of the transition, with no feasible alternative that would avoid violating Subsection (5).
(7) A project entity shall provide the state the option to purchase for fair market value a project entity asset intended for decommissioning, with the option remaining open for at least two years, beginning on July 2, 2025.

Amended by Chapter 120, 2025 General Session

11-13-319 Project entity continued operation study.
(1) The Office of Energy Development shall conduct a study to:
(a) evaluate all environmental regulations and permits to be filed to continue operation of a project entity's existing coal-powered electrical generation facility;
(b) identify best available technology to implement additional environmental controls for continued operation of a project entity's existing coal-powered electrical generation facility;

(c) identify the transmission capacity of the project entity;
(d) coordinate with state and local economic development agencies to evaluate economic opportunities for continued use of a project entity's existing coal-powered electrical generation facility;
(e) analyze the financial assets and liabilities of a project entity;
(f) identify the best interests of the local economies, local tax base, and the state in relation to a project entity;
(g) evaluate the viability of the continued operation of a project entity's existing coal-powered electrical generation facility:
(i) under ownership of the state; or
(ii) in a public private partnership; and
(h) identify the steps necessary for the state to obtain first right of refusal for ownership of a project entity's existing coal-powered electrical generation facility.
(2) A project entity shall cooperate and provide timely assistance and information to the Office of Energy Development in the preparation of the study described in Subsection (1).
(3) The Office of Energy Development shall report to the Public Utilities, Energy, and Technology Interim Committee and the Legislative Management Committee on or before the Public Utilities, Energy, and Technology Interim Committee's September 2023 interim committee meeting.
(4) The report described in Subsection (3) shall include:
(a) the results of the study described in Subsection (1);
(b) recommendations for continued operation of a project entity's existing coal-powered electrical generation facility;
(c) environmental controls that need to be implemented for the continued operation of a project entity's existing coal-powered electrical generation facility;
(d) recommendations to increase local and state tax revenue through the continued operation of a project entity's existing coal-powered electrical generation facility; and
(e) recommendations for legislation to be introduced in the 2024 General Session to enable the continued operation of a project entity's existing coal-powered electrical generation facility.

Enacted by Chapter 195, 2023 General Session

11-13-320 Air quality permitting transition process.
(1) As used in this section:
(a) "Alternative permit" means the same as that term is defined in Section 19-2-109.4.
(b) "Division" means the Division of Air Quality created in Section 19-1-105.
(c) "Pre-existing permit" means the air quality permit held by the operator of an existing electrical generation facility prior to any amendments associated with transitioning to a new facility.
(d) "Transition permit" means the same as that term is defined in Section 19-2-109.4.
(2) A project entity that holds a pre-existing permit for an existing electrical generation facility with multiple generating units, and has been issued a transition permit for a new electrical generation facility, may submit an application to the division in accordance with Section 19-2-109.4 for issuance of an alternative permit.

Amended by Chapter 120, 2025 General Session