

**Representative Stephen G. Handy** proposes the following substitute bill:

**INTERSTATE ELECTRIC TRANSMISSION LINES**

2014 GENERAL SESSION

STATE OF UTAH

**Chief Sponsor: Stephen G. Handy**

Senate Sponsor: Curtis S. Bramble

---

---

**LONG TITLE**

**General Description:**

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

**Highlighted Provisions:**

This bill:

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

**Money Appropriated in this Bill:**

None

**Other Special Clauses:**

None

**Utah Code Sections Affected:**

AMENDS:

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



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

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

28 **17-27a-506. Conditional uses -- Merchant electric transmission line.**

29 (1) A land use ordinance may include conditional uses and provisions for conditional  
30 uses that require compliance with standards set forth in an applicable ordinance.

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

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

37 (3) (a) As used in this Subsection (3):

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

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

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

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

49 (A) present and future transmission needs from a proposed merchant electric  
50 transmission line;

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

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

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

57 [63M-4-401.](#)

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

61 (c) To receive a certificate of in-state need, the person described in Subsection (3)(b)  
62 shall request a certificate of in-state need from the office by filing a written request that  
63 describes the proposed merchant electric transmission line and includes the name and contact  
64 information of the person.

65 (d) (i) If the office receives a request described in Subsection (3)(c), the office shall:

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

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

70 (C) include contact information and provide the deadline date for submission as  
71 described in Subsection (3)(e) for an in-state merchant generator to submit an expression of  
72 need for the merchant electric transmission line.

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

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

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

79 (e) No later than 30 days after the expiration of the 30-day period described in  
80 Subsection (3)(d)(ii)(A) the office shall:

81 (i) review all expressions of need submitted under Subsection (3)(d)(i)(C); and

82 (ii) calculate the present and future needs of each in-state merchant generator based on  
83 each submitted expression of need.

84 (f) A person described in Subsection (3)(c) shall no later than 180 days after notice is  
85 published in accordance with Subsection (3)(d)(i)(A) submit a copy of each signed  
86 transmission agreement for in-state merchant generation entered into with the person.

87 (g) No later than 15 days after the expiration of the 180-day period described in

88 Subsection (3)(f), the office shall determine whether the person described in Subsection (3)(c)  
89 has demonstrated in the submitted agreements for in-state merchant generation that the person  
90 can fulfill the present and future needs, whether in a proposed build or by future upgrades as  
91 described in the agreements, calculated in accordance with Subsection (3)(e)(ii).

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

94 (i) shall issue to the person described in Subsection (3)(c) a certificate of in-state need;  
95 and

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

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

102 (4) Subsection (3) does not apply to a land use application for a conditional use for a  
103 transmission line that is, or is proposed to be, owned or operated by a project entity as defined  
104 in Section [11-13-103](#).

104a **Ŝ→ (5) "Subsection (3) may not be interpreted to:**

104b **(a) create an obligation of a merchant electric transmission line to pay for, or construct**  
104c **any portion of, the transmission line on behalf of an in-state merchant generator; or**

104d **(b) preempt, supersede, or otherwise conflict with Federal Energy Regulatory**  
104e **Commission rules and regulations applicable to a commercial transmission agreement,**  
104f **including agreements or terms of agreements as to cost, terms, transmission capacity, or key**  
104g **rates.** ←Ŝ