

HB0044S04 compared with HB0044S03

~~text~~ shows text that was in HB0044S03 but was deleted in HB0044S04.

text shows text that was not in HB0044S03 but was inserted into HB0044S04.

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Senator Curtis S. Bramble proposes the following substitute bill:

INTERSTATE ELECTRIC TRANSMISSION LINES

2014 GENERAL SESSION

STATE OF UTAH

Chief Sponsor: Stephen G. Handy

Senate Sponsor: Curtis S. Bramble

LONG TITLE

General Description:

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

Highlighted Provisions:

This bill:

- ▶ defines terms;
- ▶ requires ~~an applicant for~~ a merchant electric transmission line to file an open solicitation notice with the Office of Energy Development;
- ▶ requires the Office of Energy Development to post notice of receipt of the open solicitation notice;
- ▶ permits an in-state merchant generator to submit an expression of need to the Office of Energy Development;

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- ▶ requires the Office of Energy Development to prepare a certificate of in-state need;
- ▶ requires a merchant electric transmission line to ~~{include with}~~provide to the ~~{land use application}~~Federal Energy Regulatory Commission a copy of the certificate of in-state need~~{ from}~~; and
- ▶ requires a merchant electric transmission line to report to the Office of Energy Development~~{; and~~
- ~~requires an applicant for a certificate of in-state need to demonstrate that the applicant can fulfill present and future needs or has designated an appropriate location of transmission interconnection for in-state merchant generators; and~~
- ~~makes technical corrections}~~ whether a merchant in-state generator has entered into a transmission service agreement with the merchant electric transmission line.

Money Appropriated in this Bill:

None

Other Special Clauses:

None

Utah Code Sections Affected:

~~{AMENDS}~~ENACTS:

~~{17-27a-506, as last amended by Laws of Utah 2005, Chapter 245 and renumbered and amended by Laws of Utah 2005, Chapter 254}~~63M-4-402, Utah Code Annotated 1953

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

Section 1. Section ~~{17-27a-506}~~63M-4-402 is ~~{amended}~~enacted to read:

~~{17-27a-506}~~63M-4-402.~~{ Conditional uses}~~ In-state generator need -- Merchant electric transmission line.

(1) As used in this section:

(a) "Capacity allocation process" means the process outlined by the Federal Energy Regulatory Commission in its final policy statement dated January 17, 2013, "Allocation of Capacity on New Merchant Transmission Projects and New Cost-Based, Participant-Funded Transmission Projects, Priority Rights to New Participant-Funded Transmission," 142 F.E.R.C. P61,038 (2013).

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(b) "Certificate of in-state need" means a certificate issued by the office in accordance with ~~Subsection (5) or (6):~~

~~(b) this section identifying an in-state generator that meets the requirements and qualifications of this section.~~

(c) "Expression of need" means a document prepared and submitted ~~to the office~~ by an in-state merchant generator that describes or otherwise documents ~~:~~

~~(i) present and future; the transmission needs ~~from a proposed merchant electric transmission line:~~~~

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

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

~~(c) in conformance with the requirements of this section.~~

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

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

~~(e)f~~ "Office" means the Office of Energy Development established in Section 63M-4-401.

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

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

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

~~(4) (a) A county may not consider a land use application for a conditional use for a~~

~~proposed;~~ g) "Open solicitation notice" means a document prepared and submitted to the office

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by a merchant electric transmission line ~~{unless the person filing the application includes a certificate of in-state need for that merchant electric transmission line:~~

~~—— (b) (i) To receive a certificate of in-state need, the person described in Subsection (4)(a) shall request a certificate of in-state need from the office by filing a written request that describes the proposed}~~ regarding the commencement of the line's open solicitation in compliance with 142 F.E.R.C. P61,038 (2013).

(2) As part of the capacity allocation process, a merchant electric transmission line ~~{and includes:~~

~~—— (A) the name and contact information of the person; and~~

~~—— (B) whether the person proposes to qualify for the certificate by demonstrating that the person can fulfill present and future needs in accordance with Subsection (5) or by designating an appropriate location of transmission}~~ shall file an open solicitation notice with the office containing a description of the merchant electric transmission line, including:

(a) the proposed capacity;

(b) the location of potential interconnection ~~{in accordance with Subsection (6):~~

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

~~—— (c) (i) If the office receives a request described in Subsection (4)(b)(i)}~~ for in-state merchant generators:

(c) the planned date for commencement of construction; and

(d) the planned commercial operations date.

