

**PUBLIC UTILITIES AMENDMENTS**

2013 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Kevin T. Van Tassell**

House Sponsor: Stephen G. Handy

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**LONG TITLE**

**General Description:**

This bill enacts language related to the service territory of an electrical corporation and municipality.

**Highlighted Provisions:**

This bill:

- ▶ defines terms;
- ▶ prohibits a municipality from providing electric service to a customer in an annexed area with certain exceptions;
- ▶ enacts procedures for transferring an electric facility;
- ▶ enacts language related to the reimbursement for the transfer of an electric facility;
- ▶ requires a party that cannot agree on the transfer of an electric facility to submit the dispute for mediation or arbitration;
- ▶ authorizes a municipality to provide retail electric service to a customer beyond its municipal boundary on or before June 15, 2013, if the municipality enters into a written filing agreement with an electrical corporation and the agreement is approved by the Public Service Commission (commission);
- ▶ allows a municipality to submit a request to an electrical corporation to provide service to a customer located outside the municipal boundary if a customer requests the service;
- ▶ in certain circumstances, prohibits an electrical corporation from providing electric



28 service to a customer located within a municipal boundary unless the electrical corporation  
29 enters into a written agreement with the municipality and the agreement is approved by the  
30 commission;

31       ▶ authorizes an electrical corporation to provide, on or before June 15, 2013, electric  
32 service to a customer within the municipal boundary of a municipality that provides  
33 electric service if the electrical corporation enters into an agreement with the  
34 municipality and the agreement is approved by the commission;

35       ▶ authorizes the commission to review certain agreements between an electrical  
36 corporation and a municipality; and

37       ▶ makes technical and conforming amendments.

38 **Money Appropriated in this Bill:**

39       None

40 **Other Special Clauses:**

41       None

42 **Utah Code Sections Affected:**

43 AMENDS:

44       **10-8-14**, as last amended by Laws of Utah 2001, Chapter 83

45 ENACTS:

46       **54-3-30**, Utah Code Annotated 1953

47       **54-3-31**, Utah Code Annotated 1953

48       **54-4-40**, Utah Code Annotated 1953

49 REPEALS AND REENACTS:

50       **10-2-421**, as last amended by Laws of Utah 2001, Chapter 206



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

53       Section 1. Section **10-2-421** is repealed and reenacted to read:

54       **10-2-421. Electric utility service in annexed area -- Reimbursement for value of**  
55 **facilities -- Liability -- Arbitration.**

56       (1) As used in this section:

57       (a) "Commission" means the Public Service Commission established in Section

58 54-1-1.

59 (b) "Current replacement cost" means the cost the transferring party would incur to  
 60 construct the facility at the time of transfer using the transferring party's:

61 (i) standard estimating rates and standard construction methodologies for the facility;

62 and

63 (ii) standard estimating process.

64 (c) "Depreciation" means an amount calculated:

65 (i) based on:

66 (A) the life and depreciation mortality curve most recently set for the type of facility in  
 67 the depreciation rates set by the commission or other governing regulatory authority for the  
 68 electrical corporation; or

69 (B) a straight-line depreciation rate that represents the expended life if agreed to by the  
 70 transferring and receiving parties; and

71 (ii) to include the gross salvage value of the type of facility based on the latest  
 72 depreciation life approved by the commission or other governing regulatory authority for the  
 73 electrical corporation, with a floor at the gross salvage value of the asset and in no case less  
 74 than zero.

75 (d) "Electrical corporation" ~~§~~→ [has the same meaning] means:

75a (i) an entity ~~←~~§ as defined in Section 54-2-1 ~~§~~→ ; and

75b (ii) an improvement district system described in Subsection 17B-2a-403(1)(a)(iv) ~~←~~§.