(3) Upon receipt of the open solicitation notice, the office shall:

~~{A}~~ a) publish the notice on the Utah Public Notice Website created under Section 63F-1-701 ~~{ that the office has received a request for a certificate of in-state need;~~

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

~~—— (C) include};~~

(b) include in the notice contact information; and

(c) provide the deadline date for submission ~~{as described in Subsection (4)(c)(ii)(A) for}~~ of an expression of need.

(4) (a) In response to the open solicitation notice published by the office, and no later

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than 30 days after publication of the notice, an in-state merchant generator ~~to~~ may submit an expression of need ~~for the merchant electric transmission line.~~

~~— (ii) An in-state merchant generator that submits an ~~to the office.~~~~

(b) An expression of need ~~submitted~~ under Subsection (4)(~~c~~)(i)(C) shall:

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

~~— (B) ~~include~~ a) shall include:~~

(i) a description of the in-state merchant ~~generator's project or proposed project.~~

~~— (d) ~~generator; and~~~~

(ii) a schedule of transmission capacity requirement provided in megawatts, by point of receipt and point of delivery and by operating year.

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

~~— (i) review all expressions of need submitted under Subsection (4)(c)(i)(C); and~~

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

~~— (5) (a) A person described in Subsection (4)(b)(i), who indicated under Subsection (4)(b)(i)(B) that the person proposed to qualify for a certificate of in-state need by complying with this Subsection (5), shall no later than 180 ~~60~~ days after notice is published ~~in accordance with Subsection (4)(c)(i)(A) submit a copy of each signed transmission agreement for~~ under Subsection (3), the office shall prepare a certificate of in-state need identifying the in-state merchant ~~generation entered into with the person.~~~~

~~— (b) No later than 15 days after the expiration of the 180-day period described in Subsection (5)(a); ~~generators.~~~~

(6) Within five days of preparing the certificate of in-state need, the office shall ~~determine whether the person described in Subsection (4)(b)(i) has demonstrated in the submitted agreements for in-state merchant generation that the person can fulfill the present and future needs, whether in a proposed build or by future upgrades as described in the agreements, calculated in accordance with Subsection (4)(d)(ii).~~

~~— (c) If a person has demonstrated that the proposed ~~:~~~~

(a) publish the certificate on the Utah Public Notice Website created under Section

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63F-1-701; and

(b) provide the certificate to the merchant electric transmission line ~~{can fulfill present and future needs as calculated in Subsection (4)(d)(ii), the office shall issue to the person described in Subsection (4)(b)(i) a}~~ for consideration in the capacity allocation process.

(7) The merchant electric transmission line shall:

(a) provide the Federal Energy Regulatory Commission with a copy of the certificate of in-state need ~~{}~~; and

~~{d}~~ b) {A} certify that the certificate ~~{of in-state need issued}~~ is being provided to the Federal Energy Regulatory Commission in accordance with ~~{this Subsection (5) is valid only to the extent that a transmission agreement for in-state merchant generation submitted under Subsection (5)(a) continues to reflect the agreements of the parties.~~

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

~~—— (b) (i) At the meeting required under Subsection (6)(a), the office, each in-state merchant generator that submitted an expression of need, and the person proposing a}~~ the requirements of this section, including a citation to this section.

(8) At the conclusion of the capacity allocation process, and unless prohibited by a contractual obligation of confidentiality, the merchant electric transmission line shall ~~{agree to the designation of the location of a transmission interconnection that provides transmission needs for export for each in-state merchant generator.~~

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

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

~~—— (d) A person shall provide to the office proof of the solicitation described in Subsection (6)(c):~~

~~—— (e) No later than 30 days after receiving proof of solicitation under Subsection (6)(d):~~

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~~the office shall issue to the person described in Subsection (4)(b)(i) a certificate of in-state need.~~

~~— (f) A } report to the office whether a merchant in-state generator reflected on the certificate of in-state need { issued in accordance with this Subsection (6) is valid only to the extent that a solicitation required under 18 C.F.R. Parts 2 & 35, Allocation of Capacity, 142 F.E.R.C. P61,038 continues to reflect the designation agreed to in accordance with Subsection (6)(b)(i).~~

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

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

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

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

~~— (8) "Subsections (4) through (6); has entered into a transmission service agreement with the merchant electric transmission line.~~

(9) This section may not be interpreted to:

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

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

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

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