76 (e) "Facility" means electric equipment or infrastructure used to serve an electric  
 77 customer, above ground or underground, including:

78 (i) a power line, transformer, switch gear, pole, wire, guy anchor, conductor, cable, or  
 79 other related equipment; or

80 (ii) a right-of-way, easement, or any other real property interest or legal right or interest  
 81 used to operate and maintain the electric equipment or infrastructure.

82 (f) "Facility transfer" means the transfer of a facility from a transferring party to a  
 83 receiving party in accordance with Subsection (3).

84 (g) "Lost or stranded facility" means a facility that is currently used by a transferring  
 85 party that will no longer be used, whether in whole or in part, as a result of a facility transfer.

86 (h) "Receiving party" means a municipality or electrical corporation to whom a facility  
 87 is transferred.

88 (i) "Transferring party" means a municipality or electrical corporation that transfers a  
 89 facility.

90 (2) If an electric customer in an area being annexed by a municipality receives electric  
91 service from an electrical corporation, the municipality may not, without the agreement of the  
92 electrical corporation, furnish municipal electric service to the electric customer in the annexed  
93 area until the municipality has reimbursed the electrical corporation for the value of each  
94 facility used to serve each electric customer within the annexed area, including the value of any  
95 facility owned by a wholesale electric cooperative affiliated with the electrical corporation,  
96 dedicated to provide service to the annexed area.

97 (3) The following procedures shall apply if a municipality transfers a facility to an  
98 electrical corporation in accordance with Section 10-8-14 or if an electrical corporation  
99 transfers a facility to a municipality in accordance with Subsection (2), Section 54-3-30, or  
100 54-3-31:

101 (a) The transferring party shall provide a written estimate of the transferring party's  
102 cost of preparing the inventory required in Subsection (3)(c) to the receiving party no later than  
103 60 days after the date of notice from the receiving party.

104 (b) (i) The receiving party shall pay the estimated cost of preparing the inventory to the  
105 transferring party no later than 60 days after the day that the receiving party receives the written  
106 estimate.

107 (ii) If the actual cost of preparing the inventory differs from the estimated cost, the  
108 transferring party shall include the difference between the actual cost and the estimated cost in  
109 the reimbursement described in Subsection (5).

110 (c) Except as provided in Subsection (3)(f), the transferring party shall prepare, in  
111 accordance with Subsection (4), and deliver the inventory to the receiving party no later than  
112 180 days after the day that the transferring party receives the payment specified in Subsection  
113 (3)(b).

114 (d) (i) At any time, the parties may by agreement correct or update the inventory.

115 (ii) If the parties are unable to reach an agreement on an updated inventory, they shall:

116 (A) proceed with the facility transfer and reimbursement based on the inventory as  
117 submitted in accordance with Subsection (3)(c); and

118 (B) resolve their dispute as provided in Subsection (6).

119 (e) Except as provided in Subsection (3)(f), the parties shall complete each facility  
120 transfer and reimbursement contemplated by this Subsection (3) no later than 180 days after the

121 date that the transferring party delivers the inventory to the receiving party in accordance with  
122 Subsection (3)(c).

123 (f) The periods specified in Subsections (3)(c) and (e) may be extended for up to an  
124 additional 90 days by agreement of the parties.

125 (4) (a) The inventory prepared by a transferring party in accordance with Subsection  
126 (3)(c) shall include an identification of each facility to be transferred and the amount of  
127 reimbursement as provided in Subsection (5).

128 (b) The transferring party may not include in the inventory a facility that the  
129 transferring party removed from service for at least 36 consecutive months prior to the date of  
130 the inventory, unless the facility was taken out of service as a result of an action by the  
131 receiving party.

132 (5) (a) Unless otherwise agreed by the parties, the reimbursement for the transfer of  
133 each facility shall include:

134 (i) the cost of preparing the inventory as provided in Subsection (3)(b):

135 (ii) subject to Subsection (5)(b)(i), the value of each transferred facility calculated by  
136 the current replacement cost of the facility less depreciation based on facility age;

137 (iii) the cost incurred by the transferring party for:

138 (A) the physical separation of each facility from its system, including the cost of any  
139 facility constructed or installed that is necessary for the transferring party to continue to provide  
140 reliable electric service to its remaining customers;

141 (B) administrative, engineering, and record keeping expenses incurred by the  
142 transferring party for the transfer of each facility to the receiving party, including any difference  
143 between the actual cost of preparing the inventory and the estimated cost of preparing the  
144 inventory; and

145 (C) reimbursement for any tax consequences to the transferring party resulting from  
146 each facility transfer;

147 (iv) the value of each lost or stranded facility of the transferring party based on the  
148 valuation formula described in Subsection (5)(a)(ii) or as otherwise agreed by the parties;

149 (v) the diminished value of each transferring party facility that will not be transferred  
150 based on the percentage of the facility that will no longer be used as a result of the facility  
151 transfer; and

152 (vi) the transferring party's book value of a right-of-way or easement transferred with  
 153 each facility.

154 (b) (i) (A) The receiving party may review the estimation of the current replacement  
 155 costs of each facility, including the wage rates, material costs, overhead assumptions, and other  
 156 pricing used to establish the estimation of the current replacement costs of the facility.

157 (B) Prior to reviewing the estimation, the receiving party shall enter into a  
 158 nondisclosure agreement acceptable to the transferring party.

159 (C) The nondisclosure agreement shall restrict the use of the information provided by  
 160 the transferring party solely for the purpose of reviewing the estimation of the current  
 161 replacement cost and preserve the confidentiality of the information to prevent any effect on a  
 162 competitive bid received by either party.

163 (ii) (A) If the age of a facility may be readily determined by the transferring party, the  
 164 transferring party shall use that age to determine the facility's depreciation.

165 (B) If the age of a facility cannot be readily determined, the transferring party shall  
 166 estimate the age of the facility based on the average remaining life approved for the same type  
 167 of facility in the most current depreciation rates set by the commission or other governing  
 168 regulatory authority for the electrical corporation.

169 (c) (i) (A) A transferring party that transfers a facility in accordance with this section  
 170 shall, upon delivery of a document conveying title to the receiving party, transfer the facility  
 171 without any express or implied warranties.

172 (B) A receiving party that receives a facility in accordance with this section shall, upon  
 173 receipt of a document conveying title, accept the facility in its existing condition and assume  
 174 any and all liability, fault, risk, or potential loss arising from or related to the facility.

175 (ii) Notwithstanding Subsection (5)(c)(i), if, within six months after the date that

175a §→ any ←§ oil

176 filled equipment is transferred, the receiving party discovers that §→ [the] a ←§ transferred oil  
 176a filled

177 equipment contains polychlorinated biphenyl, the transferring party shall reimburse the  
 178 receiving party for the cost of testing and disposal of that oil filled equipment.

179 (6) (a) If the parties cannot agree on each facility to be transferred or the respective  
 180 reimbursement amount, the parties shall:

181 (i) proceed with the facility transfer and the reimbursement based on the inventory as  
 182 submitted by the transferring party in accordance with Subsection (3)(c) and in accordance with

183 the schedule provided in Subsection (3)(e); and  
184 (ii) submit the dispute for mediation or arbitration.  
185 (b) The parties shall share equally in the costs of mediation or arbitration.  
186 (c) If the parties are unable to resolve the dispute through mediation or arbitration,  
187 either party may bring an action in the state court of jurisdiction.  
188 (d) The arbitrator, or state court if the parties cannot agree on arbitration, shall  
189 determine each facility to be transferred and the amount to be reimbursed in accordance with  
190 Subsection (5).  
191 (e) If the arbitrator or state court determines that:  
192 (i) a transferring party transferred a facility that should not have been transferred, the  
193 receiving party shall return the facility;  
194 (ii) a party did not transfer a facility that should have been transferred, the party that  
195 should have transferred the facility shall transfer the facility to the party to whom the facility  
196 should have been transferred;  
197 (iii) the amount reimbursed by the receiving party is insufficient, the receiving party  
198 shall pay the difference to the transferring party; or  
199 (iv) the amount reimbursed by the receiving party is more than the amount that should  
200 have been reimbursed, the transferring party shall pay the difference to the receiving party.  
201 (7) Unless otherwise agreed upon in writing by the parties:  
202 (a) a party shall transfer a facility to be transferred in accordance with Subsection (6)(e)  
203 no later than 60 days after the day that the arbitrator or court issues a determination unless the  
204 parties mutually agree to a longer time to complete the transfer; and  
205 (b) a party shall:  
206 (i) pay an amount required to be paid in accordance with Subsection (6)(e) no later than  
207 30 days after the day that the arbitrator or court issues a determination; and  
208 (ii) include interest in the payment at the overall rate of return on the rate base most  
209 recently authorized by the commission or other governing regulatory agency for the electrical  
210 corporation from the date the reimbursement was originally paid until the difference is paid.  
211 (8) (a) Nothing in this section limits the availability of other damages under law arising  
212 by virtue of an agreement between the municipality and the electrical corporation.  
213 (b) Notwithstanding Subsection (8)(a), a party described in this section is not entitled

214 to an award for:

215 (i) damages that are indirect, incidental, punitive, exemplary, or consequential;

216 (ii) lost profits; or

217 (iii) other business interruption damages.

218 (9) Nothing in this section or Section 10-8-14, 54-3-30, or 54-3-31 applies to a transfer  
219 of facilities from an electrical corporation to a municipality in accordance with a decision by a  
220 municipality that did not previously provide electric service and seeks to commence providing  
221 electric service to a customer currently served by an electrical corporation within the municipal  
222 boundary.

223 Section 2. Section **10-8-14** is amended to read:

224 **10-8-14. Water, sewer, gas, electricity, and public transportation -- Service**  
225 **beyond municipal limits -- Retainage -- Notice of service and agreement -- Cable**  
226 **television and public telecommunications services.**

227 (1) A [city] municipality may:

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

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

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

235 (d) sell and deliver the surplus product or service capacity of any works or system  
236 listed in Subsection (1)(a), not required by the [city] municipality or the [city's] municipality's  
237 inhabitants, to others beyond the limits of the [city] municipality, except the sale and delivery  
238 of:

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

241 (ii) cable television services or public telecommunications services is governed by  
242 Subsection [~~(3)~~] (11).

243 (2) If any payment on a contract with a private person, firm, or corporation to construct  
244 waterworks, sewer collection, sewer treatment systems, gas works, electric [~~light~~] works,



245 telecommunications lines, cable television lines, or public transportation systems is retained or  
246 withheld, it shall be retained or withheld and released as provided in Section 13-8-5.

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

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

253 (i) on or before December 15, 2013, the municipality provides the electrical  
254 corporation, as defined in Section 54-2-1, that is obligated by its certificate of public  
255 convenience and necessity to serve the customer with an accurate and complete verified written  
256 notice described in Subsection (3)(c) that identifies each customer served by the municipality  
257 beyond its municipal boundary;

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

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

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

264 (i) the customer's meter number;

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

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

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

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

272 (a) The municipality shall provide electric service to a customer identified in  
273 accordance with Subsection (3)(b)(i) unless the municipality and the electrical corporation  
274 subsequently agree in writing that the electrical corporation will provide electric service to the  
275 customer.

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

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

283 (b) If a municipality submits a request, the electrical corporation shall respond to the  
284 request within 60 days.

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

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

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

292 (iii) the municipality may provide the service if the Public Service Commission  
293 approves the agreement in accordance with Section 54-4-40.

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

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

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

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

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

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

307 (b) The mechanism shall require:

308 (i) that the rates and conditions of service for a customer outside the municipality's  
309 boundary are at least as favorable as the rates and conditions of service for a similarly situated  
310 customer within the municipality's boundary; and

311 (ii) if the municipality provides a general rebate, refund, or other payment to a  
312 customer located within the municipality's boundary, that the municipality also provide the  
313 same general rebate, refund, or other payment to a similarly situated customer located outside  
314 the municipality's boundary.

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

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

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

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

325 ~~[(3)]~~ (11) A [city's] municipality's actions under this section related to works or  
326 systems involving public telecommunications services or cable television services are subject  
327 to the requirements of Chapter 18, Municipal Cable Television and Public  
328 Telecommunications Services Act.

329 Section 3. Section **54-3-30** is enacted to read:

330 **54-3-30. Electric utility service within a provider municipality -- Electrical**  
331 **corporation prohibited as provider -- Exceptions -- Notice and agreement -- Transfer of**  
332 **customer.**

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

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

337 (b) who is not described in Subsection 54-3-31(2).

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

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

344 (A) to a specified customer within the municipal boundary; and

345 (B) in accordance with the terms and conditions of the electrical corporation's tariffs  
346 and regulations approved by the commission; and

347 (ii) the commission approves the agreement in accordance with Section 54-4-40.

348 (b) The municipality or the electrical corporation may terminate the agreement for the  
349 provision of electric service if the commission imposes a condition authorized in Section  
350 54-4-40 that is a material change to the agreement.

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

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

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

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

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

360 (b) within a period of time shorter than two years if otherwise agreed to with the  
361 municipality.

362 (5) Upon termination of an agreement in accordance with Subsection (3)(a), (3)(b), or  
363 (4):

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

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

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

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

373 Section 4. Section **54-3-31** is enacted to read:

374 **54-3-31. Electric utility service within a provider municipality -- Electrical**  
375 **corporation authorized as continuing provider for service provided on or before June 15,**  
376 **2013 -- Notice of service and agreement -- Transfer of customer.**

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

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

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

381 (2) Notwithstanding Section 54-3-30, if an electrical corporation provides electric  
382 service to a customer within the municipal boundary of a municipality on or before June 15,  
383 2013, and the municipality provides electric service to another customer within its municipal  
384 boundary, the electrical corporation may continue to provide electric service to the customer  
385 within the municipality's boundary if:

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

390 (b) the electrical corporation enters into a written agreement with the municipality no  
391 later than June 15, 2014; and

392 (c) the commission approves the agreement in accordance with Section 54-4-40.

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

395 (a) the customer's meter number;

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

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

399 (d) a representation that the customer was receiving service from the electrical

400 corporation on or before June 15, 2013.

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

403 (a) The electrical corporation is the exclusive electric service provider to a customer  
404 identified in the notice described in Subsection (2)(a) unless the municipality and electrical  
405 corporation subsequently agree, in writing, that the municipality may provide electric service to  
406 the identified customer.

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

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

415 (i) no earlier than two years before the day of termination; or

416 (ii) within a period of time shorter than two years if otherwise agreed to with the  
417 municipality.

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

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

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

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

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

428 Section 5. Section **54-4-40** is enacted to read:

429 **54-4-40. Approval of certain agreements between an electrical corporation and**  
430 **municipality.**

431 (1) The commission shall review an agreement entered into between an electrical  
432 corporation and a municipality if the electrical corporation is required to obtain commission  
433 approval in accordance with Section 10-8-14, 54-3-30, or 54-3-31.

434 (2) The requirements of Subsection (1) do not confer jurisdiction on the commission to  
435 regulate any electric service provided by a municipality.

436 (3) Unless the commission determines that additional time is warranted and is in the  
437 public interest, no later than 120 days after the day on which an application to approve an  
438 agreement described in Subsection (1) is filed by an electrical corporation, the commission  
439 shall:

440 (a) approve the agreement;

441 (b) approve the agreement subject to conditions imposed by the commission; or

442 (c) reject the agreement.

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**Legislative Review Note**  
as of 2-7-13 5:00 PM

**Office of Legislative Research and General Counsel**